

INVITATION TO BID

MBE SET-ASIDE

ITB NUMBER: ACQ1023
DATE ISSUED: April 14, 2015

The State of Ohio, through the Department of Administrative Services, Enterprise IT Contracting, is requesting bids for:

Puppet Labs Software and Services

This ITB is an MBE Set-Aside Contract in accordance with Ohio Revised Code Section 125.081. Only MBE certified vendors with the State of Ohio may participate.

INQUIRY PERIOD BEGINS: April 14, 2015
INQUIRY PERIOD ENDS: April 24, 2015
OPENING DATE: April 27, 2015
OPENING TIME: 1:00 P.M.
OPENING LOCATION: Department of Administrative Services
General Services Division
4200 Surface Road
Columbus, Ohio 43228

This ITB consists of five parts and nine attachments, totaling 45 consecutively numbered pages. Please verify that you have a complete copy.

PART ONE: EXECUTIVE SUMMARY

Purpose. This is an Invitation to Bid ("ITB") under Section 125.07 and 125.18 of the Ohio Revised Code (the "Revised Code") and Rule 123:5-1-07 of the Ohio Administrative Code (the "Administrative Code"). The Ohio Department of Administrative Services (the "Agency") has asked the Department of Administrative Services, Enterprise IT Contracting to solicit bids ("Bids") for Puppet Labs Software and Services and this ITB is the result of that initiative.

If a participating vendor ("Bidder") submits a suitable Bid in response to this ITB, the State of Ohio (the "State"), through the Department of Administrative Services, may enter into a contract (the "Contract") to have the selected Bidder (the "Contractor") provide all or part of the Deliverables. This ITB provides details on what is required to submit a Bid for the Deliverables, how the State will evaluate the Bids, and what will be required of the Contractor under the Contract.

This ITB also gives the estimated dates for the various events in the bid process and performance of the Contract. While these dates are subject to change, prospective Bidders must be prepared to meet them as they currently stand.

Once awarded, the term of the Contract will be from the award date until the Contractor's performance under the Contract is completed to the satisfaction of the State and the Contractor is paid or June 30, 2015, whichever is sooner. The State may choose to renew the Contract for one additional year through June 30, 2016.

The State may reject any Bid if the Bidder fails to meet a deadline in the bid process or objects to the dates for performance of the Contract or the terms and conditions in this ITB. The State also may reject any Bid if the Bidder's Deliverables fail to meet the requirements of this ITB.

Background. The Ohio Department of Administrative Services (DAS) is a governmental agency in the Executive Branch of State Government. DAS has a large network infrastructure that the agency will use the Puppet Labs software to manage and secure.

Only Puppet Labs Authorized Resellers, who provide documentation to show their status in good standing with Puppet Labs, and are certified Ohio MBE vendors, will be considered for award of this contract.

Bidders who are not already Puppet Labs Authorized Resellers, can contact Puppet Labs representative, Brent Caldwell at (503) 821-7551 or via email, brent@puppetlabs.com, to request immediate authorization.

The Contractor must pay the State a share of the sales transacted under this Contract. The Contractor must remit the revenue share in US dollars within 30 days after the end of the quarterly reporting period. The revenue share that the Contractor must pay equals .0075 of the total quarterly sales reported. The revenue share is included in the prices reflected on the Price List (post award) and reflected in the total amount charged to ordering activities, and the Contractor may not add a surcharge to orders under this Contract to cover the cost of the revenue share.

Objectives. The State has the following objectives that it wants the Contract to serve, and it will be the Contractor's obligation to ensure that the Deliverables meet these objectives:

The State of Ohio, by the Department of Administrative Services, Enterprise IT Contracting (the "State"), is releasing this Invitation to Bid to enter into a single Contract to acquire Puppet Labs Software and Services as specified herein. The State may purchase additional software and services during the term of the Contract. However, the State makes no guarantee that the State will make any purchases pursuant to this ITB or that the actual amount of Deliverables the State purchases under the Contract will meet the estimates.

Overview of the Deliverables. The specifications for the Deliverables are provided in Attachment One of this ITB. This section only gives a brief description of the Deliverables. If there is any inconsistency between this description and Attachment One, the attachment will govern.

Bidders must offer only the specific items listed below:

Node Tier	Product Description
1,000	Puppet Enterprise Subscription License, Premium Support, 1-year
2,500	Puppet Enterprise Subscription License, Premium Support, 1-year
5,000	Puppet Enterprise Subscription License, Premium Support, 1-year
1,000	Puppet Enterprise Perpetual License, Premium Support, 1-year
2,500	Puppet Enterprise Perpetual License, Premium Support, 1-year
5,000	Puppet Enterprise Perpetual License, Premium Support, 1-year
Per Hour	Puppet Labs Professional Services

The initial order must be delivered to the following location within ten (10) calendar days after receipt of a purchase order:

- Department of Administrative Services/SOCC
 das-server.team@das.ohio.gov
 1320 Arthur E Adams Drive
 Columbus, OH 43221

Calendar of Events. The schedule for the bid process is given below. The State may change this schedule at anytime. If the State changes the schedule before the Bid due date, it will do so through an announcement on the State Procurement Website’s question and answer area for this ITB. The Website announcement will be followed by an amendment to this ITB, also available through the State Procurement Website. After the Bid due date and before the award of the Contract, the State will make schedule changes through the ITB amendment process. It is each prospective Bidder’s responsibility to check the Website question and answer area for this ITB for current information regarding this ITB and its Calendar of Events through award of the Contract.

Dates:

Firm Dates

ITB Issued: April 14, 2015
 Inquiry Period Begins: April 14, 2015
 Inquiry Period Ends: April 24, 2015 8:00 a.m.
 Bid Due Date: April 27, 2015, at 1:00 p.m.

Estimated Dates

Contract Award: May 1, 2015

Contract Dates:

Start Date: May 1, 2015

There are references in this ITB to the Bid due date. Prospective Bidders must assume, unless it is clearly provided to the contrary in this ITB, that any such reference means the date and time (Columbus, Ohio local time) that the Bids are due and not just the date.

PART TWO: STRUCTURE OF THIS ITB

Organization. This ITB is organized into five parts and has nine attachments. The parts and attachments are listed below.

Parts:

Part One	Executive Summary
Part Two	Structure of this ITB
Part Three	General Instructions
Part Four	Evaluation of Bids
Part Five	Award of the Contract

Attachments:

Attachment One	Requirements and Special Provisions
Attachment Two	Requirements for Bids
Attachment Three	General Terms and Conditions
Attachment Four	Bid Commitment
Attachment Five	Bidder Certifications
Attachment Six	Buy Ohio and Buy American Certification
Attachment Seven	Cost Summary
Attachment Eight	Standard Affirmation and Disclosure Form
Attachment Nine	Puppet Labs Master License Agreement

PART THREE: GENERAL INSTRUCTIONS

The following sections provide details on how to obtain more information about this ITB and how to respond to it. All responses must be complete and in the prescribed format.

Contacts. The following person will represent the State during the ITB process:
Procurement Representative:

Andrew Miller
Department of Administrative Services
Enterprise IT Contracting
30 E. Broad St. 39th Floor
Columbus, Ohio 43215

During the performance of the Contract, a State representative (the "Contract Representative") will represent the Ohio Department of Public Safety and be the primary contact for the Contract. The State will designate the Contract Representative in writing after the Contract award.

Inquiries. Bidders may make inquiries regarding this ITB anytime during the inquiry period listed in the Calendar of Events. To make an inquiry, Bidders must use the following process:

- Access the State Procurement Website at <http://procure.ohio.gov/>;
- From the Navigation Bar on the left, select "Find It Fast";
- Select doc/bid/schedule "Schedule #" as the Type;
- Enter ACQ1023 for the ITB number;
- Click the "Find It Fast" button;
- On the document information page, click the "Submit Inquiry" button;
- On the document inquiry page, complete the required "Personal Information" section by providing:
 - Full name of the prospective Bidder's representative for the inquiry,
 - Name of the prospective Bidder,
 - Representative's phone number, and
 - Representative's email address;
- Type the inquiry in the space provided and include:
 - A reference to the relevant part of this ITB,
 - The heading for the provision under question, and
 - The page number of the ITB where the provision can be found; and
- Click the "Submit" button.

A Bidder submitting an inquiry will receive an immediate acknowledgement that the State has received the inquiry as well as an email acknowledging receipt. The Bidder will not receive a personalized response to the question, nor will the Bidder receive notification when the State has answered the question.

Bidders may view inquiries and responses on the State's Procurement Website by using the "Find It Fast" feature described above and by clicking the "View Q & A" button on the document information page.

The State usually responds to all inquiries within three business days of receipt, excluding weekends and State holidays. But the State will not respond to any inquiries received after 8:00 a.m. on the inquiry end date.

Amendments to the ITB. If the State amends this ITB before the Bids are due, it will announce all amendments on the State Procurement Website.

Bidders may view amendments by using the "Find It Fast" function of the State's Procurement Webpage and then clicking on the amendment number to display the amendment.

When the State amends this ITB, it also may extend the Bid due date through an announcement on the State Procurement Website. The State may issue amendment announcements anytime before 5:00 p.m. on the day before Bids are due, and it is each prospective Bidder's responsibility to check for announcements and other current information regarding this ITB.

Bid Submittal. Each Bidder must submit two (2) completed, sealed, and signed copies of its Bid in an opaque envelope. The Bidder must clearly mark the exterior of the envelope "**DAS Puppet Labs Software and Services – ACQ1023**" on the outside.

In each sealed envelope, the Bidder must include an electronic copy of everything contained within the package on CD-ROM in Microsoft Office and PDF format, as appropriate. If there is a discrepancy between the hard copy and the electronic copy of the Bid, the hard copy will control, and the State will base its evaluation of the Bid on the hard copy.

Bids are due no later than 1:00 p.m. on the Bid due date. State will reject bids submitted by email or fax. Bidders must submit their Bids to:

Department of Administrative Services
General Services Division
Office of Procurement Services
4200 Surface Road
Columbus, Ohio 43228
Attn: Bid desk

The State may reject any Bid or unsolicited modifications that it receives after the deadline. A Bidder that mails its Bid must allow for adequate mailing time to ensure its timely receipt. Additionally, Bidders must allow for potential delays due to increased security.

Each Bidder must carefully review the requirements of this ITB and the contents of its Bid. Once opened, Bids cannot be altered or withdrawn, except as allowed by this ITB.

By submitting a Bid, the Bidder acknowledges that it has read this ITB, understands it, and agrees to be bound by its terms. The State is not responsible for the accuracy of any information regarding this ITB gathered through a source other than the inquiry process described in this ITB.

All Bids and other material that Bidders submit will become the property of the State and may be returned only at the State's option. Bidders should not include any proprietary information in a Bid or in other material submitted as part of the evaluation process because the State will have the right to use any materials or ideas submitted without compensation to the Bidder. Additionally, all Bids will be open to the public after the Bid opening.

The State will retain all Bids, or a copy of them, as part of the Contract file for at least three years. After the three-year retention period, the State may return, destroy, or otherwise dispose of the Bids and any copies of them.

Prospective Bidders may not prepare or modify their Bids on State property.

Waiver of Defects. The State may waive any defects in any Bid or in the submission process followed by a Bidder. But the State will only do so if it believes that it is in the State's interests and will not cause any material unfairness to other Bidders.

Changes to Bids. The State will allow modifications to and withdrawals of Bids only if the State receives them before the Bid due date. No modifications or withdrawals will be permitted after the due date, except as authorized by this ITB.

Bid Instructions. Each Bid must be organized in an indexed binder ordered in the same manner as the response items are ordered in Attachment Two, which describes the requirements for a Bid's contents and formatting. The State wants clear and concise Bids, but Bidders must answer questions completely and meet all the ITB's requirements.

Bid Costs. The State is not liable for any costs a Bidder incurs in responding to this ITB or from participating in the bidding process. This is true regardless of whether the State awards the Contract through this process, decides not to go forward with the procurement, cancels this ITB for any reason, or contracts for the Deliverables through another ITB or a different process.

PART FOUR: BID EVALUATION

Bid Opening. The State will open the Bids on April 27, 2015, at 1:00 p.m., and Bidders may attend the opening. The State will open the Bids in the presence of a representative of the Auditor of State. After the opening, the Procurement Representative will begin the initial review of the Bids.

After Bids are opened, they are public records, as defined in Revised Code Section 149.43, and they are subject to all laws applicable to public records.

Rejection of Bids. The State may reject any Bid that is late, not in the required format, does not address all the requirements of this ITB, or that the State believes is excessive in price. The State also may reject any Bid in which the Bidder takes exception to the terms and conditions of this ITB, includes assumptions or conditions, or fails to comply with the procedures for participating in the ITB process. In addition, if the State believes it is in its interests to do so, it may cancel this ITB, reject all the Bids, and seek to make the procurement through a new ITB or other means.

Evaluation of Bids. The Bid evaluation process may consist of up to five phases:

1. Initial review
2. Determination of costs
3. Application of Buy Ohio and American preferences
4. Determination of responsiveness
5. Determination of responsibility
6. Award

Clarifications and Corrections. During the evaluation process, the State may request clarifications from any Bidder with a Bid under active consideration and may give any Bidder the opportunity to correct defects in its Bid. But the State will do so only if it believes that it is in the State's interests to do so and it will not result in an unfair advantage for the Bidder. The State may reject any clarification that is non-responsive or broader in scope than what the State requested. If the State does reject such a clarification, it then may request a corrected clarification, consider the Bid without the clarification, or disqualify the Bid.

Bidders may not prepare corrections or clarifications to their Bids on State property.

Initial Review. The Procurement Representative will review all Bids for their format and completeness. The Procurement Representative normally rejects incomplete or incorrectly formatted Bids, though he or she may waive any minor defects or allow a Bidder to submit a correction for such defects. Further, if the Auditor of State does not certify a Bid due to lateness, the Procurement Representative will not open it or evaluate it for format or completeness.

Determination of Lowest Bid. For the State to determine that a Bid is the lowest Bid, the State must determine that the Bid comes from a responsible Bidder, the Bid is responsive to the requirements of this ITB, and the Bid offers the lowest-cost Deliverables in comparison to all other responsive Bids from

responsible Bidders. The State will make this determination without regard to any discounts or incentives and only after application of any preferences, as further described below.

Preferences. The Contract award is subject to the domestic preference provisions of the Buy America Act, 41 USC Sections 10a-d (1976), as amended. It also is subject to the preference for Ohio products under Revised Code Sections 125.09 and 125.11 and Administrative Code Rule 123:5-1-06.

Buy American. The State will evaluate the Bids to determine if a Bidder's offering is for a "domestic source end product," as defined in 41 USC Sections 10a-d. Any bid item not meeting this requirement will be rejected, except when the item qualifies for an exemption under 48 CFR 25.104 as an item not produced in sufficient quantities in the United States.

To have items offered in response to this ITB qualify as domestic source end products, the Bidder must complete the Buy American Certification provided in Attachment Six. If the Bidder fails to complete the Buy American Certification, the State will presume that the Bidder's offering does not qualify as domestic source end products.

Buy Ohio. Following the State's Buy American determination, it will evaluate all remaining bids to determine if any qualify for the preference given to Ohio and border-state Bidders. Bidders from states bordering Ohio qualify for this preference only if the border state imposes no greater restrictions than those contained in Revised Code Sections 125.09 and 125.11. The State has determined that Indiana, Kentucky, Michigan, New York, and Pennsylvania currently qualify as border states for this purpose.

Ohio products are defined as products that have been mined, excavated, produced, manufactured, raised, or grown in Ohio or qualifying border states and that have at least 25% of their manufactured cost represented by Ohio or qualifying border-state products, labor, skill, and other services.

Bidders having a significant economic presence in Ohio or a qualifying border state also may qualify for an award of the Contract on the same basis as Bidders offering items produced in Ohio or qualifying border states. The State determines whether a Bidder has a significant economic presence in Ohio or a qualifying border state based on the number of employees and capital investment the Bidder has in Ohio or a qualifying border state.

When the State determines that the selection of the lowest Ohio or qualifying border-state Bid will not result in an excessive price or disproportionately inferior Deliverables, the State may award the Contract to the lowest responsible and responsive Ohio or qualifying border-state Bidder. Otherwise, when the State determines that selection of the lowest Ohio or qualifying border-state Bid will result in an excessive price or disproportionately inferior Deliverables, the State may award the Contract to the lowest Bid, regardless of the Bidder's location within the United States.

To qualify for the Ohio or border-state preference, the Bidder must complete the Buy Ohio Certification provided in Attachment Six. If the Bidder fails to complete the Buy Ohio Certification, the State will presume the Bidder's offering does not qualify for the preference.

Discounts and Incentives. While Bidders may offer discounts for prompt payment and other similar incentives, discounts and incentives will not be used to determine the lowest Bidder.

Determination of Responsiveness. After the determination of the lowest Bid, the State will evaluate the lowest Bid to determine whether it is responsive. A Bid is responsive if it responds to the ITB's specifications in all material respects and contains no irregularities or deviations from the specifications that would affect the amount of the Bid, give the Bidder an unfair competitive advantage, or affect the value the State will receive from the Deliverables.

The State always will review the responsiveness of the selected Bid before making the award. If the State determines that the selected Bid is not responsive, the State may reject it and review the next

lowest Bid for its responsiveness. The State may continue this process until it identifies a responsive Bid or determines that no acceptable Bid is responsive.

Determination of Responsibility. After the determination of the lowest Bid, the State will review the background of the lowest Bidder and its subcontractors, if applicable, to ensure the responsibility of the Bidder. The State will not award the Contract to a Bidder that it determines is not responsible or that has proposed subcontractors that are not responsible. The State's determination of a Bidder's responsibility may include the following factors: experience, financial condition, conduct and performance on previous contracts, facilities, management skills, and ability to execute the Contract properly. The State may make this determination of responsibility based on information in the Bidder's Bid, from reference evaluations, from a review of the Bidder's financial ability, and any other sources that the State requests from the Bidder or that it determines is relevant.

The State always will review the responsibility of the selected Bidder before making the award. If the State determines that the selected Bidder is not responsible, the State may reject its Bid and review the next lowest Bidder for its responsibility. The State may continue this process until it identifies a responsible Bidder or determines that no Bidder with an acceptable Bid is responsible.

Reference Checks. As part of the State's determination of a Bidder's responsibility, the State will conduct reference checks to verify and validate the Bidder's past performance. Reference checks that indicate poor or failed performance by the Bidder may be cause for rejection of the Bid. Additionally, the State may reject a Bid as non-responsive if the Bidder fails to provide adequate reference information to complete its evaluation process.

References must be provided to demonstrate the Bidder's ability to provide the software and services required by the State. References will be verified. References provided by the Bidder must agree to be interviewed by representatives of the State.

Financial Ability. Part of the State's determination of a Bidder's responsibility may include the Bidder's financial ability to perform the Contract. This ITB may expressly require the submission of audited financial statements from all Bidders in their Bids. But if this ITB does not make this an express requirement, the State still may insist that a Bidder submit audited financial statements from the past three years, if the State is concerned that a Bidder may not have the financial ability to carry out the Contract. Also, the State may consider financial information other than the information that this ITB requires as part of a Bid, such as credit reports from third-party reporting agencies.

Debarment. The State will not award the Contract to any Bidder that is listed on the State's debarment list at the time of the award. Further, the State will not award the Contract to any Bidder on the US government's debarment list at the time of the award if the State is relying on federal funds to make payments under the Contract or otherwise believes it is not in the State's interest to do so.

Section 9.24 Findings. Revised Code Section 9.24 prohibits the State from awarding a contract to any entity against whom the Auditor of State has issued a finding for recovery (a "Finding"), if the Finding is unresolved at the time of the award. This also applies to renewals of contracts. By submitting a Bid, the Bidder warrants that it is not subject to an unresolved Finding under Revised Code Section 9.24 at the time of its submission. Additionally, the Bidder warrants that it will notify the Procurement Representative in writing immediately upon becoming subject to such an unresolved Finding after submitting its Bid and before the award of a Contract under this ITB. And should the State select the Bidder for an award of a Contract, this warranty of immediate written notice will apply during the term of the Contract, including any renewals or extensions.

Tie Bids. If two or more Bidders offer the same cost and both are determined to be responsive and responsible, the State may break the tie with the flip of a coin. The State may assign "heads" and "tails" to the Bidders. The coin flip may be conducted in the presence of the Bidders, if they elect to be present. The flip will be the final determination of the lowest, responsive, and responsible Bidder.

Unit Costs. Bidders must provide a unit cost for each line item in the cost summary and not just a total cost. If this ITB expressly provides that some line items are optional, and the Bidder does not plan to offer the State an optional line item as part of its Bid, the Bidder must enter “No bid” on that line item. Unless this ITB expressly provides otherwise, all line items are mandatory. Bidders may not provide a cost using fractional cents, and the State may reject any Bid that does not provide its costs in whole cents.

Estimated Quantities. Unless otherwise expressly provided in this ITB, quantities of Deliverables given in this ITB are estimates only. The State makes no guarantee that the State will make any purchases pursuant to this ITB or that the actual amount of Deliverables the State purchases under the Contract will meet the estimates. Any estimated quantities are provided in Attachment One, and the selected Bidder must be prepared to meet those quantities. The State may procure additional items subsequent to the initial purchase. Additional purchases will be procured at the single unit cost as listed in the Cost Summary.

Corrections after Bid Opening. After the Bid opening, the State may permit a Bidder alleging an inadvertent error to correct its Bid, but only if the mistake and the correction are clearly evident from the Bid and the correction does not affect the amount of the Bid or otherwise give the Bidder an unfair competitive advantage.

Bids are Firm. Once opened, all Bids are firm and irrevocable for 90 days. Beyond 90 days, the Bidder will have the option of honoring its Bid or making a written request to withdraw it from consideration.

Samples. The State may require Bidders to provide sample supplies, equipment, or examples of work, and each Bidder must comply with the request at its sole expense. Samples must clearly identify the Bidder, the ITB number, and the item the sample represents in the Bidder’s Bid. Upon the Bidder’s timely request, the State will return samples that are not destroyed by testing to the Bidder at the Bidder’s expense. The State may keep the samples of the Bidder that is awarded the Contract until the completion of the Contract. Unsolicited samples submitted in response to this ITB will not be evaluated, and the State may dispose of them in any way it chooses. Attachment One will indicate whether any samples are required and, if so, provide more details on the process for submitting them. If a Bidder fails to fully comply with the submission process, the State may reject the affected Bid.

Communications. During the evaluation process, any attempt by a Bidder to influence the evaluation process may be grounds for immediate disqualification of the Bidder.

Certifications. When submitting a bid, the Bidder must sign and submit the Bidder Certification Form that is included as Attachment Five to this ITB. Failure to submit all the required certifications may result in the State disqualifying the Bidder. Certifications that require commitments during performance of the Contract will bind the Contractor to honor those commitments, and any failure to do so will be grounds for termination of the Contract for default. Additionally, the State may terminate the Contract immediately on notice should any of the certifications have been untrue when the successful Bidder submitted its Bid or at the time of the Contract award.

Subcontracting. It may be necessary for the Bidder to use a subcontractor to perform a portion of the work to be done under the Contract, but the Bidder must be the primary contractor for the overall effort. The Bidder must identify its subcontractors, suppliers, and joint ventures for performance of the Contract. The Bidder must supplement its list of subcontractors, suppliers, or joint ventures if the Bidder’s subcontractors, suppliers, or joint ventures change during the term of this Contract. The Bidder may not use any subcontractor that has been the subject of any government action to limit the subcontractor’s right to do business with that government in the last seven years. The Bidder must provide a written explanation with its Bid if the Bidder’s subcontractor cannot so certify. Further, the Bidder must obtain the subcontractor agreement in writing to be bound to all the terms, conditions, and specifications of the Contract. The State may deny use of any subcontractor if the State determines that the Bidder will not be the primary Contractor who will perform the work under the Contract.

PART FIVE: AWARD OF THE CONTRACT

Contract Award. The State plans to award the Contract based on the schedule in the ITB, if the State decides the procurement is in its best interests and has not changed the award date. Unless otherwise stated in this ITB, the State may award the Contract by item or as a whole. If the State awards the Contract by item, it may award multiple Contracts. In awarding multiple Contracts by line item, the State will make the awards by lowest Bidder for each item awarded.

Included with this ITB, as Attachment Four, is a Bid Commitment. In awarding the Contract, the State will issue a letter of award (“Award Letter”) to the selected Contractor. The Bid Commitment and the Award Letter together will bind the Contractor and represent the formation of a Contract. But the State will be committed only when the State issues a purchase order and all other prerequisites identified in this ITB have occurred.

If the State makes an award pursuant to this ITB, and the Contractor is unable or unwilling to perform under the Contract, the State may cancel the Contract, effective immediately on notice to the Contractor. The State then may return to the evaluation process under this ITB and resume the process without giving further consideration to the originally selected Bidder. Additionally, the State may seek such other remedies as may be available to the State in law or in equity for the selected Bidder’s failure to perform under the Contract.

Contract. If this ITB results in an award, the Contract will consist of the Award Letter, this ITB, including all attachments, written amendments to this ITB, the Contractor's accepted Bid, and written, authorized amendments to the Contractor's Bid. It also will include any materials incorporated by reference in the above documents and any purchase orders issued under the Contract. The general terms and conditions for the Contract are contained in Attachment Three to this ITB. If there are conflicting provisions between the documents that make up the Contract, the order of precedence for the documents is as follows:

1. The Award Letter
2. This ITB, as amended;
3. The documents and materials incorporated by reference in the ITB;
4. The Contractor's Bid, as amended, clarified, and accepted by the State; and
5. The documents and materials incorporated by reference in the Contractor's Bid, to the extent they are not inconsistent with any of the foregoing.

Notwithstanding the order listed above, amendments issued after the Contract is executed may expressly change the provisions of the Contract. If they do so expressly, then the most recent of them will take precedence over anything else that is part of the Contract. To be binding on the State, a duly authorized representative of the Department of Administrative Services, Office of Procurement Services must sign any change order under, or amendment to, the Contract.

ATTACHMENT ONE: REQUIREMENTS AND SPECIAL PROVISIONS

This attachment describes the Deliverables and what the Contractor must do to perform under the Contract. It also provides specifications for the Deliverables under the Contract and gives performance and delivery dates, as applicable.

Requirements. The Contractor must meet all the ITB’s requirements and provide all the Deliverables.

The State requires Bidders to arrange procurement and delivery for an initial order of Puppet Labs Software and Services. Items must be delivered to the following location:

- Department of Administrative Services/SOCC
das-server.team@das.ohio.gov
1320 Arthur E Adams Drive
Columbus, OH 43221

Performance Dates. The software must be delivered within ten (10) calendar days of receiving a purchase order.

Acceptance Testing. A performance test will not be done.

Product Evaluation. A product evaluation will not be done.

Estimated Quantities. Bidder's must offer only the specified items based on the Cost Summary Form (Attachment Seven). The total initial order quantity estimate is supplied on the Cost Summary form.

Delivery/Freight Charges. Unless otherwise provided, the State will not be responsible for freight or delivery charges. Prices are to be based upon the product(s) being offered F.O.B. destination, free inside delivery to the location designated by the Agency at mutually agreeable times with inside delivery to areas of the Agency(s) choosing, freight prepaid by the Contractor to the location in the ITB or as listed on the purchase order issued under any Contract awarded. Any shipment marked C.O.D. will be rejected and returned at the Contractor's expense. Costs must include all packing, transportation and insurance charges. Title and risk of loss passes to the State upon delivery and acceptance of all Deliverables, except for software that is subject to a license agreement, but risk of loss passes to the State only upon delivery and inspection for damage, which must occur within fifteen days of delivery. No payment will be made for any deliverable until the State has accepted the Deliverable. The State will have fifteen days after delivery to accept or reject a Deliverable.

Reimbursable Expenses. None.

Bill to Address. Ohio Department of Administrative Services
C/O Ohio Shared Services
PO Box 182880
Columbus, OH 43218

Revenue Share Reporting Address:

<https://cm.ohio.gov>

Revenue Share Payment Address:

Department of Administrative Services
Office of Finance
30 E. Broad St., 40th Floor
Columbus, Ohio 43215

Location of Data. None.

Puppet Labs Master License Agreement. This ITB includes a negotiated Master License Agreement (MLA) between the manufacturer, Puppet Labs, and the State (Attachment Nine). This attached MLA will replace the standard agreement for the associated items purchased as a part of this ITB.

ATTACHMENT TWO: REQUIREMENTS FOR BIDS

Bid Format. Each Bid must include sufficient data to allow the State to verify the total cost for the Deliverables and all of the Bidder's claims of meeting the ITB's requirements. Further, each Bid must respond to every request for information in this attachment.

These instructions describe the required format for a responsive Bid. An identifiable tab sheet must precede each section of a Bid, and each Bid must follow the format outlined below. All pages, except pre-printed technical inserts, must be sequentially numbered. Any material deviation from the format outlined below may result in a rejection of the Bid.

Each Bid must contain the following:

- Cover letter
- Vendor Information Form (OBM-5657)
- Bidder Certification Form
 - Puppet Labs Authorized Reseller Documentation
- Proof of Insurance
- W-9 Form
- Affirmative Action
- Bid Commitment
- MBE Certification
- Buy Ohio and Buy American Certification
- Cost Summary
- Standard Affirmation and Disclosure Form

The State requires an originally signed Cover Letter, Vendor Information Form, Bidder Certification Form, W-9, and Bid Commitment. All originally signed documents must be included in the same Bid binder, and the Bidder must indicate on the outside of the binder which Bid contains the originally signed documents. Additional copies of the Bid may contain copies of these documents.

Cover letter. The Bidder must submit a signed cover letter with a brief company overview.

Vendor Information Form. The offeror must submit a signed and completed Vendor Information Form (OBM-5657) for itself and for each subcontractor the offeror plans to use under the Contract. The form is available at <http://ohiosharedservices.ohio.gov/VendorsForms.aspx>.

Bidder Certification Form. Each Bidder must complete, sign, and submit the Bidder Certification Form included as Attachment Five.

Puppet Labs Authorized Reseller Documentation. Bidder must include documentation from Puppet Labs showing they are an authorized reseller in good standing.

Proof of Insurance. The Bidder must provide the certificate of insurance in the form that Attachment Three requires. The policy may be written on an occurrence or claims made basis.

W-9 Form. The Bidder must submit at least one originally signed W-9. A current W-9 form is available at www.irs.gov.

Affirmative Action. Before a contract can be awarded or renewed, an Affirmative Action Program Verification Form must be completed using: <http://das.ohio.gov/Divisions/EqualOpportunity/AffirmativeActionProgramVerification.aspx>

Bid Commitment. The Bidder must sign and submit the Bid Commitment form (Attachment Four).

MBE Certification. The Bidder must submit a copy of its current MBE Certification issued by the Ohio Department of Administrative Services.

Buy Ohio and Buy American Certification. The Bidder must complete and submit the Buy Ohio and Buy American Certification (Attachment Six).

Cost Summary. This ITB includes a Cost Summary Form (Attachment Seven). Bidders may not reformat this form. Each Bidder must complete the Cost Summary Form in the exact format provided, since the State may reject any Bid with a reformatted Cost Summary Form.

The Cost Summary Form must not include exceptions, additional terms and conditions, or assumptions.

The Bidder's total cost for the Deliverables must be represented as the total price.

The State will not be liable for or pay any costs that the Bidder does not identify in its Bid.

ATTACHMENT THREE: GENERAL TERMS AND CONDITIONS

PART ONE: PERFORMANCE AND PAYMENT

Statement of Work. The ITB and the Contractor's Bid (collectively, the "ITB Documents") are a part of this Contract and describe the goods, services, and any other items (the "Deliverables") the Contractor must deliver under this Contract. The Contractor must provide the Deliverables in a proper, timely, and efficient manner. The Contractor also must furnish its own support staff necessary for the satisfactory performance of this Contract.

Term. Once awarded, the term of the Contract will be from the award date through June 30, 2015. The State may choose to renew the Contract for one additional year through June 30, 2016.

The State's funds are contingent upon the availability of lawful appropriations by the Ohio General Assembly. If the General Assembly fails to continue funding for the payments or other obligations due as part of this Contract, the State's obligations under this Contract will terminate as of the date that the funding expires without further obligation of the State.

The ITB Documents may have one or more dates for the delivery of Deliverables, and the Contractor must make all deliveries within the times the ITB Documents require. If the Contractor does not meet those dates, the Contractor will be in default, and the State may terminate this Contract for cause under the termination section contained below.

Payment. In consideration of the Contractor's promises and satisfactory performance, the State will pay the Contractor the amount(s) identified in the ITB Documents (the "Cost") for any Deliverables actually ordered by issuance of a valid State purchase order, plus any other expenses identified as reimbursable in the ITB Documents. But in no event will payments under this Contract exceed the "not-to-exceed" amount in the ITB Documents without the prior, written approval of the State and, when required, the Ohio Controlling Board and any other source of funding. The Contractor's right to the Fee is contingent on the complete and satisfactory performance under this Contract. Payment of the Fee also is contingent on the Contractor delivering a proper invoice and any other documents this Contract requires. An invoice must comply with the State's then current policies regarding invoices and their submission. The State will notify the Contractor in writing within 15 business days after it receives a defective invoice of any defect and provide the information necessary to correct the defect. If the invoice properly reflects payment due to the Contractor and complies with all the State's requirements for a proper invoice, the State will pay the Contractor within 30 days after the State receives the invoice.

The Contractor must send all invoices under this Contract to the "bill to" address in the ITB Documents or in the applicable purchase order.

The State will pay the Contractor interest on any late payment, as provided in Ohio Revised Code (the "Revised Code") Section 126.30. If the State disputes a payment for anything covered by an invoice, within 15 business days after receipt of that invoice, the State will notify the Contractor, in writing, stating the grounds for the dispute. The State then may deduct the disputed amount from its payment as a nonexclusive remedy. If the Contractor has committed a material breach, in the sole opinion of the State, the State also may withhold payment otherwise due to the Contractor. Both parties will attempt to resolve any claims of material breach or payment disputes through discussions between the Contractor's appropriate executive and the Department of Administrative Services, Office of Procurement Services. The State will consult with the Contractor as early as reasonably possible about the nature of the claim or dispute and the amount of payment affected. When the Contractor has resolved the matter to the State's satisfaction, the State will pay the disputed amount within 30 business days after the matter is resolved. The State has no obligation to make any disputed payments until the matter is resolved, and the Contractor must continue its performance under this Contract pending resolution of the dispute or claim.

If the State has already paid the Contractor on an invoice but later disputes the amount covered by the invoice, and if the Contractor fails to correct the problem within 30 calendar days after written notice, the

Contractor must reimburse the State for that amount at the end of the 30 calendar days as a nonexclusive remedy for the State. On written request from the Contractor, the State will provide reasonable assistance in determining the nature of the problem by giving the Contractor reasonable access to the State's facilities and any information the State has regarding the problem.

Contractor's Revenue Share. The Contractor must pay the State a share of the sales transacted under this Contract. The Contractor must remit the revenue share in US dollars within 30 days after the end of the quarterly reporting period. The revenue share that the Contractor must pay equals .0075 of the total quarterly sales reported. The revenue share is included in the prices reflected on Attachment Seven, Cost Summary and reflected in the total amount charged to ordering activities, and the Contractor may not add a surcharge to orders under this Contract to cover the cost of the revenue share.

The Contractor must remit any amount due as the result of a quarterly or closeout report at the time the quarterly or closeout report is submitted to the Department of Administrative Services, Office of Finance. The Contractor also must pay the revenue share by check. To ensure the payment is credited properly, the Contractor must identify the check as a "Revenue Share" and include the applicable Contract Number ACQ1019, total report amount, and reporting period covered.

The Contractor must make each check payable to "Treasurer, State of Ohio", and forward it to the following address:

Department of Administrative Services
Office of Finance
30 E. Broad St., 40th Floor
Columbus, OH 43215

If the full amount of the revenue share is not paid within 30 days after the end of the applicable reporting period, the non-payment will constitute a contract debt to the State. The State may setoff any unpaid revenue share from any amount owed to the Contractor under this Contract and employ all other remedies available to it under Ohio law for the non-payment of the revenue share. Additionally, if the Contractor fails to pay the revenue share in a timely manner, the failure will be a breach of this Contract, and the State may terminate this Contract for cause and seek damages for the breach.

Reimbursable Expenses. The State will pay all reimbursable expenses identified in the ITB Documents, if any, according to the terms in the ITB Documents and, where applicable, Revised Code Section 126.31. The Contractor is solely responsible for all expenses that it incurs in the performance of this Contract that are not identified as reimbursable in the ITB Documents.

In making any reimbursable expenditure, the Contractor always must comply with the more restrictive of its own, then current internal policies for making such expenditures or the State's then current policies. All reimbursable travel will require the advance written approval of the State's authorized representative. The Contractor must bill all reimbursable expenses monthly, and the State will reimburse the Contractor for them within 30 business days of receiving the Contractor's invoice.

Ohio Payment Card. The State may use the Ohio Payment Card to purchase Deliverables from this Contract. Such purchases may not exceed \$2,500 unless the Office of Budget & Management ("OBM") has approved the purchasing agency to exceed this limit. If OBM increases the dollar limit for payment cards for all State agencies, the State will post notice of the increase on its Procurement Website. Participating State agencies are required to use the Ohio Payment Card in accordance with OBM's current guidelines for the Ohio Payment Card and the participating agency's approved plan filed with OBM. The Contractor may process a payment in the payment card network only upon delivery and acceptance of the Deliverables ordered. For partial deliveries or performance, the Contractor may process a payment for the amount delivered or completed only and not for the entire amount ordered by the participating agency. Upon delivery of the remaining Deliverables, the Contractor may process a payment request in the payment card network for the remainder of the order. The Contractor will receive payment through its merchant bank within the time agreed on between the Contractor and that merchant

bank. The Contractor should expect normal processing fees from its merchant bank for a payment card transaction. The Contractor may not pass on those fees to the State.

Right of Offset. The State may set off the amount of any Ohio tax liability or other obligation of the Contractor or its subsidiaries to the State, including any amounts the Contractor owes to the State under this or other contracts, against any payments due from the State to the Contractor under this or any other contracts with the State.

Certification of Funds. None of the rights, duties, or obligations in this Contract will be binding on the State, and the Contractor will not begin its performance, until all the following conditions have been met:

- (a) All statutory provisions under the Revised Code, including Section 126.07, have been met;
- (b) All necessary funds are made available by the appropriate State entities;
- (c) If required, the Controlling Board of Ohio approves this Contract; and
- (d) If the State is relying on federal or third-party funds for this Contract, the State gives the Contractor written notice that such funds are available.

Sales, Use, Excise, and Property Taxes. The State is exempt from any sales, use, excise, and property tax. To the extent sales, use, excise, or any similar tax is imposed on the Contractor in connection with the Deliverables, such will be the sole and exclusive responsibility of the Contractor. And the Contractor will pay such taxes, together with any interest and penalties not disputed with the appropriate taxing authority, whether they are imposed at the time the services are rendered or a later time.

PART TWO: CONTRACT ADMINISTRATION

Other Contractors. The State may hold other contracts for additional or related goods and services. The Contractor must fully cooperate with and coordinate its performance with all other contractors and State employees as may be required for the smooth and efficient fulfillment of this Contract. The Contractor may not act in any way that may unreasonably interfere with the work of any other contractors or the State's employees.

Record Keeping. The Contractor must keep all financial records in accordance with generally accepted accounting principles consistently applied. The Contractor also must file documentation to support each action under this Contract in a manner allowing the documentation to be readily located. And the Contractor must keep all records and documents related to this Contract at its principal place of business or at its office where the work was performed.

Audits. During the term of this Contract and for three years after the payment of the Contractor's Fee, on reasonable notice and during customary business hours, the State may audit the Contractor's records and other materials that relate to the Contract. This audit right also applies to the State's duly authorized representatives and any person or organization providing financial support for the Contract.

If an audit reveals any material deviation from the Contract's requirements, any misrepresentation, or any overcharge to the State, the State will be entitled to recover its damages, including the cost of the audit.

Insurance. The Contractor must provide the following insurance coverage at its own expense throughout the term of this Contract:

- (a) Workers' compensation insurance, as required by Ohio law, and if some of the work will be done outside Ohio, the laws of the appropriate states where such work will be done. The Contractor also must maintain employer's liability insurance with at least a \$1,000,000.00 limit.

- (b) Commercial general liability insurance coverage for bodily injury, personal injury, wrongful death, and property damage. The defense cost must be outside of the policy limits. Such policy must designate the State of Ohio as an additional insured, as its interest may appear. The policy also must be endorsed to include a waiver of subrogation. At a minimum, the limits of the insurance must be:

\$ 2,000,000 General Aggregate
\$ 2,000,000 Products/Completed Operations Aggregate
\$ 1,000,000 per Occurrence Limit
\$ 1,000,000 Personal and Advertising Injury Limit
\$ 100,000 Fire Legal Liability
\$ 10,000 Medical Payments

The Contractor shall, for each policy required by this Contract to provide the State with 30-days prior written notice of cancellation, material change, or non-renewal, except a ten (10) day notice of non-payment of premium. And the Contractor's commercial general liability insurance must be primary over any other insurance coverage.

- (c) Commercial automobile liability insurance with a combined single limit of \$500,000.

All certificates must be in a form that is reasonably satisfactory to the State as to the contents of the policies and the quality of the insurance carriers. All carriers must have at least an "A-" rating by A.M. Best.

Representatives. The State's representative under this Contract will be the person identified in the ITB Documents or in a subsequent notice to the Contractor as the "Contract Representative." The Contract Representative will review all reports the Contractor makes in the performance of the Contract, will conduct all liaison with the Contractor, and will accept or reject the Deliverables. The Contract Representative may delegate his responsibilities for individual aspects of the Contract to one or more managers, who may act as the Contract Representative for those individual portions of the Contract.

The Contractor's Contract Manager under this Contract will be the person identified on the ITB Documents as the "Contract Manager." The Contract Manager will be the Contractor's liaison with the State under this Contract. Additionally, the Contract Manager will prepare and submit to the Contract Representative all reports, plans, and other materials that the ITB Documents require from the Contractor.

Either party, upon written notice to the other party, may designate another representative.

Work Responsibilities. If the Contractor must work on the State's property, the State will provide the Contractor with reasonable access to the work site. After the work is complete, the Contractor must issue a completion letter and secure the signature of the Contract Representative certifying that work is complete. The letter must describe the nature, date, and location of the work, as well as the date the Contract Representative certified the work as complete and operational.

Unless otherwise provided in the ITB Documents, the Contractor is solely responsible for obtaining and maintaining all official permits, approvals, licenses, certifications, and similar authorizations required by any local, state, or federal agency for its performance under the Contract.

Product Recall. If any Deliverable is recalled, seized, embargoed, or determined to be misbranded by the manufacturer or state or federal regulatory agency, the Contractor must notify the Department of Administrative Services, Office of Procurement Services and all agencies and Political Subdivisions that have issued orders under this Contract within ten business days after notice has been given. The Contractor, at the option of the ordering agency, either must reimburse the purchase price or provide an equivalent replacement product at no additional cost. The Contractor also must remove and replace the affected product within a reasonable time as determined by the ordering agency. At the option of the

ordering agency, the Contractor may be required to reimburse storage and handling fees, to be calculated from time of delivery and acceptance to actual removal. The Contractor will bear all costs associated with the removal and proper disposal of the affected product. Any failure of the Contractor to reimburse the purchase price or provide equivalent replacement product will be a default.

Contract Compliance. Participating State agencies will be responsible for the administration of the Contract with respect to their individual orders and will monitor the Contractor's performance and compliance with the terms, conditions, and specifications of the Contract. If an agency becomes aware of a breach of the Contractor's obligations under this Contract, such may be documented and conveyed to the Contractor for immediate correction. If the Contractor fails to rectify the breach, the agency may notify the Department of Administrative Services, Office of Procurement Services through a Complaint to Vendor (CTV) to help resolve the situation, and the Department of Administrative services, Office of Procurement Services will take the appropriate action under this Contract with respect to the breach, including among other things termination of this Contract, litigation, or initiation of debarment proceedings.

Excusable Delay. Neither party will be liable for any delay in its performance that arises from causes beyond its control and without its negligence or fault. The delayed party must notify the other promptly of any material delay in performance and must specify in writing the proposed revised performance date as soon as practicable after notice of delay. In the event of any such excusable delay, the date of performance or delivery will be extended for a period equal to the time lost by reason of the excusable delay. The delayed party also must describe the cause of the delay and what steps it will take to remove the cause. The delayed party may not rely on a claim of excusable delay to avoid liability for a delay if the delayed party has not taken commercially reasonable steps to mitigate or avoid the delay. Things that are controllable by the Contractor's subcontractors will be considered controllable by the Contractor, except for third-party manufacturers supplying commercial items and over whom the Contractor has no legal control.

Independent Contractor Acknowledgement. It is fully understood and agreed that Contractor is an independent contractor and is not an agent, servant, or employee of the State of Ohio or the Ohio Department of Administrative Services. Contractor declares that it is engaged as an independent business and has complied with all applicable federal, state, and local laws regarding business permits and licenses of any kind, including but not limited to any insurance coverage, workers' compensation, or unemployment compensation that is required in the normal course of business and will assume all responsibility for any federal, state, municipal or other tax liabilities. Additionally, Contractor understands that as an independent contractor, it is not a public employee and is not entitled to contributions from DAS to any public employee retirement system.

Contractor acknowledges and agrees any individual providing personal services under this agreement is not a public employee for purposes of Chapter 145 of the Ohio Revised Code. Unless Contractor is a "business entity" as that term is defined in ORC. 145.037 ("an entity with five or more employees that is a corporation, association, firm, limited liability company, partnership, sole proprietorship, or other entity engaged in business") Contractor shall have any individual performing services under this agreement complete and submit to the ordering agency the Independent Contractor/Worker Acknowledgement found at the following link: <https://www.opers.org/forms-archive/PEDACKN.pdf#zoom=80>

Contractor's failure to complete and submit the Independent/Worker Acknowledgement prior to commencement of the work, service or deliverable, provided under this agreement, shall serve as Contractor's certification that contractor is a "Business entity" as the term is defined in ORC Section 145.037.

PART THREE: PUBLICITY AND CONFIDENTIAL INFORMATION

Publicity. The Contractor may not publicize or advertise that it is doing business with the State or use this Contract or the Contractor's relationship with the State as a marketing or sales tool, unless the State agrees otherwise in writing.

Confidentiality. The State may disclose to the Contractor written material or oral or other information that the State treats as confidential ("Confidential Information"). Title to the Confidential Information and all related materials and documentation that the State delivers to the Contractor will remain with the State. The Contractor must treat such Confidential Information as secret, if it is so marked, otherwise identified as such, or when, by its very nature, it deals with matters that, if generally known, would be damaging to the best interests of the public, other contractors, potential contractors with the State, or individuals or organizations about whom the State keeps information. By way of example, information must be treated as confidential if it includes any proprietary documentation, materials, flow charts, codes, software, computer instructions, techniques, models, information, diagrams, know-how, trade secrets, data, business records, or marketing information. By way of further example, the Contractor also must treat as confidential materials such as police and investigative records, files containing personal information about individuals or employees of the State, such as personnel records, tax records, and so on, court and administrative records related to pending actions, any material to which an attorney-client, physician-patient, or similar privilege may apply, and any documents or records excluded by Ohio law from public records disclosure requirements.

The Contractor may not disclose any Confidential Information to third parties and must use it solely to perform under this Contract. Additionally, the Contractor must restrict circulation of Confidential Information within its organization and then only to people in the Contractor's organization that have a need to know the Confidential Information to perform under this Contract. The Contractor will be liable for the disclosure of such information, whether the disclosure is intentional, negligent, or accidental, and the Contractor must indemnify the State against any claims made against the State due to the Contractor's improper disclosure of Confidential Information.

The Contractor will not incorporate any portion of any Confidential Information into any work or product, other than a Deliverable, and will have no proprietary interest in any of the Confidential Information. Furthermore, the Contractor Personnel and subcontractors that have access to any Confidential Information must execute a confidentiality agreement incorporating the obligations in this section.

The Contractor's obligation to maintain the confidentiality of the Confidential Information will not apply where such: (1) was already in the Contractor's possession before disclosure by the State, and such was received by the Contractor without obligation of confidence; (2) is independently developed by the Contractor; (3) except as provided in the next paragraph, is or becomes publicly available without breach of this Contract; (4) is rightfully received by the Contractor from a third party without an obligation of confidence; (5) is disclosed by the Contractor with the written consent of the State; or (6) is released in accordance with a valid order of a court or governmental agency, provided that the Contractor (a) notifies the State of such order immediately upon receipt of the order and (b) makes a reasonable effort to obtain a protective order from the issuing court or agency limiting disclosure and use of the Confidential Information solely for the purposes intended to be served by the original order of production. The Contractor must return all originals of any Confidential Information and destroy any copies it has made on termination or expiration of this Contract.

Information that may be available publicly through other sources about people that is personal in nature, such as medical records, addresses, phone numbers, social security numbers, and similar things are nevertheless sensitive in nature and may not be disclosed or used in any manner except as expressly authorized in this Contract. Therefore, item (3) in the preceding paragraph does not apply, and the Contractor must treat such information as Confidential Information whether it is available elsewhere or not.

The Contractor may disclose Confidential Information to its subcontractors on a need-to-know basis, but the Contractor first must obligate them to the requirements of this section.

The Contractor must notify the State in writing as soon as the Contractor learns that the Contractor or any of the Contractor's People or its subcontractors or agents has disclosed any of the State's Confidential Information in a manner that is inconsistent with the requirements of this section.

PART FOUR: REPRESENTATIONS, WARRANTIES, AND LIABILITIES

Warranties. Except as otherwise provided, the duration of the warranties under this Contract is one year (the "Warranty Period").

The Contractor warrants that its performance under this Contract will be in accordance with the requirements of this Contract and without any material defects. The Contractor also warrants that all Deliverables will conform to their written specifications in all material respects and be merchantable and fit for the particular purposes described in the ITB Documents.

Further, for any commercial software ("Software") that is a Deliverable under this Contract, the Contractor warrants that the Software will be free of material defects and will function in substantial conformance to its user and technical documentation when used in the operating environment for which it is intended and in accordance with its documentation. Additionally, the Contractor warrants that all media on which the Software is delivered to the State will be free from defects and viruses.

In addition, for any Deliverable that is a mechanical device, electrical equipment, computer hardware, telecommunications hardware, or other type of physical machinery ("Equipment"), the Contractor warrants that the Equipment fully complies with all government environmental and safety standards applicable to the Equipment on the date of acceptance.

The Contractor also warrants that the Equipment will perform substantially in accordance with any applicable specifications in the ITB Documents as well as the Equipment's user and technical documentation. The foregoing warranties will not apply to Equipment that is modified or damaged after title passes to the State.

GENERAL EXCLUSION OF WARRANTIES. THE CONTRACTOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, OTHER THAN THOSE EXPRESS WARRANTIES CONTAINED IN THIS CONTRACT.

Remedies for Breach of Warranties. If any Deliverable fails to comply with these warranties, and the Contractor is so notified in writing, the Contractor must correct the failure within 30 days or less or must refund the amount of the compensation paid for the Deliverable. The Contractor also must indemnify the State for any direct damages and claims by third parties based on a breach of these warranties. This obligation of indemnification will not apply where the State has modified or misused the Deliverable and the claim is based on the modification or misuse. The State will give the Contractor notice of any such claim as soon as reasonably practicable. If a successful claim of infringement is made, or if the Contractor reasonably believes that an infringement claim that is pending may actually succeed, the Contractor must do one of the following things: (1) modify the Deliverable so that it is no longer infringing; (2) replace the Deliverable with an equivalent or better item; (3) acquire the right for the State to use the infringing Deliverable as it was intended for the State to use under this Contract; or (4) remove the Deliverable and refund the amount the State paid for the Deliverable and the amount of any other Deliverable or item that requires the availability of the infringing Deliverable for it to be useful to the State.

The Contractor's entire liability and the State's sole remedy for any breach of the above media warranty is limited to requiring the Contractor to replace the defective media expeditiously and without charge to the State. The Contractor's entire liability and the State's sole remedy for any breach of the above anti-virus warranty will be limited to requiring the Contractor to deliver a replacement copy of the relevant Software to the State free of viruses. Furthermore, the Contractor's entire liability and the State's sole remedy for any breach of the above warranties of fitness, merchantability, and against defects in the Software will be limited to the Contractor expeditiously correcting the defect or issue and providing the State with a patch containing the correction. If within the times given below, the Contractor does not provide a replacement copy for defective media or Software containing a virus or fails to deliver a fix for a defect in the Software or a correction solving a fitness or merchantability issue, the Contractor must refund all License Fees paid by the State for the affected Software. In the case of defective media or Software containing a virus, the

Contractor will have 15 days after written notice to provide a replacement. In the case of other defects, merchantability issues, or fitness issues, the Contractor will have 30 days after written notice to deliver a correction that resolves the problem. Upon the Contractor's issuance of a refund, the State will return or destroy all copies of the Software and, upon the Contractor's request, certify in writing that it has done so.

The Contractor must notify the State in writing immediately upon the discovery of any breach of the warranties given above. The Contractor must correct any defect or failure of the Equipment within 30 days or grant the State a refund equal to the amount the State paid for the Equipment or, if such has not been individually priced, the manufacturer's suggested retail price for the Equipment.

Except where the Contractor's breach of a warranty makes it not possible for the State to do so, the State will return the affected Equipment to the Contractor in the case of a refund under the previous paragraph.

TERMINATION / SUSPENSION.

Termination, Effectiveness, Contractor Responsibilities. The notice of termination whether for cause or without cause will be effective as soon as the Contractor receives the notice. Upon receipt of the notice of termination, the Contractor must immediately cease all work on the Project, if applicable, and refuse any additional orders and take all steps necessary to minimize the costs the Contractor will incur related to this Contract. The Contractor must immediately prepare a report and deliver such report to the State. The report must detail either the work completed at the time of termination or the orders received and not processed prior to termination, and if applicable, the percentage of the Project's completion, estimated time for delivery of all orders received prior to termination, any costs incurred by the Contractor in doing the Project to date and any deliverables completed or partially completed but not delivered to the State at the time of termination. Any and all work, whether completed or not, must be delivered to the State along with the specified report. The report and any delivered work is subject to approval by the State. However, if delivery in that manner would not be in the State's interest, then the Contractor must propose a suitable alternate form of delivery.

Contract Remedies.

1. **Actual Damages.** The Contractor is liable to the State for all actual and direct damages caused by the Contractor's default. The State may buy substitute supplies or services, from a third party, for those that were to be provided by the Contractor. The State may recover the costs associated with acquiring substitute supplies or services, less any expenses or costs saved by the Contractor's default.
2. **Liquidated Damages.** If actual and direct damages are uncertain or difficult to determine, the State may recover liquidated damages in the amount of 1% of the value of the order, deliverable or milestone that is the subject of the default, for every day that the default is not cured by the Contractor.
3. **Deduction of Damages from Contract Price.** Upon issuing written notice to the Contractor, the State may deduct all or any part of the damages resulting from the Contractor's default from any part of the Contractor compensation still due on the Contract. In the case of suspension for default, the State will be entitled to all remedies available under this Contract.

Contract Suspension.

1. If the Contractor fails to perform any one of the Contractor's obligations under this Contract, the Contractor will be in default and the State may suspend rather than terminate this Contract where the State believes that doing so would better serve the State's interest.
2. In the case of a suspension for the State's convenience, the amount of compensation due to the Contractor for work performed before the suspension will be determined in the same manner as

provided in this section for termination for the State's convenience or the Contractor may be entitled to compensation for work performed before the suspension.

3. The notice of suspension whether, with or without cause, will be effective immediately, on the Contractor's receipt of the notice. The Contractor must immediately prepare a report and deliver such report to the State as is required in the case of termination.

Contract Termination.

1. Termination for Convenience. The State may terminate this Contract for its convenience after issuing written notice to the Contractor. If the termination is for the convenience of the State, the Contractor will be entitled to compensation for any Deliverable that the Contractor has delivered before the termination. Such compensation will be the Contractor's exclusive remedy in the case of termination for convenience and is available to the Contractor only after the Contractor has submitted a proper invoice for such, with the invoice reflecting the amount determined by the State to be owing to the Contractor.
2. Termination for Cause. If the Contractor fails to perform any one of its obligations under this Contract, the Contractor will be in default and the State may terminate this Contract in accordance with this section. The termination will be effective on the date delineated by the State.
 - a. Termination for Default. If the Contractor's default is unable to be cured in a reasonable time, the State may terminate the Contract by written notice to the Contractor.
 - b. Termination for Defaults not Remedied. If the Contractor's default may be cured within a reasonable time, the State will provide written notice to the Contractor specifying the default and the time within which the Contractor must correct the default. If the Contractor fails to cure the specified default within the time required, the State may terminate the Contract. If DAS does not give timely notice of default to the Contractor, the State has not waived any of the State's rights or remedies concerning the default.
3. Termination for Persistent Default. The State may terminate this Contract by written notice to the Contractor for defaults that are cured, but are persistent. "Persistent" means three or more defaults. After the State has notified the Contractor of its third default, the State may terminate this Contract without providing the Contractor with an opportunity to cure, if the Contractor defaults for a third time. The three defaults are not required to be related to each other in any way.
4. Termination for Endangered Performance. The State may terminate this Contract by written notice to the Contractor if the State determines that the performance of the Contract is endangered through no fault of the State.
5. Termination for Financial Instability. The State may terminate this Contract by written notice to the Contractor if a petition in bankruptcy or similar proceeding has been filed by or against the Contractor.
6. Termination for Delinquency, Violation of Law. The State may terminate this Contract by written notice, if the State determines that the Contractor is delinquent in its payment of federal, state or local taxes, workers' compensation, insurance premiums, unemployment compensation contributions, child support, court costs or any other obligation owed to a state agency or political subdivision. The State also may cancel this Contract, if the State determines that the Contractor has violated any law during the performance of this Contract. However, the State may not terminate this Contract if the Contractor has entered into a repayment agreement with which the Contractor is current.

7. Termination for Subcontractor Default. The State may terminate this Contract for the default of the Contractor or any of its subcontractors. The Contractor will be solely responsible for satisfying any claims of its subcontractors for any suspension or termination and will indemnify the State for any liability to them. Subcontractors will hold the State harmless for any damage caused to them from a suspension or termination. The subcontractors will look solely to the Contractor for any compensation to which they may be entitled.
8. Termination for Failure to Retain Certification. Pursuant to Section §123.151 and §123.152 of the Revised Code, the State may certify businesses for participation in state sponsored business assistance programs. After certification is obtained it is the responsibility of the Contractor to maintain certification. If the Contractor is awarded a contract pursuant to a certification program and fails to renew its certification and/or is decertified, the State may immediately cancel the Contract.

Indemnity for Property Damage and Bodily Injury. The Contractor must indemnify the State for all liability and expenses resulting from bodily injury to any person (including injury resulting in death) and damage to tangible or real property arising out of the performance of this Contract, provided that such bodily injury or property damage is due to the negligence or other tortious conduct of the Contractor, the Contractor's Personnel, or its subcontractors. The Contractor will not be responsible for any damages or liability to the extent caused by the negligence or willful misconduct of the State, its employees, its other contractors, or its agents.

Limitation of Liability. Neither party will be liable for any indirect, incidental, or consequential loss or damage of the other party, including but not limited to lost profits, even if the parties have been advised, knew, or should have known of the possibility of such damages. The limitations in this paragraph do not apply to any obligation of the Contractor to indemnify the State against claims made against it or for damages to the State caused by the Contractor's negligence or other tortious conduct.

PART FIVE: ACCEPTANCE AND MAINTENANCE

Acceptance. There will be no formal acceptance procedure unless the ITB Documents expressly provide otherwise. If the ITB Documents do not provide otherwise, the acceptance procedure will be an informal review by the Contract Representative to ensure that each Deliverable complies with the requirements of this Contract. The Contract Representative will have up to 30 calendar days to do this. No formal letter of acceptance will be issued, and passage of the 30 calendar days will imply acceptance, though the State will issue a notice of noncompliance if a Deliverable does not meet the requirements of this Contract. If the Contract Representative issues a letter of noncompliance, then the Contractor will have 30 calendar days to correct the problems listed in the noncompliance letter. If the Contractor fails to do so, the Contractor will be in default without a cure period. If the Contract Representative has issued a noncompliance letter, the affected Deliverables will not be accepted until the Contract Representative issues a letter of acceptance indicating that each problem noted in the noncompliance letter has been cured. If the problems have been fixed during the 30 day period, the Contract Representative will issue the acceptance letter within 15 calendar days.

If the Contractor fails to bring a Deliverable into compliance after 60 calendar days from the start of the acceptance period, the Contractor will be in default and will not have a cure period.

Passage of Title. Title to any Deliverable will pass to the State on delivery. All risk of loss, regardless of the cause, will remain with the Contractor until title to the Deliverable passes to the State.

PART SIX: CONSTRUCTION

Entire Document. This Contract is the entire agreement between the parties with respect to its subject matter and supersedes any previous statements or agreements, whether oral or written, as well as any contemporaneous oral agreement.

Binding Effect. This Contract will be binding upon and inure to the benefit of the respective successors and assigns of the State and the Contractor.

Amendments – Waiver. No change to any provision of this Contract will be effective unless it is in writing and signed by both parties. The failure of either party at anytime to demand strict performance by the other party of any of the terms of this Contract will not be a waiver of those terms. Waivers must be in writing to be effective. And either party may at any later time demand strict performance.

Severability. If any provision of this Contract is held by a court of competent jurisdiction to be contrary to law, the remaining provisions of this Contract will remain in full force and effect to the extent that such does not create an absurdity.

Construction. This Contract will be construed in accordance with the plain meaning of its language and neither for nor against the drafting party.

Headings. The headings used herein are for the sole sake of convenience and will not be used to interpret any section.

Notices. For any notice under this Contract to be effective, it must be made in writing and sent to the address of the appropriate contact provided elsewhere in the Contract, unless such party has notified the other party, in accordance with the provisions of this section, of a new mailing address. This notice requirement will not apply to any notices that this Contract expressly authorized to be made orally.

Continuing Obligations. The terms of this Contract will survive the termination or expiration of the time for performance and the time for meeting any final payment of compensation, except where such creates an absurdity.

PART SEVEN: LAW AND COURTS

Compliance with Law. The Contractor must comply with all applicable federal, state, and local laws while performing under this Contract.

Drug-Free Workplace. The Contractor must comply with all applicable state and federal laws regarding keeping a drug-free workplace. The Contractor must make a good faith effort to ensure that all of the Contractor's Personnel, while working on state property, will not have or be under the influence of illegal drugs or alcohol or abuse prescription drugs in any way.

Conflicts of Interest. None of the Contractor's Personnel may voluntarily acquire any personal interest that conflicts with their responsibilities under this Contract. Additionally, the Contractor may not knowingly permit any public official or public employee who has any responsibilities related to this Contract to acquire an interest in anything or any entity under the Contractor's control, if such an interest would conflict with that official's or employee's duties. The Contractor must disclose to the State knowledge of any such person who acquires an incompatible or conflicting personal interest related to this Contract. And the Contractor must take steps to ensure that such a person does not participate in any action affecting the work under this Contract. But this will not apply when the State has determined, in light of the personal interest disclosed, that person's participation in any such action would not be contrary to the public interest.

Ohio Ethics Law and Limits on Political Contributions. The Contractor certifies that it is currently in compliance and will continue to adhere to the requirements of the Ohio ethics laws. The Contractor also certifies that all applicable parties listed in Ohio Revised Code Section 3517.13 are in full compliance with Ohio Revised Code Section 3517.13.

Security & Safety Rules. When using or possessing State data or accessing State networks and systems, the Contractor must comply with all applicable State rules, policies, and regulations regarding data security and integrity. And when on any property owned or controlled by the State, the Contractor

must comply with all security and safety rules, regulations, and policies applicable to people on those premises.

Unresolved Finding for Recovery. If the Contractor was subject to an unresolved finding of the Auditor of State under Revised Code Section 9.24 on the date the parties sign this Contract, the Contract is void. Further, if the Contractor is subject to an unresolved finding of the Auditor of State under Revised Code Section 9.24 on any date on which the parties renew or extend this Contract, the renewal or extension will be void.

Equal Employment Opportunity. Contractor will comply with all state and federal laws regarding equal employment opportunity and fair labor and employment practices, including but not limited to Ohio revised Code Section 125.111 and all related Executive Orders.

Before a contract can be awarded or renewed, an Affirmative Action Program Verification Form must be submitted to the Department of Administrative Services Equal Opportunity Division to comply with the affirmative action requirements. Affirmative Action Verification Forms and approved Affirmative Action Plans can be found by going to the Ohio Business Gateway at: <http://business.ohio.gov/efiling/>.

Injunctive Relief. Nothing in this Contract is intended to limit the State's right to injunctive relief, if such is necessary to protect its interests or to keep it whole.

Assignment. The Contractor may not assign this Contract or any of its rights or obligations under this Contract without the prior, written consent of the State. The State is not obligated to provide its consent to any proposed assignment.

Antitrust. The State and the Contractor recognize that, in actual economic practice, overcharges resulting from antitrust violations are usually borne by the State. The Contractor therefore assigns to the State all state and federal antitrust claims and causes of action that the Contractor has or acquires relating to the goods and services acquired under this Contract.

Legal Compliance. The Contractor must comply with all applicable laws and regulations, including those of the State regarding conduct on any premises under the State's control, in the performance of this Contract.

Governing Law. This Contract will be governed by the laws of Ohio, and venue for any disputes will lie exclusively with the appropriate court in Franklin County, Ohio.

REGISTRATION WITH THE SECRETARY OF STATE. By providing a Charter Number and signature within the Certification Offer Letter, the Contractor attests that the Contractor is:

An Ohio corporation that is properly registered with the Ohio Secretary of State; or

A foreign corporation, not incorporated under the laws of the state of Ohio, but is registered with the Ohio Secretary of State pursuant to Ohio Revised Code Sections 1703.01 to 1703.31, as applicable.

Any foreign corporation required to be licensed under O.R.C. § 1703.01-1703.31, which transacts business in the state of Ohio, without being so licensed, or when its license has expired or been canceled, shall forfeit not less than \$250.00 nor more than ten thousand dollars. No officer of a foreign corporation (<http://codes.ohio.gov/orc/1703.01>) shall transact business in the state of Ohio, if such corporation is required by O.R.C. § 1703.01-1803.31 to procure and maintain a license, but has not done so. Whoever violates this is guilty of a misdemeanor of the fourth degree. Questions regarding registration should be directed to (614) 466-3910, or visit <http://www.sos.state.oh.us>

Governing the Expenditure of Public Funds on Offshore Services (EO 2011-12K). The Contractor affirms to have read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of this Contract. Notwithstanding any other terms of this Contract, the State reserves

the right to recover any funds paid for services the Contractor performs outside of the United States for which it did not receive a waiver. The State does not waive any other rights and remedies provided the State in this Contract.

The Contractor agrees to complete the attached Executive Order 2011-12K Affirmation and Disclosure Form, Attachment Eight which is incorporated and becomes a part of this Agreement.

**ATTACHMENT FOUR
BID COMMITMENT**

THIS BID COMMITMENT (the "Bid Commitment") commits the Bidder identified below to the Bid it submitted in response to the State's ITB ACQ1023, entitled **Puppet Labs Software and Services** which the State of Ohio ("State") issued through the Department of Administrative Services, Enterprise IT Contracting.

If the State accepts the Bid within 90 days of the Bid opening date or before written notice from the Bidder of its withdrawal of the Bid after the 90-day acceptance period, it will issue a letter of award ("Award Letter") to the Bidder. The Award Letter will identify the items ("Deliverables") awarded to the Bidder and will be part of the agreement between the Bidder and the State ("Contract"). The entire Contract will consist of the State's Award Letter, the ITB, including all attachments, written amendments to this ITB, the Bid of the successful Bidder, and written, authorized amendments to that Bid. It also will include any materials incorporated by reference in the above documents and any purchase orders issued under the Contract. If there are conflicting provisions among the documents that make up the Contract, the order of precedence for the documents will be as follows:

1. The Award Letter
2. This ITB, as amended;
3. The documents and materials incorporated by reference in the ITB;
4. The Contractor's Bid, as amended, clarified, and accepted by the State; and
5. The documents and materials incorporated by reference in the Contractor's Bid, to the extent they are not inconsistent with any of the foregoing.

Notwithstanding the order listed above, amendments signed by authorized representatives of the Bidder and the State after the Contract is formed may expressly change the provisions of the Contract. If they do so, then the most recent of them will take precedence over anything else that is part of the Contract.

This Bid Commitment binds the Bidder upon its submittal to the State as part of the Bid, and it will continue to bind the Bidder for the longer of 90 days after the Bid opening date or the Bidder's withdrawal of its Bid. Additionally, if the State awards the Contract to the Bidder before the Bidder properly withdraws the Bid, the Contract will remain in force as provided in the Attachment Three of the ITB, Terms and Conditions.

FOR THE BIDDER

Signature: _____

Name: _____

Title: _____

Date: _____

**ATTACHMENT FIVE
BIDDER CERTIFICATION FORM**

The Bidder certifies that the following statements are true and accurate:

1. The Bidder's proposed Deliverables meet all the requirements of this ITB.
2. The Bidder has not taken any exception to the terms and conditions in this ITB.
3. The Bidder will comply with all federal and Ohio laws, rules, and regulations that are in force currently or anytime during the term of the Contract.
4. The Bidder is not now subject to an "unresolved" finding for recovery under Revised Code Section 9.24, and the Bidder will notify the Procurement Representative any time it becomes subject to such a finding before the award of a Contract arising out of this ITB.
5. The Bidder will be the prime Contractor if a Contract is awarded based on this Bid.
6. The Bidder will not and will not allow others to perform work for the State of Ohio outside the geographic limitations contained in Attachment One or take data that belongs to the State of Ohio outside the geographic limitations contained in Attachment One without express written authorization from the State.
7. The Bidder affirms that any small business program participants will provide necessary data to ensure program reporting and compliance.
8. This Bid is genuine and not a sham and Bidder has not colluded, conspired, or agreed, directly or indirectly, with anyone or any entity to limit competition under this ITB or to set or otherwise control the prices, products, or services offered to the State under this ITB.
9. The Bidder certifies it and its subcontractors will perform all services only at the following location(s) within the United States:

Address 1:	Address 2:

Address 3:	Address 4:

(Attach an additional sheet if more addresses need to be listed.)

10. The Bidder certifies its and each of its subcontractors' principal places of business are located at the addresses identified in the Vendor Information Form(s) included with this Bid.
11. The Bidder certifies its responses to the following statements are true and accurate. The Bidder's answers apply to the last seven years. Please indicate yes or no in each column.

Yes/No	Description
	The Bidder has had a contract terminated for default or cause.
	The Bidder has been assessed any penalties in excess of \$10,000.00, including liquidated damages, under any of its existing or past contracts with any organization (including any governmental entity).
	The Bidder was the subject of any governmental action limiting the right of the Bidder to do business with that entity or any other governmental entity.
	Trading in the stock of the company has ever been suspended with the date(s) and explanation(s).
	The Bidder, any officer of the Bidder, or any owner of a 20% interest or greater in the Bidder has filed for bankruptcy, reorganization, a debt arrangement, moratorium, or any proceeding under any bankruptcy or insolvency law, or any dissolution or liquidation proceeding.
	The Bidder, any officer of the Bidder, or any owner with a 20% interest or greater in the Bidder has been convicted of a felony or is currently under indictment on any felony charge.

If the answer to any item above is affirmative, the Bidder must provide complete details about the matter. While an affirmative answer to any of these items will not automatically disqualify a Bidder from consideration, at the sole discretion of the State, such an answer and a review of the background details may result in a rejection of the Bid. The State will make this decision based on its determination of the seriousness of the matter, the matter's possible impact on the Bidder's performance under the Contract, and the best interests of the State.

12. The Bidder certifies neither it nor any of its people that may work on or benefit from the Contract through the Bidder has a possible conflict of interest (e.g., employed by the State of Ohio, etc.) other than the conflicts identified immediately below:

Potential Conflicts (by person or entity affected)

(Attach an additional sheet if more space is need.)

The Bidder acknowledges the State may reject a Bid in which an actual or apparent conflict is disclosed. And the State may cancel or terminate the Contract for cause if it discovers any actual or apparent conflict of interest the Bidder did not disclose in its Bid.

13. The Bidder's personnel working on the Contract will have a valid I-9 form on file with the Bidder and will have presented valid employment authorization documents, if they are not United States citizens.

14. The Bidder agrees that (1) it will conduct criminal background checks as provided in section 5104.013 of the Ohio Revised Code on Contractor and subcontract personnel who will perform sensitive services (as defined below), and (2) no ineligible personnel will perform sensitive services under this Contract. "Ineligible Personnel" means any person who (a) has been convicted at any time of any criminal offense involving dishonesty, a breach of trust, or money laundering, or who has entered into a pre-trial diversion or similar program in connection with a prosecution for such offense, (b) is named by the Office of Foreign Asset Control (OFAC) as a Specially Designated National, or (c) has been convicted of a felony. "Sensitive Services" means those services that (i) require access to Customer/Consumer Information, (ii) relate to the State's computer networks, information systems, databases or secure facilities under circumstances that would permit modifications to such systems, or (iii) involve unsupervised access to secure facilities ("Sensitive Services"). Upon request, Contractor will provide written evidence that all of Contractor's and subcontractor's personnel providing Sensitive Services have undergone a criminal background check and are eligible to provide Sensitive Services. In the event that Contractor does not comply with the terms of this section, the State may, in its sole and absolute discretion, terminate this Contract immediately without further liability.
15. The Bidder certifies that they are an authorized Puppet Labs reseller in good standing, and have provided documentation from the appropriate Puppet Labs representative supporting this claim.

The Person signing below is an authorized representative of the Bidder and certifies to the truth and accuracy of the representations made above.

Signature

Name

Title

Company Name of Bidder

Company D-U-N-S Number

**ATTACHMENT SIX
BUY OHIO AND BUY AMERICAN CERTIFICATION**

Those bidders claiming preference for Domestic Source End Products and/or the Ohio preference, pursuant to Revised Code Sections 125.09 and 125.11 and Administrative Code Section 123:5-1-06 must complete the following information. Bidders who qualify as an "Ohio" bidder (offer an Ohio product or who have significant Ohio economic presence) or who qualify as a Border State bidder are eligible to receive a five percent (5%) preference over non-Ohio/Border state bidders. The state reserves the right to clarify any information during the evaluation process. **BIDDERS MUST COMPLETE THIS CERTIFICATION TO RECEIVE THE PREFERENCE.**

A. DOMESTIC PREFERENCE (BUY AMERICA): [Not applicable to **"Excepted Products"**]

1. Where is each product/services being offered mined, raised, grown, produced or manufactured?
 - United States: _____(State) Canada Mexico (Go to B-1)
 - Other: (Specify Country)_____ (Go to A-2)
2. End product is manufactured outside the United States and at least 50% of the cost of its components are produced, mined, raised, grown or manufactured within the United States. The cost of components may include transportation costs to the place of manufacture and, in the case of components of foreign origin, duty whether or not a duty free entry certificate is issued.
 - Yes (Go to Section B-1) No (Go to Section A-3)
3. The Bidder hereby certifies that each end product, except the products listed below, is a domestic source end product as defined in the Buy America Act and that components of unknown origin have been considered to have been mined, produced, grown or manufactured outside the United States.
 - _____ (Item) _____ (Country of Origin)
 - _____ (Item) _____ (Country of Origin)

A domestic end source product is deemed to be excessively priced if it exceeds the cost of the foreign product by more than 6%. Pursuant to FAR, Part 25, the state of Ohio does not acquire supplies or services that cannot be imported lawfully into the United States. The contractor, their subcontractor(s) and any agent of the contractor or subcontractor must not acquire any supplies or services originating from sources within, or that were located in or transported from or through Cuba, Iran, Iraq, Libya, North Korea, Sudan Territory of Afghanistan controlled by the Taliban, or Serbia (excluding the territory of Kosovo).

B. OHIO PREFERENCE (BUY OHIO):

1. The products/services being offered are raised, grown, produced, mined or manufactured in Ohio.
 - Yes (Go to C) No (Go to B-2)
2. Bidder has significant economic presence within the state of Ohio.
 - Yes (Answer a, b, c, d below) No (Go to B-3)
 - a) Bidder has paid the required taxes due the state of Ohio Yes No
 - b) Bidder is registered with the Ohio Secretary of State
 - Yes (Charter/Registration No.: _____) No
 Questions regarding registration should be directed to (614) 466-3910 or visit their web site at: <http://www.sos.state.oh.us/>
 - c) Bidder has ten or more employees based in Ohio or border state. Yes No (Go to B-2d)
 - d) Bidder has seventy-five percent or more employees based in Ohio or border state. Yes No (Go to B-3)
3. Border state bidder:
 - Yes (Specify which state then go to B-2c): KY MI NY PA IN No (Go to B-4)
4. Border state bidder: mined products mined in respective border state Yes No Not Applicable



**ATTACHMENT SEVEN
COST SUMMARY**

Bidders responding to the ITB must submit a complete Cost Summary.

Any corrections or changes made to the figures in the SINGLE UNIT COST or TOTAL COST columns of the Table must be initialed or the bid will be disqualified.

THE GRAND TOTAL FOR LINE ITEMS 1-3 WILL BE THE BASIS FOR DETERMINING THE CONTRACT AWARD.

The cost includes F.O.B. destination, free inside delivery to the location designated by the Agency at mutually agreeable times with inside delivery to areas of the Agency(s) choosing. Costs must include all packing, transportation and insurance charges.

A cost must be provided for each item on the cost summary. Failure to provide a cost for any required line item will result in the disqualification of the bidder's response. Additionally, the cost summary must not include exceptions, additional terms and conditions or assumptions.

Additional purchases made after the initial order will be procured at the single unit cost.

Line Number	Node Tier	Product Description		Total Cost
Primary Puppet Labs Software and Services				
1	1,000	Puppet Enterprise Subscription License, Premium Support, 1-year	=	\$
2	2,500	Puppet Enterprise Subscription License, Premium Support, 1-year	=	\$
3	5,000	Puppet Enterprise Subscription License, Premium Support, 1-year	=	\$
Grand Total for Line Items 1-3 for Primary Bid Comparison			=	\$
Other Puppet Labs Software and Services				
4	1,000	Puppet Enterprise Perpetual License, Premium Support, 1-year	=	\$
5	2,500	Puppet Enterprise Perpetual License, Premium Support, 1-year	=	\$
6	5,000	Puppet Enterprise Perpetual License, Premium Support, 1-year	=	\$
7	Per hour	Puppet Labs Professional Services	=	\$
Grand Total for Line Items 4-7			=	\$

ATTACHMENT EIGHT

STANDARD AFFIRMATION AND DISCLOSURE FORM

EXECUTIVE ORDER 2011-12K

Governing the Expenditure of Public Funds on Offshore Services

All of the following provisions must be included in all invitations to bid, requests for proposals, state term schedules, multiple award contracts, requests for quotations, informal quotations, and statements of work. This information is to be submitted as part of the response to any of the procurement methods listed.

By the signature affixed hereto, the Contractor affirms, understands and will abide by the requirements of Executive Order 2011-12K. If awarded a contract, both the Contractor and any of its subcontractors shall perform no services requested under this Contract outside of the United States.

The Contractor shall provide all the name(s) and location(s) where services under this Contract will be performed in the spaces provided below or by attachment. Failure to provide this information may subject the Contractor to sanctions. If the Contractor will not be using subcontractors, indicate "Not Applicable" in the appropriate spaces.

1. Principal location of business of Contractor:

(Address)

(City, State, Zip)

Name/Principal location of business of subcontractor(s):

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

2. Location where services will be performed by Contractor:

(Address)

(City, State, Zip)

Name/Location where services will be performed by subcontractor(s):

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

3. Location where state data will be stored, accessed, tested, maintained or backed-up, by Contractor:

(Address)

(Address, City, State, Zip)

Name/Location(s) where state data will be stored, accessed, tested, maintained or backed-up by subcontractor(s):

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

Contractor also affirms, understands and agrees that Contractor and its subcontractors are under a duty to disclose to the State any change or shift in location of services performed by Contractor or its subcontractors before, during and after execution of any Contract with the State. Contractor agrees it shall so notify the State immediately of any such change or shift in location of its services. The State has the right to immediately terminate the contract, unless a duly signed waiver from the State has been attained by the Contractor to perform the services outside the United States.

On behalf of the Contractor, I acknowledge that I am duly authorized to execute this Affirmation and Disclosure form and have read and understand that this form is a part of any Contract that Contractor may enter into with the State and is incorporated therein.

By: _____
Contractor

Print Name: _____

Title: _____

Date: _____

**ATTACHMENT NINE
PUPPET LABS MASTER LICENSE AGREEMENT**

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Software License Agreement

PLEASE READ THIS SOFTWARE AGREEMENT (“AGREEMENT”) CAREFULLY BEFORE ACCESSING, DOWNLOADING OR OTHERWISE USING PUPPET ENTERPRISE (“SOFTWARE”). BY CLICKING THE “I ACCEPT” BUTTON OR BY DOWNLOADING OR OTHERWISE USING THE SOFTWARE, YOU ACCEPT THIS AGREEMENT AND ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTAND AND AGREE TO BE BOUND BY ITS TERMS. IF YOU ARE AN INDIVIDUAL ACTING ON BEHALF OF AN ENTITY, YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF THAT ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, YOU ARE SOLELY RESPONSIBLE FOR YOUR USE OF THE SOFTWARE. IF YOU DO NOT ACCEPT THE TERMS OF THIS AGREEMENT, THEN YOU ARE NOT PERMITTED TO ACCESS, DOWNLOAD OR OTHERWISE USE THE SOFTWARE.

This Agreement, including all referenced documents located at the URLs listed below, is between Puppet Labs, Inc. (“Puppet Labs”) and you, the purchaser of the license to the Software (“Customer”). This Agreement is effective (“Effective Date”) the earlier of the date that Customer signs or accepts this Agreement and the date that Customer begins using the Software. This Agreement applies where Software includes it upon download or where Puppet Labs refers to it in a proposal or quote.

1. **ORDERS.** Customer may purchase licenses to the Software from time-to-time by submitting a purchase order to Puppet Labs (an “Order”), which must correspond to a valid Puppet Labs quote. All such purchases are subject to the provisions of this Agreement. This Agreement supersedes any conflicting provisions on an Order, and Puppet Labs rejects any additional provisions that it has not expressly agreed to in writing. The Software is deemed accepted upon download.
2. **LICENSE.** Subject to Customer’s compliance with this Agreement, Puppet Labs grants to Customer a worldwide, limited, non-transferrable, revocable license to use the Software for the purpose of managing Customer’s information technology infrastructure (whether on premises or in the cloud, and including any information technology infrastructure for the benefit of Customer’s customers, so long as the Software operates on equipment that is owned by Customer). Customer may reproduce the Software and use multiple copies concurrently, subject to the pricing terms of Section 6.
3. **SOURCE CODE.** The source code for the Software is available through www.puppetlabs.com. Portions of the source code are subject to the provisions of an “open source” license (the “Open Source Components”). The applicable license and its associated components are listed at <http://www.puppetlabs.com/puppet-enterprise-components-licenses/>.
4. **THIRD PARTY SOFTWARE.** The Software includes components that included under license from third parties (the “Third Party Software”). The components and their applicable third-party license terms are listed at <http://www.puppetlabs.com/puppet-enterprise-components-licenses/>.
5. **RESTRICTIONS.** The Software is licensed, not sold. Except as stated otherwise in this Agreement, Customer may not use the Software other than for Customer’s internal business

purposes, and not for the purposes of any third party nor for any timesharing, rental, Internet, or application service provider, commercial hosting services, or service bureau basis. Notwithstanding anything to the contrary in this Agreement, Puppet Labs agrees that it will permit the transfer of fully paid licenses in the event the State merges or consolidates state entities. In addition, the State may use the Software to process data on behalf of other state of Ohio agencies for such Agency's own internal business purpose. Other than as granted in Section 2, Puppet Labs and its licensors retain all right, title and interest in and to the Software, including all intellectual property rights, registered or unregistered, and wherever in the world those rights may exist (collectively, the "Puppet Labs Rights"). The Puppet Labs Rights include graphics, user and visual interfaces, design, structure, selection, coordination, expression, "look and feel", arrangement, trademark, logo and other distinctive brand features of the Software (collectively, the "Puppet Labs Marks"). This Agreement does not permit Customer to distribute any product or service using the Puppet Labs Marks, including in connection with any Open Source Components. Puppet Labs shall retain title to all copies of the Software provided to Customer or made by Customer. There are no implied rights or licenses in this Agreement. All rights are expressly reserved by Puppet Labs.

6. FEES AND PAYMENT. Customer will pay an authorized reseller a fee for a license subscription and for support and maintenance (per Section 7) based on the number of "Nodes" managed by the Software. A "Node" is a single network-connected device such as a server, desktop, or laptop (virtual machines that have a unique IP address are a separate Node from the physical machine on which they reside). Customer may manage up to 10 Nodes perpetually and at no charge (the "Free License"). Customer may manage more than 10 Nodes for a specific term in exchange for a fee (a "Paid License"); the number of Nodes and subscription term will be stated in Customer's Order and in a license file that accompanies the Software. The default subscription term is one year and may be renewed upon agreement of the Parties.

7. SUPPORT; CHANGES.

7.1 Support and Maintenance. In connection with any Paid License, Puppet Labs will provide Customer the support and maintenance services ("Support Services") listed at <http://www.puppetlabs.com/support-terms/>, at either the "Standard" or the "Premium" level, as indicated in the Order. There is no support or maintenance available in connection with a Free License. If Support Services are terminated for any reason, any later reinstatement is at Puppet Labs' sole option and is conditioned on (a) Puppet Labs offering Support Services to its customers generally for the Software in question, and (b) if Support Services have been terminated for more than thirty (30) days, Customer paying Puppet Labs all applicable Support Services fees for the period during which Customer was off Support Services, plus fees for the new Support Services term.

7.2 Modules and Customer Changes. Puppet Labs makes available certain modules ("Modules") that may be used in connection with the Software, either bundled with the Software (including in an update or upgrade later provided) or through its web site forge.puppetlabs.com ("Puppet Forge"). Any Modules bundled with the Software are licensed under this Agreement, and any Modules obtained through the Puppet Forge are subject to their accompanying license. Except for Modules that are bundled with the Software or where otherwise indicated by Puppet Labs on the Puppet Forge, Puppet Labs

is not liable to support any Module, nor are such Modules covered by the warranty and indemnity terms of this Agreement. Furthermore, Puppet Labs is not responsible to support, and is not liable under this Agreement in any way (including warranty and indemnity) for, any changes made by Customer to the Software.

8. WARRANTY; DISCLAIMER

8.1 General Warranties. Puppet Labs represents and warrants that it has sufficient ownership or authority to grant to Customer the license stated in Section 2. Each party represents and warrants that: (a) it has the full power and authority to enter into this Agreement and to carry out its obligations under this Agreement; and (b) it has complied, and will in the future comply, with all applicable laws in connection with the execution, delivery and performance of this Agreement.

8.2 Product Warranty. Puppet Labs warrants to the Customer that the Software will perform in all material respects as specified in its accompanying documentation under normal use for a period of one (1) year from initial receipt or access. Customer's exclusive remedy for a breach of this limited warranty is to return any allegedly defective Software and Puppet Labs, at its option, will replace it or refund any fee paid for the Software. This warranty applies to Third Party Software only to the extent its failure to operate causes the Software to fail to conform to this warranty.

8.3 Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 8, PUPPET LABS DISCLAIMS ANY AND ALL WARRANTIES AND REPRESENTATIONS WITH RESPECT TO THE SOFTWARE, INCLUDING THE WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, MERCHANTABILITY AND THOSE THAT MAY ARISE FROM ANY COURSE OF DEALING OR PERFORMANCE.

9. INDEMNIFICATION.

9.1 Obligation. Subject to the conditions and exceptions listed below, Puppet Labs will defend Customer and Customer's shareholders, directors, and employees (the "Defendants") against a third party's claim that Customer's use of the Software (in the form delivered to Customer and as authorized in this Agreement) infringes or misappropriates the third party's copyright or United States trade secret rights, or directly infringes a valid United States patent that issued as of the Effective Date (in each case, a "Claim"), and will further indemnify the Defendants against any damages, fees (including reasonable attorney fees), costs and expenses which are included in a final award, judgment or settlement of a Claim.

9.2 Conditions. Puppet Labs' obligations in Section 9.1 are conditioned on (a) Customer notifying Puppet Labs immediately upon receiving a Claim and providing Puppet Labs with a written copy of the Claim, (b) Customer cooperating with Puppet Labs in the defense or settlement of the Claim, and (c) Customer providing Puppet Labs with all necessary authority for Puppet Labs to defend or settle the claim subject to Ohio Revised Code Section 109.02. Following notice of a Claim, or if in its discretion Puppet Labs determines that a Claim is likely, Puppet Labs may, at its sole option, procure for Customer the right to continue to use the Software as furnished, or replace or modify the Software to make it non-

infringing, or terminate this Agreement and refund to Customer any amounts that Customer pre-paid for an unused license and support and maintenance term.

9.3 Exceptions. Puppet Labs has no obligation under Section 9.1 with respect to any Claim based upon or otherwise relating to: (a) any use of the Software that is not authorized by this Agreement; (b) the combination of the Software with other products, services, equipment, software, or data not supplied by Puppet Labs; (c) any modification of the Software by any person other than Puppet Labs or its authorized agents; or (d) any Third Party Software.

9.4 THIS SECTION REPRESENTS PUPPET LABS' ENTIRE LIABILITY TO CUSTOMER FOR INDEMNITY OF THIRD PARTY INTELLECTUAL PROPERTY CLAIMS.

10. LIMITATION OF LIABILITY. EXCEPT AS STATED BELOW, EACH PARTY'S LIABILITY TO THE OTHER UNDER THIS AGREEMENT IS LIMITED AS FOLLOWS: (A) NEITHER SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, RELIANCE, OR SPECIAL DAMAGES (INCLUDING ANY DAMAGE TO BUSINESS REPUTATION, LOST PROFITS, LOST DATA OR LOST SAVINGS); AND (B) NEITHER SHALL BE LIABLE TO THE OTHER FOR ANY AMOUNTS IN EXCESS OF THE AMOUNTS PAID BY CUSTOMER TO PUPPET LABS IN THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO LIABILITY. THESE LIMITS DO NOT APPLY TO ANY LIABILITY THAT ARISES FROM ANY CLAIM FOR UNPAID FEES OR THE UNLICENSED USE OF THE SOFTWARE. THESE LIMITS APPLY REGARDLESS OF THE FORM OF CLAIM (CONTRACT, TORT OR OTHERWISE) AND EVEN IF THIS SECTION 10 IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR OTHER DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY. IN SUCH EVENT, LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW.

11. INSPECTION. The Puppet Enterprise Console included in the Software (the "Console") will display the status of Customer's purchased product license consumption and compliance, along with a "Contact Puppet Labs" notification and link (a tool to facilitate communication not a mechanism for purchasing additional licenses) when the licensed limit has been reached. Customer can manually deactivate Nodes via the "puppet node deactivate" command on the Console for Nodes that are decommissioned or removed. The license count shown on the Console is calculated based on the number of Nodes that have reported to the Puppet Console through a Puppet Agent in the prior seven days in production and non-production environments ("Productive Use"). Customer may make unlimited copies of the Software, but must pay for all Nodes in Productive Use in accordance with the terms of this Agreement. If Puppet Labs has a good faith reason to believe that Customer has incorrectly reported the number of Nodes in Productive Use using the Console, Puppet Labs has the right to have its personnel inspect once per year the number of Nodes being managed by the Software, following this protocol: (1) identify all unique Puppet Enterprise Console installations; (2) monitor Customer's personnel's login to each Puppet Enterprise Console installation; and (3) record the active Nodes reported by the Console. Any such inspection will take place only during normal business hours and upon not less than ten (10) business days' written notice.

12. EXPORT CONTROL. As required by the laws of the United States and other countries, Customer represents and warrants that Customer: (a) understands that the Software and its components may be subject to export controls under the U.S. Commerce Department's Export Administration Regulations ("EAR"); (b) is not located in a prohibited destination country under the EAR or U.S. sanctions regulations; (c) will not export, re-export, or transfer the Software to any prohibited destination or persons or entities on the U.S. Bureau of Industry and Security Denied Parties List or Entity List, or the U.S. Office of Foreign Assets Control list of Specially Designated Nationals and Blocked Persons, or any similar lists maintained by other countries, without the necessary export license(s) or authorization(s); (d) will not use or transfer the Software for use in connection with any nuclear, chemical or biological weapons, missile technology, or military end-uses where prohibited by an applicable arms embargo, unless authorized by the relevant government agency by regulation or specific license; and (e) understands that countries including the United States may restrict the import, use, or export of encryption products (which may include the Software and the components) and agrees that Customer shall be solely responsible for compliance with any such import, use, or export restrictions.

13. Intentionally removed.

14. TERMINATION. This Agreement begins on the Effective Date and continues in force until the Agreement expires, unless (i) Customer or Puppet Labs elects in writing to terminate it sooner due to (a) the other party's material breach, provided that the terminating party gives the breaching party at least 30 days written notice and opportunity to cure, or (b) the other party making a general assignment for the benefit of creditors, suffering or permitting the appointment of a receiver for its business or assets, or availing itself of or becoming subject to any proceeding under the US Federal Bankruptcy Act or any other foreign or domestic statute, law, rule or regulation relating to insolvency or the protection of rights of creditors or (ii) Customer terminates for convenience upon not less than thirty (30) days' notice. All fees are non-refundable; provided, however, that Puppet Labs will provide a pro-rata refund of any unused subscription term if Customer terminates this Agreement due to Puppet Labs' material breach. Upon termination, Customer must uninstall the Software from Customer's computer systems. The following Sections survive termination: 3, 4, 5, 8, 9, 10, 11, 14 and 16.

15. ASSIGNMENT. Neither Party may assign or otherwise transfer this Agreement or any of its rights hereunder, nor delegate any of its obligations hereunder, to any third party without the prior written consent of the other Party; provided, however, either Party may assign this Agreement and all of such Party's rights and obligations to any affiliate of such Party or to any third party which succeeds by operation of law or purchases or otherwise acquires all or substantially all of the assets of such Party or an affiliate of such Party (whether by way of merger, consolidation, sale of assets, or other corporate reorganization or combination) and assumes such Party's obligations hereunder. Any attempted or purported assignment, transfer or delegation without any required consent having first been obtained shall be null and void and a material breach of this Agreement. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the Parties and their respective successors and permitted assigns.

16. GENERAL. The laws of the State of Ohio, U.S.A., govern this Agreement (without regard to Ohio conflict of laws rules and excluding the United Nations Convention on Contracts for the

International Sale of Goods and the Uniform Computer Information Transactions Act). Customer agrees to exclusively resolve all disputes, claims and controversies arising from or relating to this Agreement in the state or federal courts located in Franklin County, Ohio, Customer agrees that any breach of Section 5 or other infringement or misappropriation of the Puppet Labs Rights will result in immediate and irreparable damage to Puppet Labs for which there is no adequate remedy at law. Customer and Puppet Labs may only amend or modify this Agreement, or waive any right under this Agreement, in a writing that is signed by both parties and that expressly references this Agreement. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions. Headings are used in this Agreement for reference only and will not be considered when interpreting this Agreement. As used in this Agreement, "includes" (or "including") means without limitation. This Agreement constitutes the entire agreement between the parties with respect to the Software and its related support and maintenance, and supersedes all prior and contemporaneous agreements or communications.

Support Services Terms

These Support Services Terms describe the Support Services which current, compliant subscribers of Support Services are entitled to receive pursuant to the Master Agreement between Puppet Labs and Company ("**Master Agreement**"). These Support Services Terms form an integral part of, and are incorporated by reference into, the Master Agreement. Capitalized terms used in these Support Services Terms without definition have the meaning defined in the Master Agreement.

1. **Definitions.**

"**Error**" means a malfunction in the Puppet Labs Software that can be duplicated by Puppet Labs that materially degrades the use or performance of the Company business system the Puppet Labs Software manages ("**Business System**").

"**Fix**" means the repair or replacement of object code versions of the Puppet Labs Software to remedy an Error.

"**Priority 1 Error**" means an Error that renders the Puppet Labs Software inoperative or materially degraded with respect to the Business System, such that: (i) the Business System's production system is severely impacted or completely shut down, or (ii) the Business System's system operations or mission-critical applications are down.

"**Priority 2 Error**" means an Error that degrades Puppet Labs Software performance with respect to the Business System.

"**Priority 3 Error**" means an Error that affects Company's use of the Puppet Labs Software, but does not materially degrade Puppet Labs Software performance with respect to the Business System.

"**Technical Contact**" means a Company employee technically familiar and competent with Company's systems (including the Business System), infrastructure and use of the Puppet Labs Software, who: (i) has "read, write and execute" access to the necessary files, English language communication skills and relevant technical knowledge; and (ii) is the designated Company contact to receive Support Services, and to resolve Company technical issues related to the Puppet Labs Software. The permitted number of Technical Contacts is based on the level of Support Services purchased by Company, and is set forth in the table below. The first two (2) Technical Contacts are set forth in the applicable Order Form, and may be changed by Company upon five (5) business days prior written notice to Puppet Labs.

"**Update**" means subsequent releases of the Puppet Labs Software that are generally made available by Puppet Labs' to those of its customers using the Puppet Labs Software as part of Support Services at no additional charge, other than media and handling charges. Updates may include updated code to accommodate changes in applicable industry standards. Updates shall not include any releases, enhancements, functionality or products which Puppet Labs licenses separately or provides at a fee separate from the Support Services fee. Updates are delivered only on an as if and when available basis.

2. **Support Services Coverage.** Subject to the terms of these Support Services Terms, including the table set forth below, and the other terms of the Master Agreement (including, without limitation, Company's payment of the applicable Support Services fees to Puppet Labs), Puppet Labs will provide Company with the Support Services described herein for the applicable Puppet Labs Software, exclusive of any integration issues between the Puppet Labs Software and applicable Third Party Software. Company shall designate the permitted number of Technical Contacts who are responsible for resolving user issues, and only such Technical Contacts may contact Puppet Labs for the provision of Support Services. Support Services do not include anything not set forth in these Support Services Terms, and specifically excludes support of any hardware or any software other than the Puppet Labs Software, including without limitation, any integration with Third Party Software. The Support Services telephone numbers, email address and Puppet Labs Support Portal are located at <http://puppetlabs.com/services/customer---support>.

3. **Puppet Labs Software Maintenance.** Puppet Labs will periodically, and in its sole discretion, provide Company with Fixes to Errors and Updates to Puppet Labs Software.

4. **Company Obligations.** Company and its Technical Contacts shall: (i) make reasonable efforts to resolve Company issues or identify issues as relating to the Puppet Labs Software prior to contacting Puppet Labs for Support Services; and (ii) provide Puppet Labs with sufficient information and resources to address the Error, and access to the personnel, hardware, and any additional software as reasonably necessary to enable Puppet Labs to reproduce, analyze and address the Error.

5. **Exclusions.** Puppet Labs is not obligated to provide Support Services when: (i) the Puppet Labs Software has been changed, modified or damaged; (ii) the issue is caused by Company's negligence, misuse of software or hardware, hardware malfunction or other causes other than the Puppet Labs Software; (iii) the issue is caused by hardware, third party software or infrastructure; or (iv) the version of the Puppet Labs Software is not a currently supported version, as determined by Puppet Labs' announced policies regarding the support of such versions.

6. **Changes.** Puppet Labs reserves the right to change these Support Services Terms at any time; provided however, that any such changes which occur during the then-current Support Services term for which Company has paid fees to Puppet Labs, will not materially diminish the Support Services to be provided during the remainder of such Support Services term. It is your responsibility to check these Support Services Terms periodically for changes. By continuing to use the Support Services Terms, you are indicating your acceptance of such changes. However, Puppet Labs will provide written notice to you of any significant changes to these Support Services Terms (including through notices posted at <http://puppetlabs.com/services/customer-support> or sent to your registered e-mail address).

7. **Free Public Training.** For Premium Support Services customers, during each yearly term of Premium Support Services, Puppet Labs offers up to four (4) placements per Support Services term in public classes offered by Puppet Labs at no additional cost to Company. These free classes (i) are only offered to current Premium Support Services customers, (ii) must be given directly by Puppet Labs (and not a Puppet Labs' education partner), (iii) must be taken during the current Support Services term, and (iv) expire at the end of the current Support Services term and Company is not entitled to any compensation if the classes are not used. The four (4) class sessions may be taken by up to four individuals, but in no event will Company receive more than four (4) individual free class sessions per Support Services term (e.g. one individual may take four class sessions or four individuals may each take one class session).

Support Services		
	Standard	Premium
Hours of Coverage	Business Hours (6AM – 6PM, Pacific Standard Time, Monday through Friday, excluding federal US holidays)	24 x 7 x 365 for Priority 1 issues. All other issues: 6AM – 6PM, Pacific Standard Time, Monday through Friday, excluding federal US holidays.
Email Support	Yes	Yes
Puppet Labs Support Portal	Yes	Yes
Phone Support	No	Yes
Support Channel	Email support, access to Puppet Labs Support Portal	Email support, phone support, access to Puppet Labs Support Portal
Number of Cases or Incidents/month	5	Unlimited
Technical Contacts	Up to 4	Unlimited
Feature Request Priority	No	Yes
Updates to the Puppet Labs Software	Yes	Yes
Free Public Training	None	For up to 4 Engineers
Response Guidelines		
Priority 1 Error	1 Business Hour	1 Clock Hour (Initial Contact must be via Phone)
Priority 2 Error	4 Business Hours	44 Business Hours
Priority 3 Error	12 Business Hours	122 Business Hours

Agreed and accepted:

State of Ohio

By:

Name:

Title:

Date:

Puppet Labs, Inc.

By:

Name: *William G. Koefoed*

Title: CFO

Date: April 9, 2015