

EXHIBIT D - SPECIAL CONTRACT PROVISIONS

1. **Click-wrap Licensing.** Regardless of any other provision or other license terms which may be issued by Vendor after the effective date of this Contract, and irrespective of whether any such provisions have been proposed prior to or after the issuance of a Purchase Order for products licensed under this Agreement, or the fact that such other agreement may be affixed to or accompany software upon delivery (shrink-wrap), the terms and conditions set forth in this Agreement shall supersede and govern the license terms between Customers and Vendor.
2. **Most-favored Customer.** If Contractor, at any time during this Agreement, routinely enters into agreements with other governmental customers, and offers the same or substantially the same products/services offered to the City on a basis that provides prices, warranties, benefits, and or terms more favorable than those provided to the City, Contractor shall notify City within ten (10) business days thereafter of that offering and this Agreement shall be deemed to be automatically amended effective retroactively to the effective date of the most favorable contract, wherein the Contractor shall provide the same prices, warranties, benefits, or terms to the City. The City shall have the right and option at any time to decline to accept any such change, in which case the amendment shall be deemed null and void. If Contractor is of the opinion that any apparently more favorable price, warranty, benefit, or term charged and/or offered a customer during the term of this Contract is not in fact most favored treatment, Contractor shall within ten (10) business days notify the City in writing, setting forth the detailed reasons the Contractor believes aforesaid offer which has been deemed to be a most favored treatment, is not in fact most favored treatment. The City, after due consideration of such written explanation, may decline to accept such explanation and thereupon this Agreement between the City and Contractor shall be automatically amended, effective retroactively, to the effective date of the most favored agreement, to provide the same prices, warranties, benefits, or terms to the City.
3. **Data Dump.** Upon Agreement expiration or termination of the Agreement, Contractor will immediately provide to the City electronic copies of the data collected and recorded. Data format will be agreed upon by both City and Contractor, but at a minimum, data records will be provided in ASCII comma, separated value (csv) format, with binary images in TIFF, JPG, or PDF format.
4. **Financing.** At its sole discretion, the City reserves the right to enter into a financing arrangement with the successful Contractor for the provision of any Product(s) or good(s) available under this Contract. Contractor acknowledges that such a written financing arrangement may be agreed-to between the Parties for such Product(s) or good(s), at any time throughout the duration of the Contract. Notwithstanding the foregoing, the City further reserves the right to source its own financing partner for Product(s) or good(s) available under this Contract, at its sole discretion.
5. **Physical Goods.** In the case of physical goods ((e.g. equipment, material, supplies, as opposed to services), all Products offered must, unless otherwise accepted by the City, in writing, be new, unused, and not refurbished, and include any and all accessories which may or may not be specifically mentioned herein, but which are normally furnished or which are necessary to make a delivered Product ready for its intended use.
6. **Industry Standards.** Where not otherwise specified, details of construction, materials, or the way in which services will be provided, are left to the discretion of the Contractor,

provided only that any offering shall conform, as a minimum, to best Industry standards and practices and to what is currently being sold in the marketplace.

7. Manuals. Unless otherwise specified or superseded herein, each product delivered under the Agreement, and if applicable any options thereto, shall be supplied with at least one (1) copy of a safety and operating manual. The cost of any such manuals must be included in the base price for any product item offered hereunder.

8. Inspection & Testing. All Products sold pursuant to this RFP shall be subject to inspection/testing by or at the direction of the City, either at the delivery destination or the place of manufacture. In the event a Product fails to meet or exceed all requirements of this Invitation, and unless otherwise agreed in advance, the cost of any inspection and/or testing, shall be borne by the Contractor.

9. Price Sheet Updates. As technology progresses over the course of the Agreement, the successful Contractor may update the existing Price Sheet with newer technology and/or products, conforming to the prevailing pricing discounts afforded to each product category. Any variance to the specifications or performance of products offered pursuant to this RFP shall be acceptable to the City only insofar as it meets or exceeds the specifications and requirements of this RFP.

10. City Discount. The minimum discount for all products and services will be the percentage off Manufacturer's Suggested Retail Price ("MSRP"), as specified in Exhibit E, Pricing Sheet.

11. City Price. In the event that the City intends to purchase goods or services in volume under this Agreement, the City may negotiate more advantageous pricing or participate in promotional offers. In such event, a copy of better offerings shall be furnished to the City upon request.

12. Promotional Offers. Contractor will automatically apply to quotations, and make available to City, any and all temporary or permanent promotional offers, discounts and/or special pricing for hardware and commodities available under this Agreement.

13. Shipping and Handling Fees. The price to the City under the resulting Agreement shall include all shipping and handling fees. Shipments will be Free On Board the City's destination. No additional fees shall be charged to the City for standard shipping and handling. If the City requests expedited or special delivery, the City will be responsible for any charges for expedited or special delivery.

14. Restocking Fees. No restocking fees will be charged to the City in the event of a product return.

15. Insurance Requirements. The insurance requirements herein supersede the insurance requirements in Exhibit C, General Contract Terms and Conditions.

- a. Contractor must have the following insurance and coverage minimums:
 - i. General liability insurance with a Single Occurrence limit of at least \$1,000,000, and a General Aggregate limit of at least two times the Single Occurrence limit.
 - ii. Product liability insurance with a Single Occurrence of at least \$1,000,000 and a General Aggregate limit of at least two times the Single Occurrence limit for all products.

- iii. Property Damage or Destruction insurance is required for coverage of City-owned Hardware and equipment while in the Contractor's possession, custody, or control. The minimum Single Occurrence limit is \$500,000 and the General Aggregate limit must be at least two times the Single Occurrence limit. This insurance may be carried in several ways. E.g., under an Inland Marine policy, as part of Automobile coverage, or under Garage Keepers policy. In any event, the coverage must be specifically and clearly listed on insurance certificate(s) submitted to the City.
- b. Insurance coverage shall be in effect for the length of any contract made pursuant to this RFP, and for any extensions thereof, plus the days/months required to deliver any outstanding order after the close of the contract period.
- c. Original insurance certificates must be furnished to the City upon request, showing Contractor as the insured and showing coverage and limits for the insurance listed above.
- d. If any products or Hardware or Service(s) will be provided by Parties other than Contractor, all such parties are required to carry the minimum insurance coverages specified herein, and if requested by City, a separate insurance certificate must be submitted for each such party.
- e. City reserves the right to contact insurance undertakers to confirm policy and certificate issuance and document accuracy.