



Statewide Contract Information Sheet

Statewide Contract Number	99999-SPD-SPD0000219-0005	NIGP Code(s)	See Page 5
Name of Contract	Networking Equipment and Related Services		
Effective Date	11/18/2024	Expiration Date	11/17/2026
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Contract Information	
Statewide Contract Number	99999-SPD-SPD0000219-0005
PeopleSoft Supplier Number	0000144597
Supplier Name & Address	
F5, Inc. 801 5 th ave Seattle, WA 98104	
Contract Administrator / Sales Representative	
Contract Administrator: Lauren Hackford – SLED Partner Manager l.hackford@f5.com Sales Representative: Bill L’Estrange – SLED Named Account Manager w.lestrange@f5.com	
Contact Details	
Ordering Information	Bill L’Estrange – SLED Named Account Manager w.lestrange@f5.com
Remitting Information	F5, Inc. 801 5 th ave Seattle, WA 98104
Pricing/Discount	See Supplier Specific Discount Price Sheet
Payment Terms	Net 30 Days
Bid Offer includes	State and Local Government

<p>Acceptable payment method</p>	<p>Supplier and/or its Authorized Servicing Partners will accept Purchase Orders and the Purchasing Card under this contract as permitted by current policies governing the Purchasing Card program.</p>
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General Contract Information:

This is a MANADATORY Statewide Contract available to all eligible State entities and political subdivisions. The contract is administered by the Department of Administrative Services (DOAS).

Item Schedule

F5, Inc. was awarded the following categories:

- **Category 2: Network Optimization & Management Products**
- **Category 3: Network Security Products & Security Solutions**

Supplier Website:

Please click [HERE](#) to access the list of Award Products and Services, Pricing and Discounts, and Reseller List.

- Tab 1 – Non-educational pricing and discounts.
- Tab 2 – Educational pricing and discounts.

Ordering Instructions

Ordering Instructions for F5, Inc:

1. The cost structure for this contract is Percentage Discount off the Supplier's (Original Equipment Manufacturer) MSRP (i.e., manufacturer Catalog/Manufactured Suggested Retail Price, Private Label Catalog, Commercial Price Book, etc.) and Hourly Rate per Job Title for Professional Services. The discount



includes all cost (i.e. profit, overhead, operating & administrative expenses, commissions, transaction charges, delivery charges, administrative fees, etc.)

2. Each Suppliers' discount price list is available via a link to Supplier' Virtual Product Catalog under Supplier's profile in Team Georgia Marketplace together with Supplier contact information, eVerify, certificate of insurance, and executed contract.
3. To obtain product and pricing information and receive a quote, please contact the Suppliers directly. Orders will be placed and processed outside of Team Georgia Marketplace due to the nature of this contract.
 - a. NOTE: All pricing or charges related to travel and/or lodging must be itemized in a quote at the point of sale. In addition, if the Supplier is charging for travel and/or related expenses it must be aligned with the state's current travel policy or as it may be amended from time to time. Suppliers can review the State's travel policy at <https://sao.georgia.gov/travel/state-travel-policy>.
4. Supplier's quotes should list awarded Supplier's assigned Statewide Contract number and must include a detailed breakdown of cost for equipment and/or services (model numbers, specific versions of equipment, misc. materials, etc.)
 - a. It is best practice to seek quotes from multiple suppliers.
 - b. All Networking projects, integrations, and/or installations should be detailed and outlined using a comprehensive Scope/Statement of Work document (SOW). The comprehensive SOW should clearly state all necessary steps, goals, objectives, deliverables, requirements, constraints, and assumptions of the project and the process to fully achieve the Authorized User's project goals. The SOW should include, but not be limited to all deliverables, services, and written specifications that define the overall quality expectations, timeline, bill of materials or equipment listings, acceptance criteria, and any applicable drawings or diagrams specific to the project necessary for approval of payment.
 - c. The SOW should be fully agreed upon by both the Authorized User and Supplier before the project can commence.
 - d. Each phase/milestone of the project should also clearly indicate the line-item price of each component included in each phase. Milestone payments are allowed for Networking Projects but should be fully agreed upon by both Authorized User and Supplier before the project can commence. Authorized User and Supplier shall both sign off on the acceptance of the project for each milestone phase before any payment is made.

Special Note regarding Category Unified Communications Products

Effective November 18, 2024, customers may purchase Unified Communications Products (Category 5) via Statewide Contract 99999-SPD-T20120501-0006 (Cisco Systems) and 99999-SPD-T20120501-0004 (Avaya) (through September 30, 2025).



Contract Terms

Renewals & Extensions

Base Term: 2 years (11/18/2024 – 11/17/2026) with 5 one-year renewals

Renewal 1:

Renewal 2:

Renewal 3:

Renewal 4:

Renewal 5:

DOAS Contact Information

Duane Tomlinson

Contract Management Specialist

duane.tomlinson@doas.ga.gov

(404) 850-4075

For Team Georgia Marketplace questions

Procurement Help Desk

(404) 657-6000

procurementhelp@doas.ga.gov

NIGP Codes

Code	Description
20464	Network Components: Adapter Cards, Bridges, Connectors, Expansion Modules/Ports, Firewall Devices, Hubs, Line Drivers, MSAUs, Routers, Switches, Transceivers, etc.
20620	Communication Boards: Fax, Modem, Internal, Network Cards, Ethernet, etc.
20623	Communication Processors and Protocol Converters: Front-End Processor, Network Interface Module, Protocol Interchange, Switching Controls, etc.
20664	Network Components: Adapter Cards, Bridges, Connectors, Expansion Modules and Ports, Hubs, Line Drivers, MSAUs, Routers, Switches, Transceivers, etc.
20827	Communications: Networking, Linking, etc. (Includes Clustering Software), Microcomputer
20890	Utilities: Back-up, Batch File, Firewall, Menus, Operating System, Network Operating System, Network Management, Recovery, Screen, Security, Virus Protection, etc., Microcomputer
20928	Communications: Networking, Linking, etc., Mainframes and Servers
20991	Utilities: Back-up, Batch File, Menus, Network Management, Operating System, Recovery, Screen, Security, Virus Protection, etc., Mainframes and Servers
83833	Communications: Networking, Linking, Fiber Modems, Power Over Ethernet, Wireless
83883	Telecommunication, Internet Protocol, Network Monitoring, Surveillance, Intrusion Detection Systems and Networking Products
92037	Networking Services, Including Installation, Security, and Maintenance
92066	System, Network, Database, DBA Administration Services

State of Georgia Statewide Standard Contract Form

Solicitation Title Networking Equipment and Related Services	Solicitation Number 99999-SPD0000219	Contract Number 99999-SPD-SPD0000219-0005
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1. This Contract is entered into between the Agency and the Supplier named below:

Agency's Name
Department of Administrative Services (hereafter called Agency)

Supplier's Name
F5, Inc. (hereafter called Supplier)

2. Contract to Begin: **11/18/2024** Date of Completion: **11/17/2026** Renewals: **Five (5) one (1) year renewal option(s)**

3. Performance Bond, if any: **N/A** Other Bonds, if any: **N/A**

4. Authorized Person to Receive Contract Notices for Agency: **McCall Ginsberg, Deputy General Counsel** Authorized Person to Receive Contract Notices for Supplier: **Bill L'Estrange**

5. The parties agree to comply with the terms and conditions of the following attachments which are by this reference made a part of the Statewide Contract:

Attachment 1: Statewide Contract for Goods and Ancillary Services
Attachment 2: Solicitation (referenced above)
Attachment 3: Supplier's Final Response
Attachment 4: State of Georgia, DOAS, Data Security Terms & Conditions
Attachments 5A-F: F5 Supplemental Agreements, as modified by agreement of the parties and attached.
5A F5 EULA 5B F5 Maintenance Agreement 5C F5 Consulting Terms 5D F5 EUSA 5E F5 Warranty Terms

IN WITNESS WHEREOF, this Contract has been executed by the parties hereto.

6. **Supplier**

Supplier's Name *(If other than an individual, state whether a corporation, partnership, etc.)*
F5, Inc.

By <i>(Authorized Signature)</i>	Signed by: Peter Kersten Date Signed: 9/20/2024
Printed Name and Title of Person Signing: Peter Kersten	
Address: 801 5th Avenue, Seattle, WA 98104 USA	

7. **Agency**

Agency Name
Department of Administrative Services

	Signed by: Jim Barnaby Date Signed: 9/24/2024
Printed Name and Title of Person Signing: Jim Barnaby, Deputy Commissioner, DOAS SPD	

Address

200 Piedmont Avenue, S.E., Suite 1804W
Atlanta, GA 30334-9010

**STATE OF GEORGIA
STATEWIDE CONTRACT
Attachment 1**

Contract Terms and Conditions for Goods and Ancillary Services

A. DEFINITIONS AND GENERAL INFORMATION

1. **Definitions.** Definitions and acronyms are set forth in the eRFP in Attachment I "Comprehensive List of Definitions of Terms and Acronyms". Such terms will apply to the Contract and all documents incorporated unless a different meaning is otherwise assigned herein to specific terms. The following words shall be defined as set forth below:
 - (i) **"Agency"** means the Department of Administrative Services of the State of Georgia.
 - (ii) **"Awarded Item Schedule"** means the summarizing document, if any, listing the goods and services as awarded and may also denote the Supplier providing such goods and services.
 - (iii) **"Contract"** or **"Statewide Contract"** means the agreement between the Agency and the Supplier as defined by the Statewide Contract Form and its incorporated documents. This Contract may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same Contract. The parties agree to conduct transactions by electronic means as provided under O.C.G.A. § 10-12-1 et seq. Electronic signatures complying with O.C.G.A. § 10-12-1 et seq., as amended from time-to-time, or other applicable law, shall be deemed original signatures for purposes of this Contract. Notwithstanding the foregoing, email signature blocks do not constitute signatures for the purpose of executing contracts and email communications do not constitute contracts; however, transmission by telecopy, electronic mail, or other transmission method of an executed counterpart of this Contract will constitute due and sufficient delivery of such counterpart.
 - (iv) **"Cloud Services"** shall mean the duties and tasks undertaken by the Supplier to fulfill the requirements and specifications of this solicitation, including, without limitation, providing web browser access by authorized users to certain Supplier online software applications identified herein, and to related services, such as Supplier hosted Computer storage, databases, Support, documentation, and other functionalities, all as a Cloud Service solution.
 - (v) **"Cloud Support"** includes provision of ongoing updates and maintenance for the Supplier online software applications, and as may be specified herein, consulting, training, and other support Services as provided by the Supplier for cloud tenants receiving similar cloud Services.
 - (vi) **"Purchase Instrument"** means the documentation issued by the Agency or User Agencies to the Supplier for a purchase of goods and services in accordance with the terms and conditions of the Statewide Contract. The Purchase Instrument should reference the Statewide Contract and may include an identification of the items to be purchased, the delivery date and location, the address where the Supplier should submit the invoices, and any other requirements deemed necessary by the Agency or User Agencies.

- (vii) **"Response", "Supplier's Response" or "Final Response"** means the Supplier's submitted response to the RFX, including any modifications or clarifications accepted by the Agency.
 - (viii) **"RFX"** means the Request for Proposal, Request for Bid, or other solicitation document (and any amendments or addenda thereto) specifically identified in the Statewide Contract Form that was issued to solicit the goods and/or services that are subject to the Statewide Contract.
 - (ix) **"Services"** shall include administration, distribution, installation, configuration, support, training, and professional services as further described in the RFX.
 - (x) **"State"** means the State of Georgia, the Agency, User Agencies, and any other authorized state entities issuing Purchase Instruments against the Statewide Contract.
 - (xi) **"Statewide Contract Form"** means the document that contains basic information about the Statewide Contract and incorporates by reference the applicable Contract Terms and Conditions, the RFX, Supplier's Response to the RFX, the final pricing documentation for goods and services and any mutually agreed clarifications, modifications, additions, and deletions resulting from final contract negotiations. No objection or amendment by a Supplier to the RFX requirements or the Statewide Contract shall be incorporated by reference into this Statewide Contract unless the Agency has accepted the Supplier's objection or amendment in writing. The Statewide Contract Form is defined separately and referred to separately throughout the Statewide Contract Terms and Conditions as a means of identifying the location of certain information. For example, the initial term of the Statewide Contract is defined by the dates in the Statewide Contract Form.
 - (xii) **"State Entity"** means the State of Georgia entity identified in the Contract Form to contract with Supplier for the services identified in the Contract.
 - (xiii) **"Supplier"** means the provider(s) of the goods and services under the Statewide Contract.
 - (xiv) **"User Agency" or "User Agencies"** means any offices, agencies, departments, boards, bureaus, commissions, institutions, or other entities of the State of Georgia entitled to or required to make purchases from this Statewide Contract.
2. **Certified Source of Goods and Services.** Pursuant to Section 50-5-57 of the Official Code of Georgia Annotated (O.C.G.A.), the Agency hereby certifies the Supplier as a source of supply to the User Agencies of the goods and services identified in this Statewide Contract. Orders shall be placed individually and from time to time by the User Agencies. The execution of this Statewide Contract only establishes the Supplier as an authorized source of supply by the Agency and creates no financial obligation on the part of the Agency.
 3. **Priority of Contract Provisions.** Any pre-printed contract terms and conditions included on Supplier's forms or invoices shall be null and void. Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Supplier's or a Subcontractor's website or any provision incorporated into any click-through or online agreements unless that provision is specifically incorporated in full into this Contract. Furthermore, in the event of an express conflict between this Attachment 1, on the one hand, and Attachments 5A-5F as modified by agreement of the parties and attached, as applicable, on the other hand, the terms Attachments 1-4 will prevail to the extent of such conflict with respect to the applicable products and services.
 4. **Reporting Requirements.** Supplier shall provide all reports required by the RFX. In addition, unless otherwise provided in the RFX, Supplier shall keep a record of the purchases made

pursuant to the Statewide Contract and shall submit a quarterly written report to the Agency.

B. DURATION OF CONTRACT

- 1. Contract Term.** The Statewide Contract shall begin and end on the dates specified in the Statewide Contract Form unless terminated earlier in accordance with the applicable terms and conditions. Pursuant to O.C.G.A. Section 50-5-64, this Statewide Contract shall not be deemed to create a debt of the State for the payment of any sum beyond the fiscal year of execution or, in the event of a renewal, beyond the fiscal year of such renewal.
- 2. Contract Renewal.** The Agency shall have the option, in its sole discretion, to renew the Statewide Contract for additional terms on a year-to-year basis by giving the Supplier written notice of the renewal decision at least sixty (60) days prior to the expiration of the initial term or renewal term. Renewal will depend upon the best interests of the State, funding, and Supplier's performance. Renewal will be accomplished through the issuance of a Notice of Award Amendment. Upon the Agency's election, in its sole discretion, to renew any part of this Statewide Contract, Supplier shall remain obligated to perform in strict accordance with this Statewide Contract unless otherwise agreed by the Agency and the Supplier.
- 3. Contract Extension.** In the event that this Statewide Contract shall terminate or be likely to terminate prior to the making of an award for a new contract for the identified goods and services, the Agency may, with the written consent of Supplier, extend this Statewide Contract for such period as may be necessary to afford the State a continuous supply of the identified goods and services.

C. DESCRIPTION OF GOODS AND SERVICES

- 1. Specifications in Bidding Documents.** The Supplier shall provide all goods, services, and other deliverables in compliance with the specifications contained in the RFX and the terms of the Statewide Contract, plus those equipment, services and deliverables as may additionally be described in the Response.
- 2. Non-Exclusive Rights.** The Statewide Contract is not exclusive. The Agency reserves the right to select other Suppliers to provide goods and services similar to goods and services described in the Statewide Contract during the term of the Statewide Contract. User Agencies may obtain similar goods and services from other Suppliers upon prior approval of the Agency, which approval shall be made at the sole discretion of the Agency when it is deemed to be in the best interests of the State, and shall be conclusive.
- 3. No Minimums Guaranteed.** The Statewide Contract does not guarantee any minimum level of purchases.
- 4. Orders.** Any Order placed by a User Agency in the State of Georgia for a Good or Service available under this Contract shall be deemed to be a sale (and governed by the prices and other terms and conditions) under this Contract unless the parties to the Order agree in writing that another contract or agreement applies to such Order.
- 5. Software and Specifications.** The Supplier shall provide all software ("Software") in strict compliance with the descriptions and representations as to the Software (including

performance, capabilities, accuracy, completeness, characteristics, specifications, configurations, standards, functions, and requirements) which appear in the RFX and the terms of the Contract.

- 6. Software Licenses.** Supplier shall provide Software licenses ("Licenses") in compliance with the specifications contained in the RFX and the terms of the Contract (including, for the avoidance of doubt, with the terms and conditions of the F5 End User License Agreement (Attachment 5A) (the "EULA")) as modified by agreement of the parties and attached. To the extent permitted and/or required by the Software publishers of any Software provided hereunder, Supplier will grant a limited, nonexclusive, , nontransferable, non-sublicensable, worldwide, license and/or sublicense to install, access, and display the Software in object code form for your internal business purposes during the license term, use, access and display Software and accompanying documentation in accordance with the licensing capacity (if any) specified in the RFX and or applicable Purchase Instrument. The State Entity may make one archival copy for backup of the Software:
- (i) For backup, archive, or emergency restart purposes;
 - (ii) For disaster recovery and disaster recovery testing purposes;
 - (iii) To migrate the Software for use on other computers and/or hardware; and
 - (iv) To store the Software at any off premise location which the State Entity uses for storage purposes.

If the Supplier is acting as a reseller of the Software, the Supplier must provide the Licenses, as required by the Software publishers, to the State Entity and shall coordinate with any negotiations of such Licenses as may be conducted between the State Entity and the Software publishers. All licenses provided hereunder shall remain in effect in accordance with the F5 End User License Agreement (Attachment 5A) (the "EULA")) as modified by agreement of the parties and attached, or specific third-party Software Publisher's EULA. All third-party Software terms should be presented at time of quote.

- 7. Services and other Deliverables.** Supplier shall provide Services and other deliverables in compliance with the specifications contained in the RFX and the terms of the Contract (including, for the avoidance of doubt, Attachments 5A-5F, as modified by agreement of the parties and attached as applicable), to include SOW if applicable.
- 8. Product Shipment and Delivery.** All products shall be provided as required by the provisions of the RFX. Unless the RFX requires otherwise, all products shall be made available either by online download or shall be shipped F.O.B. destination. Destination shall be the location(s) specified in the Purchase Instrument. All items shall be at the Supplier's risk until they have been delivered and accepted by the receiving entity. All items shall be subject to inspection on delivery. Hidden damage will remain the responsibility of the Supplier to remedy without cost to the State Entity, regardless of when the hidden damage is discovered.

- 9. Cloud Services Terms and Conditions.** For the purpose of this RFX "Cloud Services" encompasses Infrastructure-as-a-Service, Platform-as-a-Service, and Software-as-a-Service as it pertains to Network-as-a-Service. Nothing in this subsection shall supersede the provisions of the Data Security Terms and Conditions contained in Attachment 4. If any of the terms contained in this subsection conflict with those of the Data Security Terms and Conditions contained in Attachment 4 the Data Security Terms and Conditions shall govern.

- 10.** If the Services include Infrastructure as a Service, Network as a Service, Platform as a Service, Infrastructure as a Service, or Software as a Service, the Cloud Services will be provided in accordance with the specifications contained in the RFX and the terms of the Contract (including, for the avoidance of doubt, with the terms and conditions of the F5 End User Services Agreement (Attachment 5D, the

“EUSA”) as modified by agreement of the parties and attached.:

(i) ACCESS AND USE OF CLOUD SERVICES:

- a. Supplier grants the Authorized User a personal, limited, revocable, non-transferable, non-sublicensable and non-exclusive right to use and access, all Cloud Services. The Authorized User may utilize Cloud Services as agreed herein and in accordance with the EUSA. The Authorized User is authorized to access Authorized User Data and any Supplier-provided data as specified herein and to transmit revisions, updates, deletions, enhancements, or modifications to the Authorized User Data. This shall include the right of the Authorized User to, and access to, Cloud Support without the Supplier requiring a separate maintenance or support agreement. User access to the Cloud Services shall be routinely provided by the Supplier and may be subject to a more specific Service Level Agreement (SLA) as provided in the EUSA. The Authorized User also agrees to refrain from taking any steps, such as reverse engineering, reverse assembly, or reverse compilation to derive a source code equivalent to the Cloud Services or any portion thereof. Use of the Cloud Services to perform services for commercial third parties (so-called "service bureau" uses) is not permitted, but the Authorized User may utilize the Services to perform its governmental functions. All Cloud Services and information designated as "confidential" or "proprietary" shall be kept in confidence by Authorized Users except as may be required by the Georgia Open Records Act, O.C.G.A. § 50-18-70, *et. seq.*
- b. The Authorized User's access license for the Cloud Services and its associated services neither transfers, vests, nor infers any title or other ownership right in any intellectual property rights of the Supplier or any third party, nor does this license transfer, vest, or infer any title or other ownership right in any source code associated with the Services unless otherwise agreed to by the parties. The provisions of this paragraph will not be construed as a sale of any ownership rights in the Cloud Services. Any Cloud Services or technical and business information owned by Supplier, or its Suppliers or licensors made accessible or furnished to the Authorized User shall be and remain the property of the Supplier or such other party, respectively.
- c. The Authorized User has the right to receive the benefit of upgrades, updates, maintenance releases or other enhancements or modifications made generally available to Supplier's Cloud tenants for the same purchased Cloud Services. Supplier's right to a new use agreement for new version releases of the Cloud Services shall not be abridged by the foregoing. Supplier may, at no additional charge, modify the Cloud Services to improve operation and reliability or to meet legal requirements.
- d. The technical and professional activities required for managing and maintaining the Cloud Services are the responsibilities of the Supplier.
- e. Cloud Services provided pursuant to this Solicitation may, in some circumstances, be accompanied by a user clickthrough or shrinkwrap agreement. The term clickthrough or shrinkwrap agreement refers to passive consent based on terms either included at install or first use, an agreement that requires the end user to manifest his or her assent to terms and conditions by clicking an "ok" or "agree" button on a dialog box or pop-up window as part of the process of access to the Cloud Services. All terms and conditions of any clickthrough or shrinkwrap agreement provided with any Cloud Services solicited herein shall have no force and effect and shall be non-binding on the State, its employees, agents, and other authorized users of the Services.

(ii) ACCESS AVAILABILITY; REMEDIES:

- a. The Supplier warrants that the Cloud Services will be in good working order and operate in conformance with Supplier's standard specifications and functions as well as any other specifications agreed to by the parties in writing, including the requirements of the RFX, and shall remain accessible as set forth in the EUSA and the applicable SLAs thereunder.

(iii) **MODIFICATION OF SERVICES:** If Supplier modifies or replaces the Cloud Services, and if the State has paid all applicable Subscription Fees, the Authorized User shall be entitled to receive, at no additional charge, access to a newer version of the Cloud Services that supports the same functionality as the then accessible version of the Cloud Services. Newer versions of the Cloud Services containing substantially increased functionality may be made available to the State for an additional subscription fee.

D. COMPENSATION

1. Pricing and Payment. The Supplier will be paid for the goods and services sold pursuant to the Statewide Contract in accordance with the RFX and final pricing documents as incorporated into the Statewide Contract Form and the terms of the Statewide Contract. Unless clearly stated otherwise in the Statewide Contract, all prices are firm and fixed and are not subject to variation. Prices include, but are not limited to freight, insurance, fuel surcharges and customs duties. User Agencies are solely and individually financially responsible for their respective purchases.

2. Billings. If applicable, and unless the RFX provides otherwise, the Supplier shall submit, on a regular basis, an invoice for goods and services supplied to the User Agencies under the Statewide Contract at the billing address specified in the Purchase Instrument or Statewide Contract. The invoice shall comply with all applicable rules concerning payment of such claims. User Agencies shall pay all approved invoices in arrears and in accordance with applicable provisions of State law.

Unless otherwise agreed in writing by the Agency and the Supplier, the Supplier shall not be entitled to receive any other payment or compensation from the User Agencies for any goods or services provided by or on behalf of the Supplier under the Statewide Contract. The Supplier shall be solely responsible for paying all costs, expenses, and charges it incurs in connection with its performance under the Statewide Contract.

3. Delay of Payment Due to Supplier's Failure. If the User Agencies in good faith determine that the Supplier has failed to perform or deliver any service or product as required by the Statewide Contract, the Supplier shall not be entitled to any compensation under the Statewide Contract until such service or product is performed or delivered. In this event, the User Agencies may withhold that portion of the Supplier's compensation which represents payment for services or products that were not performed or delivered. To the extent that the Supplier's failure to perform or deliver in a timely manner causes the User Agencies to incur costs, the User Agencies may deduct the amount of such incurred costs from any amounts payable to Supplier. The User Agencies' authority to deduct such incurred costs shall not in any way affect the Agency's sole authority to terminate the Statewide Contract.

4. Set-Off Against Sums Owed by the Supplier. In the event that the Supplier owes the User Agency any sum or the User Agency must obtain substitute performance, the User Agency may set off the sum owed against any sum owed by the User Agency to the Supplier.

5. Payment Disputes. If Supplier disputes any calculation, determination or amount of any payment, Supplier shall notify the User Agency issuing the Order in writing of its dispute within 30 days following the earlier to occur of Supplier's receipt of the payment or notification of the determination or calculation of the payment by that User Agency. The User Agency will review the information presented by Supplier and may make changes to its determination based on this

review. The calculation, determination, or payment amount that results from the User Agency's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the User Agency has concluded its review, and the User Agency shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

E. TERMINATION

1. Immediate Termination. Pursuant to O.C.G.A. Section 50-5-64, any purchase made pursuant to this Statewide Contract will terminate immediately and absolutely if the User Agency determines that adequate funds are not appropriated or granted or funds are de-appropriated such that the User Agency cannot fulfill its obligations under the Statewide Contract, which determination is at the User Agency's sole discretion and shall be conclusive. Further, the Agency may terminate the Statewide Contract for any one or more of the following reasons effective immediately without advance notice:

- (i) In the event the Supplier is required to be certified or licensed as a condition precedent to providing goods and services, the revocation or loss of such license or certification may result in immediate termination of the Statewide Contract effective as of the date on which the license or certification is no longer in effect;
- (ii) The Agency determines that the actions, or failure to act, of the Supplier, its agents, employees, or subcontractors have caused, or reasonably could cause, life, health, or safety to be jeopardized;
- (iii) The Supplier fails to comply with confidentiality laws or provisions; and/or
- (iv) The Supplier furnished any statement, representation, or certification in connection with the Statewide Contract or the bidding process, which is materially false, deceptive, incorrect, or incomplete.

2. Termination for Cause. The occurrence of any one or more of the following events shall constitute cause for the Agency to declare the Supplier in default of its obligations under the Statewide Contract:

- (i) The Supplier fails to deliver or has delivered nonconforming goods or services or fails to perform, to the Agency's satisfaction, any material requirement of the Statewide Contract or is in violation of a material provision of the Statewide Contract, including, but without limitation, the express warranties made by the Supplier;
- (ii) The Agency determines that satisfactory performance of the Statewide Contract is substantially endangered or that a default is likely to occur;
- (iii) The Supplier fails to make substantial and timely progress toward performance of the Statewide Contract;
- (iv) The Supplier becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Supplier terminates or suspends its business; or the Agency reasonably believes that the Supplier has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
- (v) The Supplier has failed to comply with applicable federal, state, and local laws, rules, ordinances, regulations, and orders when performing within the scope of the Statewide Contract;

- (vi) The Supplier has engaged in conduct that has or may expose the Agency or the State to liability, as determined in the Agency's sole discretion; or
 - (vii) The Supplier has infringed any patent, trademark, copyright, trade dress or any other intellectual property rights of the Agency, the State, or a third party.
3. **Notice of Default.** If there is a default event caused by the Supplier, the Agency shall provide written notice to the Supplier requesting that the breach or noncompliance be remedied within no less than thirty (30) days of the Agency's written notice to the Supplier. If the breach or noncompliance is not remedied within such period of time, the Agency may:
- (i) Immediately terminate the Statewide Contract without additional written notice; and/or
 - (ii) Procure substitute goods or services from another source and charge the difference between the Statewide Contract and the substitute contract to the defaulting Supplier; and/or,
 - (iii) Enforce the terms and conditions of the Statewide Contract and seek any legal or equitable remedies.
4. **Termination Upon Notice.** Following thirty (30) days' written notice, the Agency may terminate the Statewide Contract in whole or in part without the payment of any penalty or incurring any further obligation to the Supplier. Following termination upon notice, the Supplier shall be entitled to compensation from the User Agency, upon submission of invoices and proper proof of claim, for goods and services provided under the Statewide Contract to the User Agencies up to and including the date of termination.
5. **Termination Due to Change in Law.** The Agency shall have the right to terminate this Statewide Contract without penalty by giving thirty (30) days' written notice to the Supplier as a result of any of the following:
- (i) The Agency's authorization to operate is withdrawn or there is a material alteration in the programs administered by the Agency; and/or
 - (ii) The Agency's duties are substantially modified.
6. **Payment Limitation in Event of Termination.** In the event of termination of the Statewide Contract for any reason by the Agency, the User Agencies shall pay only those amounts, if any, due and owing to the Supplier for goods and services actually rendered up to the date specified in the notice of termination for which the User Agencies are obligated to pay pursuant to the Statewide Contract or Purchase Instrument. Payment will be made only upon submission of invoices and proper proof of the Supplier's claim. This provision in no way limits the remedies available to the State under the Statewide Contract in the event of termination.

Except as otherwise provided in the applicable Purchase Instrument, the State shall not be liable for any costs incurred by the Supplier in its performance of the Statewide Contract, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Statewide Contract.

7. The Supplier's Termination Duties. Upon receipt of notice of termination or upon request of the Agency, the Supplier shall:

- (i) Cease work under the Statewide Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Statewide Contract, including, without limitation, results accomplished, conclusions resulting therefrom, and any other matters the Agency may require;
- (ii) Immediately cease using and return to the State, any personal property or materials, whether tangible or intangible, provided by the State to the Supplier;
- (iii) Comply with the State's instructions for the timely transfer of any active files and work product produced by the Supplier under the Statewide Contract;
- (iv) Cooperate in good faith with the Agency, the User Agencies, and their employees, agents, and Suppliers during the transition period between the notification of termination and the substitution of any replacement Supplier; and
- (v) Immediately return to the User Agencies any payments made by the User Agencies for goods and services that were not delivered or rendered by the Supplier.
- (vi) Orders may only be placed prior to the expiration or earlier termination of this Contract but may have a delivery date or performance period that extends after the expiration or earlier termination date. Regardless of whether this Contract has expired or has been terminated, the Supplier shall comply with all Orders that extend past the expiration or termination, as described in this section, and all requirements of this Contract necessary to complete outstanding Orders shall survive the expiration or termination of this Contract until all Orders are complete. Any Orders submitted prior to the expiration or termination of this Contract shall be governed by the terms and conditions of this Contract.

F. CONFIDENTIAL INFORMATION

- 1. **Access to Confidential Data.** The Supplier's employees, agents and subcontractors may have access to confidential data maintained by the State to the extent necessary to carry out the Supplier's responsibilities under the Statewide Contract. The Supplier shall presume that all information received pursuant to the Statewide Contract is confidential unless otherwise designated by the State. If it is reasonably likely the Supplier will have access to the State's confidential information, then:
 - (i) The Supplier shall provide to the State a written description of the Supplier's policies and procedures to safeguard confidential information;
 - (ii) Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats;
 - (iii) The Supplier must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Supplier in connection with the performance of the Statewide Contract; and

- (iv) The Supplier shall provide adequate supervision and training to its agents, employees, and subcontractors to ensure compliance with the terms of the Statewide Contract.

The private or confidential data shall remain the property of the State at all times. Some services performed for the Agency and/or User Agencies may require the Supplier to sign a nondisclosure agreement. Supplier understands and agrees that refusal or failure to sign such a nondisclosure agreement, if required, may result in termination of the Statewide Contract.

- 2. No Dissemination of Confidential Data.** No confidential data collected, maintained, or used in the course of performance of the Statewide Contract shall be disseminated except as authorized by law and with the written consent of the State, either during the period of the Statewide Contract or thereafter. Any data supplied to or created by the Supplier shall be considered the property of the State. The Supplier must return any and all data collected, maintained, created, or used in the course of the performance of the Statewide Contract, in whatever form it is maintained, promptly at the request of the State.
- 3. Subpoena.** In the event that a subpoena or other legal process is served upon the Supplier for records containing confidential information, the Supplier shall promptly notify the State and cooperate with the State in any lawful effort to protect the confidential information.
- 4. Reporting of Unauthorized Disclosure.** The Supplier shall immediately report to the State any unauthorized disclosure of confidential information.
- 5. Survives Termination.** The Supplier's confidentiality obligation under the Statewide Contract shall survive termination of the Statewide Contract.

G. INDEMNIFICATION

- 1. Supplier's Indemnification Obligation.** The Supplier agrees to indemnify and hold harmless the State and State officers, employees, agents, and volunteers (collectively, "Indemnified Parties") from any and all costs, expenses, losses, claims, damages, liabilities, settlements, and judgments, including reasonable value of the time spent by the Attorney General's Office, related to, or arising from a third party claim based on:
 - (i) Any breach of the Statewide Contract by Supplier or any employee, agent or subcontractor utilized or employed by the Supplier ;
 - (ii) Any negligent, intentional, or wrongful act or omission of the Supplier or any employee, agent or subcontractor utilized or employed by the Supplier;
 - (iii) Any failure of goods to comply with applicable specifications, warranties, and certifications under the Statewide Contract;
 - (iv) The negligence or fault of the Supplier in design, testing, development, manufacture, or otherwise with respect to the goods or any parts thereof provided under the Statewide Contract;
 - (v) Claims, demands, or lawsuits that, with respect to the goods or any parts thereof, allege product liability, strict product liability, or any variation thereof;
 - (vi) The Supplier's performance or attempted performance of the Statewide Contract, including any employee, agent or subcontractor utilized or employed by the Supplier;

- (vii) Any failure by the Supplier to comply with the "Compliance with the Law" provision of the Statewide Contract;
- (viii) Any failure by the Supplier to make all reports, payments and withholdings required by federal and state law with respect to social security, employee income and other taxes, fees or costs required by the Supplier to conduct business in the State of Georgia or the United States;
- (ix) Subject to Section G(4) below, any infringement of any copyright, trademark, patent, trade dress, or other intellectual property right; or
- (x) Any failure by the Supplier to adhere to the confidentiality provisions of the Statewide Contract.

2. Duty to Reimburse State Tort Claims Fund. To the extent such damage or loss as covered by this indemnification is covered by the State of Georgia Tort Claims Fund ("the Fund"), the Supplier (and its insurers) agrees to reimburse the Fund. To the full extent permitted by the Constitution and the laws of the State and the terms of the Fund, the Supplier and its insurers waive any right of subrogation against the State, the Indemnified Parties, and the Fund and insurers participating thereunder, to the full extent of this indemnification.

3. Litigation and Settlements. The Supplier shall, at its own expense, be entitled to and shall have the duty to participate in the defense of any suit against the Indemnified Parties. No settlement or compromise of any claim, loss or damage entered into by the Indemnified Parties shall be binding upon Supplier unless approved in writing by Supplier. No settlement or compromise of any claim, loss or damage entered into by Supplier shall be binding upon the Indemnified Parties unless approved in writing by the Indemnified Parties.

4. Patent/Copyright Infringement Indemnification. Supplier shall, at its own expense, be entitled to and shall have the duty to participate in the defense of any suit instituted against the State and indemnify the State against any award of damages and costs made against the State by a final judgment of a court of last resort in such suit insofar as the same is based on any third party claim that any of the software constitutes an infringement of any United States Letters Patent or copyright, provided the State gives the Supplier immediate notice in writing of the institution of such suit, permits Supplier to fully participate in the defense of the same, and gives Supplier all available information, assistance and authority to enable Supplier to do so. Subject to approval of the Attorney General of the State of Georgia, the Agency shall tender defense of any such action to Supplier upon request by Supplier. Supplier shall not be liable for any award of judgment against the State reached by compromise or settlement unless Supplier accepts the compromise or settlement. Supplier shall have the right to enter into negotiations for and the right to effect settlement or compromise of any such action, but no such settlement shall be binding upon the State unless approved by the State.

In case any of the software is in any suit held to constitute infringement and its use is enjoined, Supplier shall, at its option and expense:

- (i) Procure for the State the right to continue using the software;
- (ii) Replace or modify the same so that it becomes non-infringing; or
- (iii) Remove the same and cancel any future charges pertaining thereto.

Supplier, however, shall have no liability to the State if any such patent, or copyright infringement or claim thereof is based upon or arises out of:

- (i) Compliance with designs, plans or specifications furnished by or on behalf of the Agency as to the software;
- (ii) Use of the software in combination with apparatus or devices not , developed, or reasonably anticipated by Supplier or modification or alteration of the software in any way by anyone other than Supplier;
- (iii) Use of the software in a manner for which the same was neither designed nor contemplated (including, without limitation, use in an application or environment not described in the applicable software documentation) or use of a superseded release of the software thirty or more days after notification where the subsequent release is available at no addition cost and is non-infringing; or
- (iv) The claimed infringement of any patent or copyright in which the Agency or any affiliate or subsidiary of the Agency has any direct interest by license or otherwise.

5. **Survives Termination.** The indemnification obligation of the Supplier shall survive termination of the Statewide Contract.

H. INSURANCE

Promptly following the User Agency’s written request, Supplier must provide USER AGENCY with certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of Supplier to maintain current certificates of insurance on file with the State through the term of this Agreement. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of Supplier for Supplier’s operations. These are solely minimums that have been established to protect the interests of the State. Supplier shall procure and maintain the insurance policies described below and shall furnish USER AGENCY two insurance certificates referencing the contract number. The certificates must list the State of Georgia as certificate holder and as an additional insured on the Commercial General Liability policy. The insurance certificate must provide the following information: the name and address of the insured; name, address, telephone number and signature of the authorized agent; name of the insurance company; a description of coverage in detailed standard terminology (including policy period, policy number, limits of liability, exclusions, and endorsements). The State does not require Authorized Servicing Partners to maintain the insurance requirements described below, which are at the discretion of Supplier. Supplier is required to maintain the following insurance coverage’s during the term of the Contract:

A. Workers Compensation Insurance (Occurrence) in the amounts of the statutory limits established by applicable law (A self-insurer must submit a certificate from the applicable state entity stating that Supplier qualifies to pay its own workers compensation claims.), and Employers Liability coverage in the minimum amount of \$1,000,000 each accident/each employee.

B. Commercial General Liability Policy with the following minimum coverage

or equivalent: Each Occurrence Limit	\$1,000,000
Personal & Advertising Injury Limit	\$1,000,000
General Aggregate Limit	\$2,000,000
Products/Completed Ops. Aggregate Limit	\$2,000,000

C. Errors and Omissions/Professional Liability: \$10,000,000; Cyber Liability: \$5,000,000.

- 1. Construction of Warranties Expressed in the Contract with Warranties Implied by Law.** All warranties made by the Supplier and/or subcontractor in all provisions of the Statewide Contract and the Supplier's Response, whether or not the Statewide Contract specifically denominates the Supplier's and/or subcontractor's promise as a warranty or whether the warranty is created only by the Supplier's affirmation or promise, or is created by a description of the materials, goods and services to be provided, or by provision of samples to the State shall not be construed as limiting or negating any warranty provided by law, including without limitation, warranties which arise through course of dealing or usage of trade, the warranty of merchantability, and the warranty of fitness for a particular purpose. The warranties expressed in the Statewide Contract are intended to modify the warranties implied by law only to the extent that they expand the warranties applicable to the goods and services provided by the Supplier. The provisions of this section apply during the term of the Statewide Contract and any extensions or renewals thereof.
- 2. Warranty – Nonconforming Goods.** All goods delivered by Supplier to the User Agencies shall be free from any defects in design, material, or workmanship. Payment for goods shall not constitute acceptance. Acceptance by the User Agencies shall not relieve the Supplier of its warranty or any other obligation under the Statewide Contract.
- 3. Compliance with Federal Safety Acts.** Supplier warrants and guarantees to the State that the goods provided under the Statewide Contract are in compliance with Sections 5 and 12 of the Federal Trade Commission Act; the Fair Packaging and Labeling Act; the Federal Food, Drug, and Cosmetic Act; the Consumer Product Safety Act; the Federal Environmental Pesticide Control Act; the Federal Hazardous Substances Act; the Fair Labor Standards Act; the Wool Products Labeling Act; the Flammable Fabrics Act; the Occupational Safety and Health Act; the Office of Management and Budget A-110 Appendix A; and the Anti-Kickback Act of 1986.
- 4. Originality and Title to Concepts, Materials, and Goods Produced.** Supplier represents and warrants that all the concepts, materials, goods, and services produced, or provided to the State pursuant to the terms of the Statewide Contract shall be wholly original with the Supplier or that the Supplier has secured all applicable interests, rights, licenses, permits or other intellectual property rights in such concepts, materials and works. The Supplier represents and warrants that the concepts, materials, goods and services and the State's use of same and the exercise by the State of the rights granted by the Statewide Contract shall not infringe upon any other work, other than material provided by the Statewide Contract to the Supplier to be used as a basis for such materials, or violate the rights of publicity or privacy of, or constitute a libel or slander against, any person, firm or corporation and that the concepts, materials and works will not infringe upon the copyright, trademark, trade name, trade dress patent, literary, dramatic, statutory, common law or any other rights of any person, firm or corporation or other entity. The Supplier represents and warrants that it is the owner of or otherwise has the right to use and distribute the goods and services contemplated by the Statewide Contract.

- 5. Conformity with Contractual Requirements.** The Supplier represents and warrants that the goods and services provided in accordance with the Statewide Contract will appear and operate in conformance with the terms and conditions of the Statewide Contract.
- 6. Authority to Enter into Contract.** The Supplier represents and warrants that it has full authority to enter into the Statewide Contract and that it has not granted and will not grant any right or interest to any person or entity that might derogate, encumber, or interfere with the rights granted to the State.
- 7. Obligations Owed to Third Parties.** The Supplier represents and warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the Supplier pursuant to the Statewide Contract are or will be fully satisfied by the Supplier so that the State will not have any obligations with respect thereto.
- 8. Title to Property.** The Supplier represents and warrants that title to any property assigned, conveyed, or licensed to the State is good and that transfer of title or license to the State is rightful and that all property shall be delivered free of any security interest or other lien or encumbrance. Title to any supplies, materials, or equipment shall remain in the Supplier until fully paid for by the User Agencies.
- 9. Industry Standards.** The Supplier represents and expressly warrants that all aspects of the goods and services provided or used by it shall at a minimum conform to the standards in the Supplier's industry. This requirement shall be in addition to any express warranties, representations, and specifications included in the Statewide Contract, which shall take precedence.
- 10. Supplier's Personnel and Staffing.**

(i) Staffing Assignments and Credentials

- a.** Supplier warrants and represents that all persons, including independent Suppliers and consultants assigned by it to the performance of this Contract, shall be employees or formal agents of Supplier and shall have the credentials necessary (i.e., licensed, and bonded, as required) to perform the work required herein. Supplier shall include a similar provision in any contract with any subcontractor selected to perform work hereunder. Supplier also agrees that User Agency may reasonably approve or disapprove Supplier's subcontractors, or its staff assigned to provide services prior to the proposed staff assignment or change in staffing. The State shall have the right at any time to require the Supplier remove from interaction with State any Supplier representative who the State reasonably believes is detrimental to its working relationship with the Supplier. The State shall provide the Supplier with notice of its determination, and the reasons it requests the removal. The Supplier shall not assign the person to any aspect of the Contract or future work orders without the State's consent.
- b.** In addition, Supplier warrants that all persons it assigns to perform work under this Contract shall be employees or authorized subcontractors of Supplier and shall be fully qualified to perform the services required herein. Personnel commitments shall not be changed unless approved by User Agency in writing (such approval not to be unreasonably withheld, conditioned or delayed). Staffing will include the named individuals at the levels of effort specified in the Statement of Work, as applicable.

- c. Supplier shall provide and maintain sufficient qualified personnel and staffing to enable the deliverables to be provided in accordance with the Statement of Work. Supplier also warrants that it will comply with all other staffing/personnel obligations set out herein, including but not limited to those pertaining to security, health, and safety issues, as applicable.

(ii) Staffing Changes

- a. User Agency may reject any proposed changes in Key Staff or require the removal or reassignment of any Supplier employee or subcontractor employee that User Agency reasonably deems to be unacceptable. User Agency's decision on this matter shall be final, subject to the Dispute Resolution provisions.
- b. Notwithstanding the above provisions, the Parties acknowledge and agree that the Supplier may terminate any of its employees designated to perform work or services under this Contract, as permitted by applicable law. In the event Supplier terminates one of its employees that performs services under this Contract, Supplier will provide User Agency with prompt notice of the termination and an action plan for replacing the discharged employee with a person of at least equivalent training, experience, and talent promptly following the termination. The Parties understand that time is of the essence and Supplier will immediately fill any vacated role temporarily until the permanent replacement can be filled consistent with these terms provided herein.

11. Use of State Vehicles. Supplier warrants that no State vehicles will be used by Supplier for the performance of services under this Statewide Contract. Supplier shall be responsible for providing transportation necessary to perform all services.

12. Responsibility. Supplier represents and warrants that it shall remain responsible at all times during the term of the Contract, maintaining legal authority to do business in the State of Georgia, a satisfactory record of integrity, appropriate financial, organizational, and operational capacity and control, and acceptable performance on previous and current governmental and/or private contracts, if any.

13. Workmanship warranty period.

With respect to the provision of Professional Services, Supplier must guarantee a workmanship warranty period of ninety (90) days from completion of the Professional Services in accordance with Section 7 of the F5 Consulting Terms (Attachment 5C), or such longer period as may be agreed to in the applicable SOW.

14. Web Accessibility. As applicable to the services being provided under the Contract, Unless approved by the User Agency in compliance with the policies standards and guidelines applicable to the Agency, Supplier warrants that:

- a. Its products and services comply with and shall remain in compliance with all applicable federal disability laws and regulations, including but not limited to the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended, and its implementing regulations; and
- b. Its products and services, as applicable, conform with the prevailing Web Content Accessibility Guidelines (WCAG) Standards to AA level-currently WCAG 2.1 AA;
- c. Supplier shall maintain, retain, and provide to the State upon request its accessibility testing results and written documentation verifying accessibility in a Voluntary Product Accessibility Template (VPAT) or other format specified by the State;
 - d. It shall permit the state to conduct an accessibility audit by any auditor of the State's choice and promptly respond to, resolve, and remediate at no cost to the state any

- complaint regarding accessibility of its products and services; and
- e. It shall hold the State harmless from and indemnify the State for any claims arising out of its failure to comply with these obligations.

K. PRODUCT RECALL

In the event that any of the goods are found by the Supplier, the State, any governmental agency, or court having jurisdiction to contain a defect, serious quality or performance deficiency, or not to be in compliance with any standard or requirement so as to require or make advisable that such goods be reworked or recalled, the Supplier will promptly communicate all relevant facts to the Agency and undertake all corrective actions, including those required to meet all obligations imposed by laws, regulations, or orders, and shall file all necessary papers, corrective action programs, and other related documents, provided that nothing contained in this section shall preclude the Agency from taking such action as may be required of it under any such law or regulation. The Supplier shall perform all necessary repairs or modifications at its sole expense except to any extent that the Supplier and the State shall agree to the performance of such repairs by the State upon mutually acceptable terms.

L. CONTRACT ADMINISTRATION

1. Order of Preference. In the case of any inconsistency or conflict among the specific provisions of the Statewide Contract Terms and Conditions (including any amendments accepted by both the Agency and the Supplier attached hereto and the Awarded Item Schedule, if any), the RFX (including any subsequent addenda and written responses to bidders' questions), and the Supplier's Response, any inconsistency or conflict shall be resolved as follows:

- (i) First, by giving preference to the Statewide Contract Terms and Conditions.
- (ii) Second, by giving preference to the specific provisions of the RFX.
- (iii) Third, by giving preference to the specific provisions of the Supplier's Response, except that objections or amendments by a Supplier that have not been explicitly accepted by the Agency in writing shall not be included in this Statewide Contract and shall be given no weight or consideration.
- (iv) State of Georgia, DOAS, Data Security Terms & Conditions
- (v) Attachments 5A-F: F5 Supplemental Agreements, as modified by agreement of the parties and attached.
 - a. 5A F5 EULA
 - b. 5B F5 Maintenance Agreement
 - c. 5C F5 Consulting Terms
 - d. 5D F5 EUSA
 - e. 5F F5 Warranty Terms

Contract may include Product specific terms and/or Privacy Policy details in Supplier's hyperlinks so long as those terms and details do not:

- Conflict with terms higher in the order of precedence;
- Conflict with terms negotiated by the parties;
- Materially diminish the rights of the State and/or the obligations of Supplier; or
- Materially change previous hyperlinked terms unless the State approves the changes after prior written notice; or
- Include clickwrap terms.

To the extent such hyperlinks provide the State with options or rights in addition to those otherwise available under this Contract, nothing in this Contract is intended to limit the State's exercise of such options or rights.

- 2. Intent of References to Bid Documents.** The references to the parties' obligations, which are contained in this document, are intended to supplement, or clarify the obligations as stated in the RFX and the Supplier's Response. The failure of the parties to make reference to the terms of the RFX or the Supplier's Response in this document shall not be construed as creating a conflict and will not relieve the Supplier of the contractual obligations imposed by the terms of the RFX and the Supplier's Response. The contractual obligations of the Agency cannot be implied from the Supplier's Response.
- 3. Compliance with the Law.** The Supplier, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations, and orders now or hereafter in effect when performing under the Statewide Contract, including without limitation, all laws applicable to the prevention of discrimination in employment and the use of targeted small businesses as subcontractors or Suppliers. The Supplier, its employees, agents, and subcontractors shall also comply with all federal, state, and local laws regarding business permits and licenses that may be required to carry out the work performed under the Statewide Contract. Supplier and Supplier's personnel shall also comply with all State, Agency, and User Agency policies and standards in effect during the performance of the

Statewide Contract, including but not limited to the Agency and User Agencies' policies and standards relating to personnel conduct, security, safety, confidentiality, and ethics. Further, the provisions of O.C.G.A. Section 45-10-20 et seq. have not and must not be violated under the terms of this Statewide Contract. If the value of this Contract is \$100,000 or more and Supplier is a company that employs more than five persons, Supplier certifies that Supplier is not currently engaged in, and agrees for the duration of this Contract not to engage in, a boycott of Israel, as defined in O.C.G.A. §50-5-85.

4. Drug-free Workplace. The Supplier hereby certifies as follows:

- (i) Supplier will not engage in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of this Statewide Contract; and
- (ii) If Supplier has more than one employee, including Supplier, Supplier shall provide for such employee(s) a drug-free workplace, in accordance with the Georgia Drug-free Workplace Act as provided in O.C.G.A. Section 50-24-1 et seq., throughout the duration of this Statewide Contract; and
- (iii) Supplier will secure from any subcontractors hired to work on any job assigned under this Statewide Contract the following written certification: "As part of the subcontracting agreement with (Supplier's Name), (subcontractor's Name) certifies to the Supplier that a drug-free workplace will be provided for the subcontractor's employees during the performance of this Contract pursuant to paragraph 7 of subsection (b) of Code Section 50-24-3."

Supplier may be suspended, terminated, or debarred if it is determined that:

- (i) Supplier has made false certification here in above; or
- (ii) Supplier has violated such certification by failure to carry out the requirements of O.C.G.A. Section 50-24-3(b).

5. Amendments. The Statewide Contract may be amended in writing from time to time by mutual consent of the parties and upon approval by the Agency. All amendments to the Statewide Contract must be in writing and fully executed by duly authorized representatives of the Agency and the Supplier.

6. Third Party Beneficiaries. There are no third-party beneficiaries to the Statewide Contract. The Statewide Contract is intended only to benefit the State and the Supplier.

7. Choice of Law and Forum. The laws of the State of Georgia shall govern and determine all matters arising out of or in connection with this Statewide Contract without regard to the choice of law provisions of State law. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Statewide Contract, such proceeding shall solely be brought in a court or other forum of competent jurisdiction within Fulton County, Georgia. This provision shall not be construed as waiving any immunity to suit or liability, including without limitation sovereign immunity, which may be available to the State.

8. **Parties' Duty to Provide Notice of Intent to Litigate and Right to Demand Mediation.** In addition to any dispute resolution procedures otherwise required under this Statewide Contract or any informal negotiations which may occur between the State and the Supplier, no civil action with respect to any dispute, claim or controversy arising out of or relating to this Statewide Contract may be commenced without first giving fourteen (14) calendar days written notice to the State of the claim and the intent to initiate a civil action. At any time prior to the commencement of a civil action, either the State or the Supplier may elect to submit the matter for mediation. Either the State or the Supplier may exercise the right to submit the matter for mediation by providing the other party with a written demand for mediation setting forth the subject of the dispute. The parties will cooperate with one another in selecting a mediator and in scheduling the mediation proceedings. Venue for the mediation will be in Atlanta, Georgia; provided, however, that any or all mediation proceedings may be conducted by teleconference with the consent of the mediator. The parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs; provided, however that the cost to either Party shall not exceed five thousand dollars (\$5,000.00) except otherwise agreed by both parties in writing.

All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator or employees of any mediation service, are inadmissible for any purpose (including but not limited to impeachment) in any litigation or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Inadmissibility notwithstanding, all written documents shall nevertheless be subject to the Georgia Open Records Act O.C.G.A. Section 50-18-70 et.seq.

No party may commence a civil action with respect to the matters submitted to mediation until after the completion of the initial mediation session, forty-five (45) calendar days after the date of filing the written request for mediation with the mediator or mediation service, or sixty (60) calendar days after the delivery of the written demand for mediation, whichever occurs first. Mediation may continue after the commencement of a civil action if the parties so desire.

9. **Assignment and Delegation.** The Statewide Contract may not be assigned, transferred, or conveyed in whole or in part without the prior written consent of the Agency. For the purpose of construing this clause, a transfer of a controlling interest in the Supplier shall be considered an assignment.
10. **Use of Third Parties.** Except as may be expressly agreed to in writing by the Agency, Supplier shall not subcontract, assign, delegate or otherwise permit anyone other than Supplier or Supplier's personnel to perform any of Supplier's obligations under this Statewide Contract or any of the work subsequently assigned under this Statewide Contract. No subcontract which Supplier enters into with respect to performance of obligations or work assigned under the Statewide Contract shall in any way relieve Supplier of any responsibility, obligation, or liability under this Statewide Contract and for the acts and omissions of all subcontractors, agents, and employees. All restrictions, obligations and responsibilities of the Supplier under the Statewide Contract shall also apply to the subcontractors. Any contract with a subcontractors must also preserve the rights of the Agency. The Agency shall have the right to request the removal of a subcontractors from the Statewide Contract for good cause.
11. **Integration.** The Statewide Contract represents the entire agreement between the parties. The parties shall not rely on any representation that may have been made which is not included in the Statewide Contract.
12. **Headings or Captions.** The paragraph headings or captions used in the Statewide Contract are for identification purposes only and do not limit or construe the contents of the paragraphs.

- 13. Not a Joint Venture.** Nothing in the Statewide Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties thereto. Each party shall be deemed to be an independent Supplier contracting for goods and services and acting toward the mutual benefits expected to be derived herefrom. Neither Supplier nor any of Supplier's agents, servants, employees, subcontractors, or Suppliers shall become or be deemed to become agents, servants, or employees of the State. Supplier shall therefore be responsible for compliance with all laws, rules and regulations involving its employees and any subcontractors, including but not limited to employment of labor, hours of labor, health, and safety, working conditions, workers' compensation insurance, and payment of wages. No party has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to the Statewide Contract.
- 14. Joint and Several Liability.** If the Supplier is a joint entity, consisting of more than one individual, partnership, corporation, or other business organization, all such entities shall be jointly and severally liable for carrying out the activities and obligations of the Statewide Contract, and for any default of activities and obligations.
- 15. Supersedes Former Contracts or Agreements.** Unless otherwise specified in the Statewide Contract, this Statewide Contract supersedes all prior contracts or agreements between the Agency and the Supplier for the goods and services provided in connection with the Statewide Contract.
- 16. Waiver.** Except as specifically provided for in a waiver signed by duly authorized representatives of the Agency and the Supplier, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Statewide Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.
- 17. Notice.** Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar and reliable carrier which shall be addressed to the person who signed the Statewide Contract on behalf of the party at the address identified in the Statewide Contract Form. Each such notice shall be deemed to have been provided:

 - (i) At the time it is actually received; or,
 - (ii) Within one (1) day in the case of overnight hand delivery, courier, or services such as Federal Express with guaranteed next day delivery; or,
 - (iii) Within five (5) days after it is deposited in the U.S. Mail in the case of registered U.S. Mail.

From time to time, the parties may change the name and address of the person designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.

- 18. Cumulative Rights.** The various rights, powers, options, elections and remedies of any party provided in the Statewide Contract shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of any party to pursue any other equitable or

legal remedy to which any party may be entitled as long as any default remains in any way unremedied, unsatisfied or undischarged.

- 19. Severability.** If any provision of the Statewide Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of the Statewide Contract. Further, if any provision of the Statewide Contract is determined to be unenforceable by virtue of its scope but may be made enforceable by a limitation of the provision, the provision shall be deemed to be amended to the minimum extent necessary to render it enforceable under the applicable law. Any agreement of the Agency and the Supplier to amend, modify, eliminate, or otherwise change any part of this Statewide Contract shall not affect any other part of this Statewide Contract, and the remainder of this Statewide Contract shall continue to be of full force and effect.
- 20. Time is of the Essence.** Time is of the essence with respect to the performance of the terms of the Statewide Contract. Supplier shall ensure that all personnel providing goods and services to the State are responsive to the State's requirements and requests in all respects.
- 21. Authorization.** The persons signing this Statewide Contract represent and warrant to the other parties that:

 - (i) It has the right, power, and authority to enter into and perform its obligations under the Statewide Contract; and
 - (ii) It has taken all requisite action (corporate, statutory, or otherwise) to approve execution, delivery and performance of the Statewide Contract and the Statewide Contract constitutes a legal, valid, and binding obligation upon itself in accordance with its terms.
- 22. Successors in Interest.** All the terms, provisions, and conditions of the Statewide Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.
- 23. Record Retention and Access.** The Supplier shall maintain books, records, and documents which sufficiently and properly document and calculate all charges billed to the State throughout the term of the Statewide Contract for a period of at least five (5) years following the date of final payment or completion of any required audit, whichever is later. The Supplier should maintain separate accounts and records for the Agency and the User Agencies. Records to be maintained include both financial records and service records. The Supplier shall permit the Auditor of the State of Georgia or any authorized representative of the State, and where federal funds are involved, the Comptroller General of the United States, or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of the Supplier relating to orders, invoices or payments or any other documentation or materials pertaining to the Statewide Contract, wherever such records may be located during normal business hours. The Supplier shall not impose a charge for audit or examination of the Supplier's books and records. If an audit discloses incorrect billings or improprieties, the State reserves the right to charge the Supplier for the cost of the audit and appropriate reimbursement. Evidence of criminal conduct will be turned over to the proper authorities.
- 24. Solicitation.** The Supplier warrants that no person or selling agency (except bona fide employees or selling agents maintained for the purpose of securing business) has been

employed or retained to solicit and secure the Statewide Contract upon an agreement or understanding for commission, percentage, brokerage, or contingency.

25. **Public Records.** The laws of the State of Georgia, including the Georgia Open Records Act, as provided in O.C.G.A. Section 50-18-70 et seq., require procurement records and other records to be made public unless otherwise provided by law.
26. **Clean Air and Water Certification.** Supplier certifies that none of the facilities it uses to produce goods provided under the Statewide Contract are on the Environmental Protection Agency (EPA) List of Violating Facilities. Supplier will immediately notify the Agency of the receipt of any communication indicating that any of Supplier's facilities are under consideration to be listed on the EPA List of Violating Facilities.
27. **Debarred, Suspended, and Ineligible Status.** Supplier certifies that the Supplier and/or any of its subcontractors have not been debarred, suspended, or declared ineligible by any agency of the State of Georgia or as defined in the Federal Acquisition Regulation (FAR) 48 C.F.R. Ch.1 Subpart 9.4. Supplier will immediately notify the Agency if Supplier is debarred by the State or placed on the Consolidated List of Debarred, Suspended, and Ineligible Suppliers by a federal entity.
28. **Use of Name or Intellectual Property.** Supplier agrees it will not use the name or any intellectual property, including but not limited to, State trademarks or logos in any manner, including commercial advertising or as a business reference, without the expressed prior written consent of the State.
29. **Taxes.** User Agencies are exempt from Federal Excise Taxes, and no payment will be made for any taxes levied on Supplier's employee's wages. User Agencies are exempt from State and Local Sales and Use Taxes on the services. Tax Exemption Certificates will be furnished upon request. Supplier or an authorized subcontractor has provided the Agency with a sworn verification regarding the filing of unemployment taxes or persons assigned by Supplier to perform services required in this Statewide Contract, which verification is incorporated herein by reference.
30. **Certification Regarding Sales and Use Tax.** By executing the Statewide Contract, the Supplier certifies it is either (a) registered with the State Department of Revenue, collects, and remits State sales and use taxes as required by Georgia law, including Chapter 8 of Title 48 of the O.C.G.A.; or (b) not a "retailer" as defined in O.C.G.A. Section 48-8-2. The Supplier also acknowledges that the State may declare the Statewide Contract void if the above certification is false. The Supplier also understands that fraudulent certification may result in the Agency or its representative filing for damages for breach of contract.
31. **Delay or Impossibility of Performance.** Neither party shall be in default under the Contract if performance is delayed or made impossible by circumstances beyond such party's reasonable control and without such party's fault or negligence, including, but not limited to, an act of God, natural disaster, extreme weather, war, terrorist attack, riot, embargo, governmental order or declaration of emergency, quarantine, epidemic, pandemic, or public health emergency. In each such case, the delay or impossibility must be beyond the control and without the fault or negligence of the Supplier. If delay results from a subcontractor's misconduct, negligence, or failure to perform, the Supplier shall not be excused from compliance with the terms and obligations of the Contract.
32. **Limitation of Contractor's Liability to the State.** Except as otherwise provided in this Contract, Supplier's liability to the State for any claim of damages arising out of this Contract shall be limited to direct damages and shall not exceed two times the total amount payable to

Supplier over the duration of the Contract prior to the event or circumstances that first gave rise to such liability, or \$5,000,000, whichever is the greatest. Supplier's liability to the State for any claim for Supplier's indemnification obligations, data loss, security breach, or breach of confidentiality obligations shall not exceed fifteen million (\$15,000,000).

Notwithstanding the above, no limitation of Supplier's liability to the State shall apply to Supplier's liability for (a) claims for loss of or damage to real or tangible personal property; (b) claims for personal injury or bodily injury, including death; (c) claims resulting from gross negligence, recklessness, bad faith, or intentional misconduct; (d) amounts due or obligations under a clause providing for liquidated damages or, if such clause is ruled unenforceable, as a penalty; or (e) any loss or claim to the extent such loss or claim is covered by a policy of insurance maintained, or required by this Contract to be maintained, by Supplier. Nothing in this section shall limit or affect Supplier's liability arising from claims brought by any third party.

NEITHER PARTY WILL HAVE ANY LIABILITY, WHETHER ARISING IN CONTRACT (INCLUDING WARRANTY), TORT (INCLUDING ACTIVE, PASSIVE OR IMPUTED NEGLIGENCE, STRICT LIABILITY, OR PRODUCT LIABILITY), OR OTHERWISE FOR ANY PUNITIVE, EXEMPLARY, SPECIAL, INCIDENTAL, CONSEQUENTIAL (EXCEPT WITH RESPECT TO DATA SECURITY BREACH OR BREACH OF CONFIDENTIALITY OBLIGATIONS), OR INDIRECT DAMAGES

- 33. Obligations Beyond Contract Term.** The Statewide Contract shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to the Statewide Contract. All obligations of the Supplier incurred or existing under the Statewide Contract as of the date of expiration, termination or cancellation will survive the termination, expiration or conclusion of the Statewide Contract.
- 34. Counterparts.** The Agency and the Supplier agree that the Statewide Contract has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.
- 35. Further Assurances and Corrective Instruments.** The Agency and the Supplier agree that they will, from time to time, execute, acknowledge, and deliver, or cause to be executed, acknowledged, and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of the Statewide Contract.
- 36. Transition Cooperation and Cooperation with other Suppliers.** Supplier agrees that upon termination of this Statewide Contract for any reason, it shall provide sufficient efforts and cooperation to ensure an orderly and efficient transition of services to the State or another Supplier. The Supplier shall provide full disclosure to the State and the third-party Supplier about the equipment, software, or services required to perform services for the State. The Supplier shall transfer licenses or assign agreements for any software or third-party services used to provide the services to the State or to another Supplier.

Further, in the event that the State has entered into or enters into agreements with other Suppliers for additional work related to services rendered under the Statewide Contract, Supplier agrees to cooperate fully with such other Suppliers. Supplier shall not commit any act, which will interfere with the performance of work by any other Supplier.

37. State Security. Supplier shall obtain a criminal background investigation on its officers, agents, employees, subcontractor, or other workers (“Workers”) assigned to have regular interaction with children, students, employees, money, sensitive or confidential data, or access to the State Entity’s premises, computers, hardware, software, programs, and/or information technology infrastructure or operations. The State Entity reserves the right to require additional background checks to be made on any of Supplier’s Workers. Supplier shall review the results of the background investigation. If such background investigation reveals or at any time Supplier discovers that a Worker has a criminal record that includes a felony or misdemeanor involving terroristic behavior, violence, use of a lethal weapon, breach of trust/fiduciary responsibility, or which raises concerns about facility, system, or personal security or is otherwise job related, Supplier shall not permit that Worker to access any state facilities, data, or technology, shall remove any access privileges already given to that Worker, and shall not permit any such access unless Supplier notifies the State Entity and the state Entity expressly consents to the access, in writing, prior to the access. Supplier shall immediately notify the State Entity of any change in a Worker’s criminal history. The State Entity may, in its sole discretion, terminate a Worker’s access to the State Entity’s facilities, computers, hardware, software, programs, and/or information technology infrastructure or operations. Supplier shall participate fully in the defense of, indemnify, and hold harmless the State Entity for its failure to obtain appropriate background investigations and for the actions of its Workers.

38. Sexual Harassment Prevention. The State of Georgia promotes respect and dignity and does not tolerate sexual harassment in the workplace. The State is committed to providing a workplace and environment free from sexual harassment for its employees and for all persons who interact with state government. All State of Georgia employees are expected and required to interact with all persons including other employees, Suppliers, and customers in a professional manner that contributes to a respectful work environment free from sexual harassment. Furthermore, the State of Georgia maintains an expectation that its Suppliers and their employees and subcontractor will interact with entities of the State of Georgia, their customers, and other Suppliers of the State in a professional manner that contributes to a respectful work environment free from sexual harassment.

Pursuant to the State of Georgia’s Statewide Sexual Harassment Prevention Policy (the “Policy”), all Suppliers who are regularly on State premises or who regularly interact with State personnel must complete sexual harassment prevention training on an annual basis.

If the Supplier, including its employees and subcontractor, violates the Policy, including but not limited to engaging in sexual harassment and/or retaliation, the Supplier may be subject to appropriate corrective action. Such action may include, but is not limited to, notification to the employer, removal from State premises, restricted access to State premises and/or personnel, termination of contract, and/or other corrective action(s) deemed necessary by the State.

(i) If Supplier is an individual who is regularly on State premises or who will regularly interact with State personnel, Supplier certifies that:

a. Supplier has received, reviewed, and agreed to comply with the State of Georgia’s Statewide Sexual Harassment Prevention Policy located at <http://doas.ga.gov/human-resources-administration/board-rules-policy-and-compliance/jointly-issued-statewide-policies/sexual-harassment-prevention-policy>;

b. Supplier has completed sexual harassment prevention training in the last year and will continue to do so on an annual basis; or will complete the Georgia Department of Administrative Services’ sexual harassment prevention training located at this direct link <https://www.youtube.com/embed/NjVt0DDnc2s?rel=0> prior to accessing



DATA SECURITY TERMS AND CONDITIONS

Attachment: 4

In the course of providing goods and/or services to the State of Georgia and governmental entities of the State pursuant to this contract, Supplier may gain access to Sensitive State Data as defined below. In such event, these Data Security Terms and Conditions shall apply.

I. DEFINITIONS AND GENERAL INFORMATION

A. Definitions. The following words shall be defined as set forth below:

1. **"Authorized Persons"** means Supplier and its employees, subcontractors, or other agents to the extent necessary for such persons to access Sensitive State Data to enable Supplier to provide goods and/or services under this Agreement.
2. **"Data Breach"** means a security-relevant event in which the security of a system or procedure used to create, obtain, transmit, maintain, use, process, store, or dispose of data is breached and Sensitive State Data or information technology resources is exposed to unauthorized access, use, disclosure, alteration, or theft.
3. **"Personally Identifiable Information"** includes, but is not limited to, personal identifiers such as name, address, phone number, date of birth, Social Security number, and student or personnel identification number; Personal Information as defined in O.C.G.A. 10-1-911 and/or any successor laws of the State of Georgia; Personally Identifiable Information contained in student education records as that term is defined in the Family Educational Rights and Privacy Act, 20 USC 1232g; Medical Information as defined in Georgia Code Section 32.1-127.1:05; Protected Health Information" as that term is defined in the Health Insurance Portability and Accountability Act, 45 CFR Part 160.103; Nonpublic Personal Information as that term is defined in the Gramm-Leach-Bliley Financial Modernization Act of 1999, 15 USC 6809; credit and debit card numbers and/or access codes and other cardholder data and sensitive authentication data as those terms are defined in the Payment Card Industry Data Security Standards; other financial account numbers, access codes, driver's license numbers; and state- or federal-identification numbers such as passport, visa or state identity card numbers.
4. **"Personal Data"** as defined in O.C.G.A. § 10-1-911 means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted or redacted:
 - a. Social security number;
 - b. Driver's license number or state identification card number;
 - c. Account number, credit card number, or debit card number, if circumstances exist wherein such a number could be used without additional identifying information, access codes, or passwords;
 - d. Account passwords or personal identification numbers or other access codes; or
 - e. Any of the items contained in subparagraphs (A) through (D) of this paragraph when not in connection with the individual's first name or first initial and last name, if the information compromised would be sufficient to perform or attempt to perform identity theft against the person whose information was compromised.
5. **"Sensitive State Data"** means all Personally Identifiable Information and other information that is not intentionally made available by the State on public websites or publications, including but not limited to business, administrative, and financial data, intellectual property, and patient,

student and personnel data and records not required to be publicly disclosed under the Georgia Open Records Act, O.C.G.A. § 50-18-72 et seq., including any plan, blueprint, or material which if made public would compromise security. Sensitive State Data includes data created or in any way originating with or on behalf of the State, and all data that is the output of computer processing of or other electronic manipulation of any data that was created by or in any way originated with the State, whether such data or output is stored on the State's hardware, Supplier's hardware or exists in any system owned, maintained or otherwise controlled by the State or Supplier.

6. **“Security Incident”** means the suspected unauthorized access by non-Authorized Persons to Sensitive State Data that would result in the use, disclosure, alteration, or theft of the Sensitive State Data or information technology resources within the possession or control of Supplier or any cyber-attack, data breach, or identified use of malware that may create a life- safety event, substantially impair the security of data or information systems, or affect critical systems, equipment, or service delivery. A Security Incident may or may not turn into a Data Breach.

II. DATA OWNERSHIP AND PROTECTION

A. Data Ownership. As between Supplier and the State, the State will own all right, title, and interest, including all intellectual property rights, in the Sensitive Data provided by the State under this Agreement. Supplier shall not access Sensitive State Data, except 1) as is reasonably necessary to perform data center operations, 2) in response to service or technical issues, 3) as required by Supplier to provide the goods and services covered by this Agreement or 4) at the State's request. Supplier has a limited, non-exclusive license to use Sensitive State Data solely for the purpose of performing its obligations under this Agreement.

B. Data Protection. Protection of personal privacy and data shall be an integral part of the business activities of Supplier and designed to protect against and mitigate any inappropriate or unauthorized access to or use of Sensitive State Data at any time. To this end, Supplier shall safeguard the confidentiality, integrity, and availability of Sensitive State Data and comply with the following conditions:

1. Supplier shall maintain reasonably appropriate administrative, physical, and technical security measures to safeguard against unauthorized access, use, disclosure, alteration, or theft of Sensitive State Data. Such security measures shall be in accordance with current NIST 800-53 standards commensurate with the FISMA data classification specified by the State. If no data classification is specified by the State, in accordance with the measures applicable to the FISMA moderate classification.
2. Supplier shall use industry best practices and up-to-date security tools, technologies, and practices such as network firewalls, anti-virus protections, vulnerability scans, system logging, 24x7 system monitoring, third-party penetration testing, and intrusion detection methods in providing services under this Agreement.
3. Where the security objectives of confidentiality, authentication, non-repudiation, or data integrity are categorized FISMA compliance level moderate or higher, all electronic Sensitive State Data shall be encrypted using a cryptography method specified by the State while at rest on all devices controlled by Supplier and in transit across public networks with controlled access. Unless otherwise provided in the Agreement, Supplier is responsible for encryption of the Sensitive State Data.
4. Unless otherwise provided in the Agreement Supplier shall enforce separation of job duties, require commercially reasonable non-disclosure agreements, and limit staff knowledge of Sensitive State Data to that which is reasonably necessary to perform applicable job duties.

C. Data Location. Unless approved by the User Agency in compliance with the policies standards and guidelines applicable to the Agency, in providing goods and services to the State, supplier shall access, store, and process Sensitive State Data solely from location(s) or data centers in the U.S. and Supplier shall notify State of such locations. Storage of Sensitive State Data at rest shall be located solely in location(s) or data centers in the U.S. and Supplier shall notify State of such locations. Supplier

shall not allow its personnel or Authorized Persons to store Sensitive State Data on portable devices, including personal computers, except for devices that are used and kept only at U.S. location(s) or data centers. Supplier shall only permit its personnel and consultants to remotely access Sensitive State Data as required to provide goods and services under this Agreement and shall only allow such remote access from locations within the U.S.

III. SECURITY INCIDENT AND DATA BREACH RESPONSIBILITIES

Supplier shall inform the State of any Security Incident or Data Breach.

A. Incident Response. Supplier may need to communicate with outside parties regarding a Security Incident or Data Breach, which may include contacting law enforcement, fielding media inquiries, and seeking external expertise as mutually agreed upon, defined by law, or contained in the Agreement. Discussing security incidents with the State should be handled on an urgent as-needed basis, as part of Supplier's communication and mitigation processes as mutually agreed upon, defined by law, or contained in the Agreement. Any contacting of law enforcement on matters regarding State systems or data must be followed by a report to the Georgia Information Sharing and Analysis Center (GISAC) at (404) 561-8497.

B. Security Incident and Data Breach Reporting Requirements. Upon becoming aware of a Security Incident or Data Breach, of Supplier's System or related to the use of Supplier's products, Supplier shall, to the extent legally permissible:

1. Promptly and without undue delay notify the State identified contact within forty-eight hours following discovery or sooner, unless shorter time is required by the Agreement or applicable law;
2. Fully investigate the Security Incident or Data Breach and cooperate with the State's investigation of and response thereto. Except as otherwise required by law, Supplier shall not provide notice of the Security Incident or Data Breach directly to individuals whose Personally Identifiable Information was involved, regulatory agencies, or other entities, without prior written permission from the State;
3. Promptly implement necessary remedial measures reasonably determined by the State; and
4. document responsible actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.
5. Supplier will provide daily updates, or more frequently if required by the State, regarding findings and actions performed by Service Provider to the State Identified Contact until the Data Breach has been effectively resolved to the State's reasonable satisfaction.
6. Supplier shall quarantine the Data Breach, ensure secure access to Data, and repair IaaS and/or PaaS as needed in accordance with the SOW and/or SLA. Failure to do so may result in the State exercising its options for assessing damages or other remedies under this Contract.

IV. LIABILITY

A. If Supplier will under this agreement create, obtain, transmit, use, maintain, process, or dispose of the subset of Sensitive State Data known as Personally Identifiable Information, the following provisions apply: In addition to any other remedies available to the State under law or equity, Supplier shall reimburse the State in full for all costs incurred by the State in investigation and

remediation of any Data Breach or Security Incident caused by Supplier, including but not limited to providing notification to individuals whose Personally Identifiable Information was compromised and to regulatory agencies or other entities as required by law or contract; a website or toll-free number and call center for affected individuals required by law, providing one year's credit monitoring to the affected individuals if the Personally Identifiable Information exposed during the breach could be used to commit financial identity theft; and the payment of legal fees, audit costs, fines, and other fees imposed by regulatory agencies or contracting partners as a result of the Data Breach or Security Incident.

B. If Supplier will NOT under this agreement create, obtain, transmit, use, maintain, process, or dispose of the subset of Sensitive State Data known as Personally Identifiable Information, the following provisions apply: In addition to any other remedies available to the State under law or equity, Supplier will reimburse the State in full for all costs reasonably incurred by the State in investigation and remediation of any Data Breach or Security Incident caused by Supplier.

V. SECURITY

A. Security Certification. If applicable in the provision of the goods and services covered by this Agreement, Supplier will maintain at least one of the following annual security certifications or reports during the term of this Agreement:

- a. an ISO/IEC ISO 27001 certification recognized by an accredited certification body which is a member of the International Accreditation Forum;
- b. a Service Organization Control 2 Type II report prepared in accordance with the SSAE 18 reporting standard; or
- c. another security certification or report from a nationally-recognized certification body or assessor that's reasonably acceptable to the State.

The Security Certification will fully cover the security, availability, integrity, confidentiality, and privacy-related controls of the Supplier systems. Supplier will promptly provide a copy of its most recent Security Certification upon the State's request.

B. Security Processes. Supplier shall disclose reasonable details regarding its security processes and technical limitations to the State such that adequate protection and flexibility can be attained between the State and Supplier.

C. Encryption of Data at Rest. For data categorized as moderate or high in Federal Information Processing Standard 199, Supplier shall ensure confidentiality and integrity of information at rest consistent with security control SC-28, Protection of Information at Rest, using control enhancement 1, Cryptographic Protection, in NIST Special Publication 800-53.

VI. RESPONSE TO LEGAL ORDERS, DEMANDS, OR REQUESTS FOR DATA

A. Except as otherwise expressly prohibited by law, Supplier shall:

1. promptly notify the State of any subpoenas, warrants, or other legal orders, demands or requests received by Supplier seeking Sensitive State Data;
2. reasonably consult with the State regarding its response;
3. cooperate with the State's reasonable requests (at the State's own cost and expense_ in connection with efforts by the State to intervene and quash or modify the legal order, demand, or request; and
4. upon the State's request, provide the State with a copy of its response.

B. If the State receives a subpoena, warrant, or other legal order, demand (including request pursuant to the Georgia Open Records Act) or request seeking Sensitive State Data maintained by Supplier, the State shall promptly provide a copy to Supplier. Supplier shall promptly supply the State with copies of data under its possession or control required for the State to respond and shall (at the

State's own cost and expense) cooperate with the State's reasonable requests in connection with its response.

VII. TERMINATION OBLIGATIONS

A. Upon termination or expiration of the Agreement, Supplier shall implement In the State's sole discretion, a secure, orderly (1) destruction of, or (2) return of Sensitive State Data in the format and at a time specified by State. Transfer to State or a third party designated by State shall occur without significant interruption of service and, to the extent technologically feasible, State shall have access to Sensitive State Data during the transfer. Following such transfer, Supplier shall securely destroy Sensitive State Data in its possession or control. Supplier shall not destroy any Sensitive State Data that has not been returned to State in the event of ongoing contract or other disputes between the parties or for so long as amounts remain payable by State.

B. Destroyed Sensitive State Data shall be permanently deleted and shall not be recoverable in accordance with National Institute of Standards and Technology (NIST) Special Publication 800-88, Guidelines for Media Sanitization, using the clear method from Appendix A, Minimum Sanitization Recommendations, for the type of media being cleared. Certificates of destruction shall be provided to the State. Supplier may retain a copy of Sensitive State Data if necessary to comply with law or its applicable professional standards.

VIII. COMPLIANCE

A. Supplier shall comply with all applicable laws and industry standards in providing goods and services under this agreement. Any Supplier personnel visiting the State's facilities will comply with all applicable State policies regarding access to, use of, and conduct within such facilities. The State shall provide copies of such policies to Supplier upon request.

B. Supplier warrants that in providing goods and services to the State it is fully compliant with relevant laws, regulations, and guidance that may be applicable to the goods and services such as: the Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and Accountability Act (HIPAA) and Health Information Technology for Economic and Clinical Health Act (HITECH), Gramm-Leach-Bliley Financial Modernization Act (GLB), Payment Card Industry Data Security Standards (PCI-DSS), Americans with Disabilities Act (ADA), Federal Export Administration Regulations, and Defense Federal Acquisitions Regulations.

C. If the Payment Card Industry Data Security Standards (PCI-DSS) are applicable to the goods and services provided to the State, Supplier shall, upon written request, furnish proof of compliance with PCI-DSS within 10 business days of the Request.

END USER LICENSE AGREEMENT

DOC-0355-18

This End User License Agreement (“**License**”) is entered into as of the date of the last signature below (the “**Effective Date**”) and applies to the software product(s) (“**Software**”) you license from us on a stand-alone basis or as part of hardware devices (“**Hardware**”) you purchase from us (the Hardware and Software together, the “**Product**”). This License is a legal agreement between us and the single entity that has licensed the Software, as identified in the signature block below (“**you**”). “**F5**,” “**we**,” or “**us**” refers to the applicable F5 entity as follows: (a) if your primary place of business is located in Europe, the Middle East, or Africa (“**EMEA**”), the F5 entity is F5 Networks Ltd.; (b) if your primary place of business is located in the Asia-Pacific region (“**APAC**”), the F5 entity is F5 Networks Singapore Pte Ltd; and (c) if your primary place of business is located in a region outside of EMEA or APAC, the F5 entity is F5, Inc.

1. Grant of Rights.

- (a) License. Subject to your compliance with this License, we grant you a limited, non-exclusive, non-transferable, non-sublicensable license to install, use, access, and display the Software in object code form for your internal business purposes during the license term.
- (b) Documentation. You may use the user manuals, technical manuals, license file, sales materials, your quote, and any other materials provided by us, in printed or electronic form, that describe, restrict, or enable the installation, operation, use, or technical specifications of the Software (“**Documentation**”) solely in support of the licensed use of the Software in accordance with this License.
- (c) Reservation of Rights. Other than as specifically described in this License, we retain all right, title, and interest in the Software, our trademarks, patents, copyrights, trade secrets, and other intellectual property rights.

2. Term. The Software is licensed to you on a subscription or perpetual basis in accordance with this section, and such license may be terminated as described in this License.

- (a) NGINX Software Term. Unless otherwise set forth in an agreement between us and you, NGINX Software is licensed to you for the subscription term set forth in the applicable quote (the “**Initial Subscription Term**”). Upon expiration of the Initial or any subsequent Subscription Term, your subscription for NGINX Software may be renewed by mutual written agreement of the parties. NGINX Software is not licensed on a perpetual basis.
- (b) F5 Software Term. F5 Software is licensed to you on either a subscription or perpetual basis as set forth in the Documentation.
- (c) Program Terms. Software subscriptions and certain Software consumption models may be subject to specific program terms available at <https://www.f5.com/pdf/customer-support/program-terms.pdf> (or any successor website designated by us) or in another written agreement between you and F5 (the “**Program Terms**”). The Program Terms are incorporated into this License. In the event of a conflict between this License and the Program Terms, the Program Terms will control with respect to the applicable Software.

3. Restrictions.

- (a) Compliance with the Documentation. Your use of the Software must comply with this License and the applicable Documentation, including, but not limited to, any restrictions on the number of protected applications, number or type of licensed devices, number of authorized copies or instances, number of users, bandwidth, non-production use, database, or location restrictions. We

(or a third party authorized by us) may review your use of Software and/or require you to use license management or reporting tools or Software components to provide us with true, accurate, and timely reports regarding your use of the Software. In addition to other available rights and remedies, we may disable your use of Software that does not comply with the Documentation.

- (b) Versions. Your use of the Software may be limited to certain versions, as set forth in the applicable Documentation (for example, a “version plus” license may be limited to a certain number of major updates). If the Documentation contains such limitations, your use of versions or releases of Software not permitted in the Documentation is prohibited.
- (c) Non-transferability. Unless otherwise set forth in the Documentation or in a separate agreement between you and us, you may not transfer or attempt to transfer Software licensed for use on Hardware to other Hardware (including third-party hardware) or to any virtualized computing environment.
- (d) Licensed Features. Software provided in stand-alone form (for example, a virtual machine image) requires a valid license key or other identifying token (“**Token**”) issued to you by F5 or an F5 authorized reseller, and you may use the Software only for the duration permitted by the license key or Token. F5 may employ mechanisms in the Software designed to ensure that you are only able to access licensed Software and features. Except for Non-Production Software and Evaluation Software (both as defined below), if your license key or Token allows you to deploy or use Software or features prior to executing an order for such Software or features, you agree to submit payment for the use of such Software or features in accordance with your payment terms with F5 or your F5 authorized reseller.
- (e) Other Restrictions. Except as otherwise expressly permitted in this License, you must not, and must not allow any parent, subsidiary, affiliate, agent, or third party to:
 - (1) copy (except to make one archival copy for backup and disaster recovery purposes), modify, or create derivative works of the Software or Documentation;
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 - (3) disassemble, decompile, reverse engineer, or otherwise derive or attempt to derive the source code of the Software or any data incorporated into the Software except as required by law for interoperability purposes, and then only after you have given us an opportunity to resolve any interoperability issue;
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- (2) Software Hosted in a Public Cloud. If you use the Software in a public cloud environment, you may use the Software only in object code form in an F5 authorized cloud provider’s (“**Cloud Provider**”) environment. You may not copy any portion of the Software out of the Cloud Provider environment. Each instance of the Software running in the Cloud Provider environment requires its own license key when you are using a bring-your-own-license offering from the Cloud Provider. If you are using a utility offering (e.g., hourly) from the Cloud Provider, you will purchase licenses or subscriptions from the Cloud Provider’s marketplace. IN ADDITION TO THE OTHER DISCLAIMERS SET FORTH IN THIS LICENSE, AND NOTWITHSTANDING ANY TERMS TO THE CONTRARY IN THIS LICENSE OR ANY REPRESENTATIONS OR WARRANTIES OF A CLOUD PROVIDER, SOFTWARE PROVIDED BY A CLOUD PROVIDER AND NOT OBTAINED FROM F5 IS PROVIDED “AS IS” AND WITHOUT ANY WARRANTIES.

4. Third Party Materials.

- (a) Open Source Components. Portions of the Products contain open source software (“**Open Source Components**”) licensed under the terms of the applicable open source licenses (“**Open Source Licenses**”). You are bound by and shall comply with the Open Source Licenses. A listing of the Open Source Components and links to the Open Source Licenses is included in the Documentation. You may reference the applicable Product’s open source notices and software acknowledgments at <http://my.f5.com>. If the terms of the Open Source Licenses require us to make available the corresponding source code and/or modifications (the “**Open Source Code**”), you may obtain the Open Source Code at <https://my.f5.com> (or any successor website designated by us) or by sending a written request to us at the notice address specified in this License. All requests should identify the requested Open Source Code, the applicable Product (and any available version information) licensed from us in connection with the requested Open Source Code, your name, email address, and the postal address for delivery of the requested Open Source Code. You must request a copy of the Open Source Code within three (3) years of the date you accepted this License.
- (b) Third-Party Software and Geographic Data. Portions of the Software include third-party software modules and are subject to additional limitations in this Section imposed by those third-party licensors (“**Third-Party Software**”) and may include geographic or other data (“**Geographic Data**”). You will not (1) copy the Third-Party Software or Geographic Data onto any public or distributed network; (2) use the Third-Party Software or Geographic Data separately to operate in or as a time-sharing, outsourcing, service bureau, application service provider, or managed service provider environment; (3) use the Third-Party Software or Geographic Data as a general server, as a standalone application, or with applications other than the Software in accordance with this License; (4) change any proprietary rights notices in the Third-Party Software or Geographic Data; or (5) modify the Third-Party Software or Geographic Data.

5. Collection and Use of Product Information. You consent to the collection and use of certain information about your Products, including, but not limited to, Hardware serial number, appliance part number, disk configuration, memory amount, as well as periodic updates for software, databases, etc. You further consent that the Products may collect, use, transmit to us, process, and maintain information related to the Products for purposes of providing the Software and any features therein, determining fees in accordance with the Documentation and Program Terms, and verifying or enforcing compliance with the Documentation. Information collected by the Products and transmitted to us may also include technical or diagnostic information related to your use that may be used by us to support, improve, and enhance our products and services. Depending on the Product and/or licensed pricing tier for such Product, you may be permitted to opt out of the collection and use of such information by configuring the Product to disable these features.

6. Export Control. Our Products incorporate dual-use cryptography. You agree to comply with the Export Controls Reform Act of 2018 and all regulations promulgated thereunder, and all economic sanctions issued or administered by the Office of Foreign Assets Control of the U.S. Department of Treasury. In countries other than the U.S., you also agree to comply with the local regulations regarding the import, export, or use of products containing dual-use cryptography. You agree that you will not export or re-export the Product to any country, person, or entity subject to U.S. export restrictions. Specifically, you agree not to export or re-export the Product (a) to any country to which the U.S. has embargoed or restricted the export of goods or services, or to any national of any such country, wherever located, who intends to transmit or transport the Product back to such country; (b) to any person or entity who you know or have reason to know will utilize the Product or portion thereof in the design, development, or production of nuclear, chemical, or biological weapons; or (c) to any person or entity who has been prohibited from participating in U.S. export transactions by any federal agency of the U.S. government. Information regarding F5's product export classifications is available at <https://www.f5.com/company/policies/export-compliance>.
7. Notice to U.S. Government End Users. The Software and Documentation are "commercial products," as defined in Federal Acquisition Regulation ("FAR") 48 C.F.R. 2.101 and consist of "commercial computer software" and "commercial computer software documentation" as such terms are used in FAR 12.212. Consistent with FAR 12.212 and DoD FAR Supp. 227.7202-1 through 227.7202-4, and notwithstanding any other FAR or other contrary provision in any agreement into which this License may be incorporated, you may provide to a government end user or, if this License is granted directly to a government end user, you will acquire, the Software and Documentation with only those rights set forth in this License. Use of the Software and/or Documentation constitutes an agreement by the government that the Software and Documentation are "commercial computer software" and "commercial computer software documentation," and constitutes your acceptance of the rights and restrictions herein.
8. Limited Warranty, Exclusive Remedy, and Disclaimer.
- (a) Limited Warranty. We warrant that for a period of 90 days from the date of shipment (the "**Warranty Period**"): (1) the media on which the Software is furnished will be free of defects in materials and workmanship under normal use; and (2) the Software substantially conforms to the Documentation. The term "shipment" means, with regard to Software installed on Hardware, the date of shipment of the Hardware, and for stand-alone Software, the latter of the date a license key or Token for the Software is made available or the date set forth in the applicable Documentation. THE FOREGOING WARRANTIES DO NOT APPLY TO, AND WE DISCLAIM ALL WARRANTIES WITH RESPECT TO, OPEN SOURCE COMPONENTS.
- (b) Exclusive Remedy. Your exclusive remedy under this limited warranty is that, during the Warranty Period and at no cost to you we will, at our option, either replace defective media or Documentation, or undertake reasonable efforts to modify or replace the Software to correct any material non-conformance with the Documentation.
- (c) Restrictions. The foregoing limited warranties extend only to the original licensee, and do not apply if the Software:
- (1) has been altered, except by us or a representative designated by us or in accordance with our instructions;
 - (2) has not been installed, operated, updated, or maintained in accordance with our instructions;
 - (3) has been subjected to abnormal conditions, misuse, negligence, or accident; or
 - (4) has been operated outside of the environmental specifications for the Software.

Our limited warranty applies only to the initial sale of the Product and is not applicable to any corrections or upgrades that may be issued thereafter.

(d) Disclaimer. EXCEPT FOR THE WARRANTIES SPECIFICALLY DESCRIBED IN THE STATEWIDE CONTRACT AND SECTION 8(a) ABOVE, WE AND OUR LICENSORS DISCLAIM ANY AND ALL WARRANTIES AND GUARANTEES, EXPRESS, IMPLIED, OR OTHERWISE, ARISING WITH RESPECT TO THE PRODUCTS, DATA, SPECIFICATIONS, OR DOCUMENTATION DELIVERED HEREUNDER, INCLUDING BUT NOT LIMITED TO THE WARRANTY OF MERCHANTABILITY, WARRANTY OF NON-INFRINGEMENT OR TITLE, AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. THE SOFTWARE IS PROVIDED "AS IS." WE DO NOT WARRANT THAT THE SOFTWARE IS ERROR FREE, THAT IT WILL OPERATE WITH ANY SOFTWARE OR HARDWARE OTHER THAN THAT PROVIDED BY US OR SPECIFIED IN THE DOCUMENTATION, OR THAT THE SOFTWARE WILL SATISFY YOUR SPECIFIC REQUIREMENTS. WE MAKE NO WARRANTY CONCERNING THE COMPLETENESS OR ACCURACY OF THE DATA OR INFORMATION OBTAINED OR DERIVED THROUGH THE USE OF THE DATA INCLUDED IN THE SOFTWARE AND THE DATA IS PROVIDED "AS IS." WE HAVE NOT AUTHORIZED ANYONE TO MAKE ANY REPRESENTATIONS OR WARRANTIES OTHER THAN AS PROVIDED ABOVE OR TO OTHERWISE MODIFY THE TERMS OF THIS LICENSE.

9. Infringement Indemnity.

(a) [Reserved]

(b) Exclusive Liability. We will, at our option and expense, (1) obtain rights for you to use the Software; (2) replace or modify the Software so that it becomes non-infringing; or (3) terminate the applicable license(s) and accept confirmation of the Software's destruction in exchange for a credit: (i) for perpetually licensed Software, not to exceed the purchase price paid by you for such Software based upon a three (3) year straight line depreciation, and (ii) for subscription Software, for the pre-paid, unused portion of the fees paid for the subscription Software, calculated monthly. The remedies in this section, subject to all other restrictions and liability limitations and exclusions herein, state our exclusive liability to you concerning infringement and misappropriation.

(c) Restrictions. We will not be liable for any claim of infringement based on (1) use of a superseded release of the Software where the subsequent release is available to you at no cost and is non-infringing; (2) use of the Software in combination with equipment or software not supplied or reasonably anticipated by us (including Open Source Components) where the Product would not itself be infringing; (3) use of the Software in an application or environment not described in the Documentation; (4) software or technology not developed by us; (5) Software altered or modified in any way by anyone other than us or our authorized agents; (6) your continued use of the Software after we notify you to discontinue use due to such a claim; or (7) any other use of the Software in violation of the terms of this License.

10. [Reserved]

11. Removal of Software Upon Termination. Upon termination or expiration of this License, you will stop all instances running in your private network and destroy any copies of the Software and Documentation in such network (and all copies or portions thereof) and stop all instances of the Software running in a Cloud Provider environment.

12. Support. Software maintenance and support is dependent upon the type of software licensed hereunder and is subject to our support policies available at <https://www.f5.com/services/support/support-offerings/support-policies> (or any successor website designated by us). Unless otherwise described in the Documentation or Program Terms, maintenance and support of for Software is not provided under this License and must be purchased separately. If you purchase maintenance and support for a Product, the term "Software" as used herein includes, all updates and corrections we make publicly available at no additional cost (collectively "**Updates**") during

the period you purchase maintenance and support. You may use Updates only for the term that the Software is validly licensed to you.

13. Miscellaneous. If either party is unable to perform any obligation under this License due to any cause beyond the reasonable control of such party, the affected party's performance shall be extended for the period of its inability to perform due to such occurrence. This License and the rights and obligations herein may not be assigned or transferred, in whole or in part, by you without our prior written consent. Any assignment in violation of this provision is void and without effect. Upon any permitted assignment or transfer, this License or the relevant provisions shall be binding upon, and inure to the benefit of, the successors and permitted assigns of the parties. No provision, right, or privilege shall be waived by any act, delay, omission, or acquiescence by any party or a party's agents or employees and may be waived only by a written instrument executed by both parties. No waiver of any breach or default of this License shall be effective as to any other breach or default, whether of the same or any other provision and whether occurring prior to, concurrent with, or subsequent to such waiver. Headings and captions are for convenience only and are not to be used in its interpretation. If any provision is held to be invalid, illegal, or unenforceable in any respect, that provision shall be limited or eliminated to the minimum extent necessary so that this License otherwise remains in effect and fully enforceable. This License, together with the Statewide Agreement, applicable Documentation and all other documents incorporated by reference herein, constitute the entire agreement between the parties relating to the subject matter hereof and supersedes all proposals, understandings, or discussions, whether written or oral, relating to the subject matter of this License (including, without limitation, any additional terms or conditions that are included or referenced in any of your purchase orders, which are expressly rejected and are not enforceable) and all past dealing or industry custom.

IN WITNESS WHEREOF, the parties hereto have executed this License through their authorized representatives as of the Effective Date.

F5 , Inc.

[Full Legal Name of Customer]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Address:

F5 Maintenance Terms and Conditions

These F5 Maintenance Terms and Conditions ("Agreement") is effective on the date of the last signature below (the "Effective Date"), and is between the undersigned F5 entity determined in accordance with Section 1 of this Agreement ("F5"), and _____, with its principal offices at _____ ("Customer") and except as otherwise provided in the Statewide Contract, governs any F5 maintenance and support services purchased by Customer during the Term (as defined below).

1. **Agreement.** Subject to Customer's payment of applicable maintenance and support fees, F5 agrees to support, maintain, repair or replace the F5 products ("Product(s)") properly registered and entitled subject to this Agreement. If the Customer's primary place of business is located in Europe, the Middle East or Africa ("EMEA") this Agreement shall be with F5 Networks Ltd. If the Customer's primary place of business is located in the Asia-Pacific region ("APAC") this Agreement shall be with F5 Networks Singapore Pte Ltd. If the Customer's primary place of business is located in a region outside of EMEA or APAC this Agreement shall be with F5, Inc.
2. **Term.** Coverage under this Agreement will commence on the earlier of (i) (90) days after the date the Product is shipped from the manufacturing facilities of F5, or (ii) the date the covered Product is activated with F5, or (iii) if F5 has no record of license activation, service will begin on the ship date and no service extensions will apply. In the event that Customer accesses F5 support services in any way after this Agreement has expired or been terminated, Customer will continue to be bound by this Agreement, including without limitation Sections 4, 10, and 11, which will continue to apply to the services after such expiration or termination. Subject to any applicable pricing discounts agreed to by Customer and F5 (or an authorized F5 reseller, as applicable), each renewal will be at F5's then-current rate. Services pricing will be charged for all F5 Product platform and add-on software purchases. Subject to any applicable discounts agreed to by Customer and F5 (or an authorized F5 reseller, as applicable), the total service price will be calculated as a percentage of total list prices, appropriate to the level of service purchased.
3. **F5's Obligations.**
 - (a) F5 will provide telephone support for any Product covered by this Agreement. Such support will consist of responding to trouble calls as reasonably required to make the Product perform as described in the current Product specifications. Customer will receive Standard or Premium service as indicated in its order for the F5 support services. Customer support will be provided in accordance with F5's support policies which are available at www.f5.com/about/guidelines-policies.
 - (b) Customer is entitled, at no charge, to updated versions of covered Products, such as bug fixes and new releases that are generally made available at no additional cost to F5's customers that have ordered maintenance services for the relevant time period. The foregoing right shall not include any options, upgrades or future products which F5 or third party vendors charge for as a separate product or where Customer's installed hardware platform has no further upgrades available according to either (i) the applicable F5 software release notes provided with each release and also available for review via the Ask F5 service or (ii) a written end-of-life announcement communicated to Customer by F5. F5 is not obligated to provide hardware upgrades to ensure compatibility with new software versions of its products or to ensure that new software versions of its products are compatible with outdated hardware platforms.
 - (c) F5 will, at its option, repair or replace any Product or component that fails during the term of Customer's support agreement at no cost to Customer, provided that Customer contacts the F5 technical support center to report the failure and complies with F5's return policies. Products returned to F5 must be pre-authorized by F5 with a Return Material Authorization (RMA) number marked on the outside of the package, and sent prepaid, insured and packaged appropriately for safe shipment. Only packages with RMA numbers written on the outside of the shipping carton and/or the packing slips and shipping paperwork will be accepted by F5's receiving department. All other packages will be rejected. A replacement Product or component will be shipped from F5's USA operations to the Customer on the next business day following F5's confirmation of the failure of the original Product or component via remote troubleshooting and receipt from the Customer of the RMA Template containing Customer provided delivery and system configuration information (Note: Some countries require additional coordination, licensing, etc., which may affect F5's ability to ship next business day). Customer will return the failed Product or component to F5 under the RMA number issued by F5 upon receipt of the replacement. F5 may invoice the Customer for any failed Products or components (a) with respect to which the damage to such Products or components is attributable to actions taken by Customer or any of its agents (including but not limited to the categories set forth in Section 4 below); or (b) not returned within ten (10) business days of shipment of the replacement unit(s) (c) Product not returned in the original packaging box or the replacement unit packaging that causes undue damage to the unit. Title to any returned Products or components will transfer to F5 upon receipt. F5 will be responsible for all freight charges for returned Products or components provided Customer uses F5 designated carrier. F5 will replace defective media or documentation or, at its option, undertake reasonable efforts to modify the software to correct any substantial non-conformance with the specifications.
 - (d) ASK F5 is a 24-hour, 7-day-a-week online service that allows Customers to receive rapid answers to F5 Product and service-related questions. Customers simply type a question into their Web browser; ASK F5 responds to the query. ASK F5 is also fully integrated with F5's technical support center, allowing Customers to quickly communicate on-line with support staff who are experts in F5 Products. F5 provides

ASK F5 online support services at no charge during the term of this Agreement, provided that Customer must register to obtain a user name and password in order to access the Ask F5 services.

- (e) F5 can use remote access tools to view a specific troubleshooting instance. When accessing Customer systems:
- F5 will access Customer's system only upon Customer request. F5 will not take control of the remote access session, but instead will guide the Customer through executing commands, gathering data, making configuration changes or other actions as may be necessary.
 - F5 recommends that the Customer create backup copies of configuration files before any work is performed.
 - Any recommended changes must be validated by the Customer and, where possible, will first be made on a stand-by unit.
 - F5 will make use of security shred bins for all sensitive Customer information that may be written on paper.
 - F5 does not send out Customer information.

If remote access is not an available option, it will take significantly longer to identify and resolve the outstanding incident.

- (f) F5 specifically disclaims any and all support or repair obligation with respect to any application that has not undergone feature-set approval and F5's QA process for feature integration (a "Non-Supported Application"). Customer acknowledges that if a new support case is created in accordance with F5's support process where the issue is suspected to be, or is found to be, attributable to a Non-Supported Application, F5 may elect one of the following options, at its sole discretion:
- Remove the Non-Supported Application, following consultation with Customer, in order to continue to resolve the issue; or
 - Cease work on the case and recommend that Customer remove the Non-Supported Application from the F5 Product in order to continue toward resolution.
 - If the F5 Product continues to function improperly or if the issue persists due to the Non-Supported Application, F5 will cease all support efforts on the case. The parties will then cooperate to develop a mutually satisfactory "for-fee" arrangement for continuing work on the issue.

4. **Restrictions.** Services provided by F5 under this Agreement are limited to the covered Product and are contingent upon the Customer's proper use of the Product in the application for which it was designed. F5 will not be obligated to provide any service or to correct any malfunction, damage or other problem if the Product: (a) has been altered, except by F5 or an F5-designated representative or in accordance with F5 instructions, (b) has not been installed, operated, repaired, or maintained in accordance with F5 instructions, (c) has been subjected to abnormal physical or electrical stress, misuse, negligence or accident, (d) has been operated outside of the environmental specifications for the Product or (e) is related to configuration of Customer's network beyond that necessary to the use or installation of F5 Products. F5 reserves the right to limit or terminate development support (including error correction services) of any Product version one (1) year after the date of release of a subsequent Product version in accordance with its end of life policies (available through AskF5). The foregoing restriction shall apply even if Customer elects to install a Product version other than the then-currently shipping version of the Product.

5. **Recertification.** Requests for maintenance on Products purchased from sources other than an F5 VAR or directly from F5 (i.e. used or purchased from an online auction), or where maintenance has lapsed on the Product for more than 180 days, will first be subject to an inspection by a representative of F5 at the rate of \$10,000 USD per unit (\$20,000 USD for redundant systems) payable to F5. The inspection will determine if the unit is at a maintainable state and eligible for coverage.

Once the unit has passed inspection, a F5 support services and additional services may be purchased at the current published rates.

6. **Prices and Payment.** Reserved.
7. **Lapsed Service Fee.** If Customer purchases an annual Maintenance Agreement for a Product where maintenance has lapsed on the Product by up to 180 days, Customer will be charged a "Lapsed Service" fee at the rate of \$2,000 USD in addition to the then-current standard maintenance fee pro-rated for the time period during which no maintenance was in effect.
8. **Expedited RMA Services (Limited Availability Area).** Where Customer has purchased an Expedited RMA service, the terms of this Section 8 will also apply. Products covered under any of these services must be covered under current F5 support services under this Agreement. Expedited RMA service purchased by Customer will be available fifteen business days after the receipt and acceptance of the purchase order for service and the Customer's completed Expedited RMA Service paperwork, providing full hardware configuration to be supported and accurate installation address of Product (template provided by F5 Sales). F5 will make a reasonable effort to match the current configuration of the supported hardware. However, it is the Customer's duty to notify F5 in writing of any hardware configuration changes or changes to the Product location covered by this agreement. F5 requires fifteen business days to implement necessary changes to support the new configuration and/or location, which will be subject to Availability Area. If change notification is not made, F5

will take responsibility for the configuration and location on file at F5 only. Notification regarding physical moves of appliances must be made via email to RMAchanges@F5.com.

4 Hour RMA Services: For Customers with Products deployed within the F5 Four Hour RMA Availability Area (the Availability Area) as posted at <http://www.f5.com/about/guidelines-policies/>, F5 will make a commercially reasonable effort to deliver a Replacement unit within 4 hours of an F5 determination that a Replacement unit is needed and receipt from the Customer of the completed RMA Template containing Customer provided delivery and system configuration information. Customer acknowledges and agrees that the Replacement unit may be delivered with a different System Software version than the version installed on the failed unit. For Customers with units that are not within the Availability Area or who otherwise do not meet the criteria listed for F5 Four Hour RMA Availability, F5 will use commercially reasonable efforts to deliver a replacement unit as soon as practicable.

The four hour period will be defined by the business hours covered by Customer's current F5 support services under this Agreement. Accessories such as optical modules and cables and mechanical items such as rail kits, latches, and bezels are not covered by Expedited RMA Services. Limited parts, including ARX batteries, are not covered by Expedited RMA Services for safety and regulatory reasons and will be subject to F5's standard RMA processes. Please contact Customer's F5 representative for further details.

Provided the Customer technical contact completes the RMA Template, for Customers that purchase the Expedited 4 Hour RMA with Technician Service (Limited Availability Area), the technician, working under the direct supervision of a remote F5 Network Support Engineer, will:

- a) Remove and replace the failed unit;
- b) Load the F5 Manufacturing Released System Software version on the Replacement unit that most closely matches, without exceeding, the System Software version on the failed unit;
- c) Activate the License on the Replacement Appliance where applicable.

The Customer understands and agrees that execution of the three steps above requires the Customer to provide a site escort for the Technician as well as high speed internet access and telephone connectivity both in reasonable proximity to the work area.

The technician will not:

- a) Troubleshoot;
- b) Apply Hot Fixes or software patches;
- c) Upgrade software;
- d) Make changes to the environment;
- e) Restore the configuration, create a basic configuration, or perform any other configuration activity
- f) Fulfill requests made by the Customer's on-site representative.

9. **Taxes and Other Charges.** All charges are exclusive of all foreign, federal, state, municipal, or other government excise, duty, sales, use or occupational taxes or charges now in force or enacted in the future, and therefore are subject to an increase equal in amount to any taxes or charges F5 may be required to collect or pay upon the services performed or materials provided hereunder whether during the service coverage period or otherwise.

10. **Limitation of Liability and Disclaimer of Warranty.** Reserved.

11. **Personal Data.** Reserved.

12. **General Provisions.**

- (a) **Non-Assignment and Non-Transferability:** Customer may not transfer its F5 support services under this Agreement to a third party without F5 prior written consent. F5 support services entitlement under this Agreement is not transferable between Products or Customers. F5 support services under this Agreement cannot be transferred from one Product to provide coverage on another Product unless this transfer is in connection with an RMA replacement. F5 support services under this Agreement do not transfer with Product title transfers between Customer and any third party without the prior written consent of F5 and payment of a re-certification fee.
- (b) **Force Majeure.** Reserved.
- (c) **Notice.** Reserved
- (d) **Entire Agreement.** Reserved.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date specified below.

Choose an item.

Customer

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

F5, INC.
CONSULTING SERVICES AGREEMENT

This Consulting Services Agreement (the "Agreement") is entered into as of _____, 20__ by and between the undersigned F5 entity ("F5") and _____, a _____ formed under the laws of _____ with a principal place of business at _____ ("Customer"). If the Customer's primary place of business is located in Europe, the Middle East or Africa ("EMEA"), this Agreement will be with F5 Networks Ltd. If the Customer's primary place of business is located in the Asia-Pacific region ("APAC"), this Agreement will be with F5 Networks Singapore Pte Ltd. If the Customer, or the ultimate end user, is a U.S. Federal Government entity, then this Agreement will be with F5 Government Solutions, LLC. If the Customer's primary place of business is located in a region outside of EMEA or APAC, and the Customer or ultimate end user is not a U.S. Federal Government entity, then this Agreement will be with F5, Inc.

1. Professional Services.

1.1 F5 will provide Customer with a specified number of hours of professional services ("Services") as set forth in a statement of work that references the Statewide Contract and this Agreement and is signed by Customer and F5 ("Statement of Work") or as otherwise agreed to by F5 and Customer. The parties may choose to define a set of deliverables as described in a Statement of Work. If deliverables are defined by the parties, F5 will use its commercially reasonable efforts to provide such deliverables (the "Deliverables"), but will not be obligated to provide Services beyond the hours set forth in the Statement of Work.

1.2 F5 will provide such resources and utilize such employees and/or consultants as it deems necessary to perform the Services. Customer agrees to furnish F5 with adequate technical assistance, network access, materials, and an environment suitable for F5 to be able to perform the Services. Customer further agrees to provide F5 with such technology owned or controlled by Customer (the "Licensed Technology") as F5 reasonably requires to perform the Services.

1.3 Customer and F5 agree to cooperate in good faith to achieve completion of the Services in a timely and professional manner. F5 shall bear no liability or otherwise be responsible for delays in the provision of Services or any portion thereof occasioned by Customer's failure timely to complete a Customer task or adhere to a Customer schedule.

1.4 Under this Agreement, F5 is not providing or licensing to Customer any existing or future F5 software programs or products. Customer may acquire licenses to such F5 products only under the terms of a separate software license agreement.

2. Term of Agreement.

This Agreement commences on the earlier of the date of the Statement of Work, Purchase Order, or date that F5 begins provided Services ("Effective Date") and, unless terminated earlier pursuant to the terms of the Agreement, shall continue in force until exhaustion of the number of consulting hours identified in the Statement of Work or as otherwise agreed to by F5 and Customer.

3. Right to Perform Consulting Services.

Customer acknowledges that F5 has extensive expertise, experience, and proprietary products and tools in the area of application traffic management and secure remote access, and that F5 intends to utilize such expertise, experience, products and tools in providing consulting services and other services in such field to other clients. Subject to F5's compliance with the confidentiality provisions stated herein, nothing in this Agreement shall restrict or limit F5 from performing such development, consulting or other services to any other entity in any industry.

4. [Reserved]

5. [Reserved]

6. Intellectual Property Rights.

Except as described below, the Deliverables which are first produced or created for Customer by F5 under a Statement of Work incorporating this Agreement shall be the property of Customer and shall be considered works made for hire under this Agreement. In the event such Deliverables do not constitute works made for hire under Section 101 of the Copyright Act, F5 hereby assigns to Customer title to all such Deliverables. Notwithstanding the foregoing, any developed technology, including patentable and unpatentable ideas, know-how, technical data, or techniques, and all intellectual property rights appurtenant thereto which may be developed by F5 under this Agreement or in the delivery of any services hereunder that derive from, improve, enhance or modify F5's product(s) or pre-existing intellectual property, including but not limited to product enhancements embodied in "iRules" and/or using the "iControl" open API, will be the property of F5 (collectively, "F5 Developments"). Customer will have a non-exclusive license to the F5 Developments to the extent necessary to enable Customer to use any F5 Deliverable(s). Subject to the limitations placed on F5 by the confidentiality provisions of this Agreement or by any existing non-disclosure agreement between F5 and Customer, F5 may in its sole discretion develop, use, market, license, or sell the F5 Developments and any software, application or product that is similar or related to that which was developed by F5 for Customer. F5 shall not be required to disclose information concerning any F5 Developments which F5 deems to be proprietary or confidential.

7. Limited Warranties and Exceptions.

7.1 F5 warrants that the Services provided hereunder will be performed in a professional manner consistent with the quality of F5's performance of services for similarly situated customers and in accordance with generally accepted industry standards. F5 makes no guarantees or assurances that the Services will achieve Customer's specific goals or provide additional functionality to Customer's F5 appliance.

7.2 [Reserved]

7.3 In order to receive warranty remedies, deficiencies in the Services must be reported to F5 in writing within ninety (90) days of completion of the Services. After such time, any corrective Services requested by Customer shall be billed to Customer at F5's standard consulting rates then in effect and subject to scheduling availability of F5 personnel. Customer's sole remedy for a breach of the warranty described in Section 7.1 shall be re-performance of the non-conforming Services or to receive a refund of the pro rata amount of the fees allocable to such non-conforming Services, at F5's option.

7.4 F5's maximum liability for any breach of warranty hereunder shall be a refund of the applicable Services fees paid under this Agreement. Customer shall, under no circumstances except as may be specifically set forth in a separate agreement, be entitled to a refund of any fees paid with respect to any F5 products.

8. [Reserved]

9. [Reserved]

10. [Reserved]

11. [Reserved]

12. [Reserved]

13. [Reserved]

14. Miscellaneous.

14.1 [Reserved]

14.2 [Reserved]

14.3 [Reserved].

14.4 [Reserved]

14.5 Export Administration. Customer agrees to comply fully with all relevant export laws and regulations of the United States or other countries ("Export Laws") to ensure that any Deliverable is not (i) exported directly or indirectly, in violation of Export Laws; or (ii) intended to be used for any purposes prohibited by the Export Laws, including without limitation, nuclear, chemical, or biological weapons proliferation. If a Deliverable has been rightfully obtained by Customer outside of the United States, Customer agrees not to re-export such Deliverable or any related technical information except as permitted by the laws and regulations of the United States and those of the jurisdiction in which Customer obtained such Deliverable. Customer shall be responsible for any duties, customs charges or other taxes or fees relating to such export. Information regarding F5's product export classifications is available at <https://www.f5.com/company/policies/export-compliance>.

14.6 [Reserved]

14.7 [Reserved]

14.8 No Waiver. The failure of a party to enforce any provision of this Agreement shall not constitute a waiver of such provision or the right of such party to enforce such provision or any other provision.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

F5, Inc.

Customer

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

F5, INC.
END USER SERVICES AGREEMENT

Last Updated: June 30, 2023

This End User Services Agreement (this “**Agreement**”) is entered into as of the date of the last signature below (the “**Effective Date**”) by and between **F5, Inc.** or one of its Affiliates, as further defined below (“**F5**,” “**we**,” or “**us**”), and _____, (“**you**” or “**Customer**”). F5 and Customer are sometimes referred to herein individually as a “**Party**” and collectively, as the “**Parties.**” Unless otherwise defined in this Agreement, capitalized terms have the meanings provided in Section 1.

In consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree that this Agreement, together with all exhibits and appendices attached hereto, applies to the F5 Services ordered by you from us or from an Authorized Distribution Partner, as applicable.

1. Definitions. Unless otherwise defined in this Agreement, the following definitions apply:

- 1.1.** “**Acceptable Use Policy**” means the acceptable use policy located at <https://www.f5.com/pdf/customer-support/eusa-aup.pdf> (or any successor or related locations designated by us).
- 1.2.** “**Account**” means your online account used to access the F5 Services.
- 1.3.** “**Affiliates**” means, with respect to either Party, any individual, company, corporation, partnership or other entity, directly or indirectly, controlling, controlled by, or under common control with, such Party, where “control” is defined as the ownership of at least fifty percent (50%) of the equity or beneficial interests of the entity.
- 1.4.** “**Aggregated Data**” means Customer Data and Usage Data that has been aggregated and de-identified such that the Customer Data and Usage Data no longer identifies you or your end users.
- 1.5.** “**Authorized Distribution Partner**” means an entity who is authorized by us to resell F5 Services.
- 1.6.** “**Customer**” means, (i) in the case of an individual accepting this Agreement on his or her own behalf, such individual, or (ii) in the case of an individual accepting this Agreement on behalf of a company or other legal entity, the company or other legal entity for which such individual is accepting this Agreement.
- 1.7.** “**Customer Application**” means any application that is owned or operated by you and configured to interact with the any of the F5 Services pursuant to this Agreement
- 1.8.** “**Customer Data**” means software, data, text or image files, or information (including data that identifies a natural person) provided or uploaded or input by you, your Users, or your End Users into the F5 Services or otherwise made available by you or your End Users to the applicable F5 Services.
- 1.9.** “**Customer Dashboard**” means the online dashboard application that we make available to you under this Agreement, that enables you or your End Users, as applicable, to configure and/or monitor the performance of the F5 Services.
- 1.10.** “**Documentation**” means any user manuals, help files, technical information, materials, or other documentation, in whatever form, which are provided by us and made available to you for use of F5 Services, as updated by us from time to time.
- 1.11.** “**DPA**” means the data protection addendum at <https://www.f5.com/pdf/customer-support/eusa-dpa.pdf> (as may be updated).
- 1.12.** “**End Users**” means your end user clients or customers who visit a website or mobile application owned or operated by you.

- 1.13. **“F5”** means (a) F5 Networks Ltd. if your primary place of business is located in Europe, the Middle East or Africa (“EMEA”); (b) F5 Networks Singapore Pte Ltd if your primary place of business is located in the Asia-Pacific region (“APAC”); or (c) F5, Inc. if your primary place of business is located in a region outside of EMEA or APAC
- 1.14. **“F5 Services”** means, collectively, the SaaS Offerings, any hardware, any Software, and SDKs (defined in Section 2.5), provided by us to you, as set forth in your Order and as further described in the Service Policies.
- 1.15. **“Feedback”** means any ideas for suggested improvements, modifications, or other feedback about the F5 Services.
- 1.16. **“Free Services”** means F5 Services that we make available to you free of charge. Free Services exclude Trials as well as F5 Services that are available for purchase under an Order.
- 1.17. **“Intellectual Property Right(s)”** means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.
- 1.18. **“MY Subscription”** means a multi-year consumption subscription for F5 product offerings as governed by the program terms located at <https://www.f5.com/pdf/customer-support/program-terms.pdf> (“Program Terms”), or such other agreement between you and us. MY Subscriptions are not available for all F5 Services.
- 1.19. **“Object Code”** means a form of software in a language that a computer can execute directly but is not generally readable by humans without reverse assembly, reverse compiling or reverse engineering.
- 1.20. **“Open Source Software”** means any software that is distributed as “free software” or “open source software” or is otherwise distributed under distribution models that (i) require the licensing or distribution of Source Code to licensees, (ii) prohibit or limit the receipt of consideration in connection with sublicensing or distributing any software, (iii) except as specifically permitted by applicable law, allow any licensee to decompile, disassemble or otherwise reverse-engineer any software, or (iv) require the licensing of any software to any other licensee for the purpose of making derivative works (including, but not limited to, software that is licensed under any version of the GNU Affero General Public License, the GNU General Public License, the GNU Lesser General Public License, the Mozilla Public License, or the Common Public License).
- 1.21. **“Order”** means any ordering document or online order that identifies the F5 Services and/or services licensed or sold and any applicable subscription or licensing parameters and is subject to this Agreement.
- 1.22. **“Portal”** means the applicable F5 portal site through which you can access and update your Account.
- 1.23. **“SaaS Offerings”** means the cloud service offerings provided to you by us under this Agreement, as set forth in each Order and as further described in the Service Policies. SaaS Offerings includes the applicable Customer Dashboard.
- 1.24. **“Service Level Agreement”** means, for all SaaS Offerings the service level agreement available at <http://www.f5.com/pdf/customer-support/eusa-sla.pdf> (or any successor or related locations designated by us), as it may be updated by us from time to time.
- 1.25. **“Service Policies”** means the Acceptable Use Policy, Service-Specific Terms, DPA, Service Level Agreement, Documentation and any other policy or terms referenced in or incorporated into this Agreement.
- 1.26. **“Service-Specific Terms”** means the additional terms and conditions applicable to specific F5 Services and any additional terms and conditions applicable thereto available at <https://www.f5.com/pdf/customer-support/eusa-sst.pdf> (or any successor or related locations designated by us), as they may be updated from time to time.
- 1.27. **“Software”** means the object code version of F5’s or its licensors’ proprietary computer programs made available by F5 for download by Customer (including for use in connection with any SaaS Offerings), including any Updates.
- 1.28. **“Source Code”** means software in a human-readable format.
- 1.29. **“Support Services”** means the support services provided by us in accordance with our then-current support policy.

- 1.30. **“Third-Party Applications”** means certain third-party products, services or software that are not owned or operated by F5.
- 1.31. **“Updates”** means any correction, update, upgrade, patch, or other modification or addition made by us or our licensors to specific Software.
- 1.32. **“Usage Data”** means information about your access and use of the F5 Services, including but not limited to usage and performance information.
- 1.33. **“Usage Metrics”** means any user, account, device, or other product-specific licensed capacity or usage metrics for the applicable F5 Services.
- 1.34. **“Users”** means individuals authorized by you to access the F5 Services on your behalf. Users may include, for example, you and your Affiliates’ authorized employees, consultants, contractors, agents, and third parties with which you do business.

2. Proprietary Rights.

2.1. Rights and Licenses Granted to Customer.

2.1.1 SaaS Offerings, Documentation, Software. Subject to the terms and conditions of this Agreement, any applicable Orders, and the Service Policies, during the applicable Service Term (defined below), we grant you a limited, revocable, non-exclusive, non-transferable, non-sublicensable (a) right to access and use the SaaS Offerings and Documentation, and (b) license to install and use any Software, all of which solely in connection with your internal business purposes. . Except as otherwise provided in the Statewide Contract, you may not copy or translate the Documentation without our prior written consent.

2.1.2 Hardware. If the F5 Services include hardware, we will provide you the right to use such hardware in accordance with the terms of the Statewide Contract, this Agreement, and the applicable Service-Specific Terms. Fees for hardware are in addition to any applicable subscription fees.

2.2. Reservation of Rights. We and our suppliers and licensors retain all right, title and interest in and to the F5 Services and any software or other technology used by us in the provision of the F5 Services and all modifications and derivative works thereof; all trademarks, names, logos; and all Documentation for the F5 Services, including without limitation, all rights to patent, copyright, trade secret and other Intellectual Property Rights. Other than as specifically described in Section 2.1, you have no right under the Agreement to any of the F5 Services, Documentation, or to any of our trademarks, patents, copyrights, or other Intellectual Property Rights. We retain all rights not granted herein. This includes any information we collect from your use of the F5 Services, including Aggregated Data or Usage Data. Subject to the foregoing, you retain all rights to Customer Data.

2.3. Feedback. If you provide us with any Feedback, we may use, disclose, or otherwise exploit such Feedback without restriction or further obligation to you.

2.4. Support Services. During the Term, we will provide Support Services to you in accordance with the terms of the Statewide Contract, and as identified in an Order. In the event that the level of support is not identified in the Order, we will provide the basic level of support that is available for the applicable F5 Service. We may update or modify our support policy at any time, but any updates or modifications to the Support Services will not materially diminish our responsibilities under the support policy during the Term.

2.5. Software Development Kit License. If, in connection with your use of applicable F5 Services, we provide access to our proprietary software development kits (“SDK”), the following terms will apply.

2.5.1 Development License. Subject to the terms and conditions of this Agreement, we grant to you a limited, non-exclusive, royalty-free, non-sublicensable, non-transferable, license to reproduce the Source Code for the SDK solely for (i) your own internal use, and (ii) the purpose of compiling such Source Code into Object Code for distribution to third parties under Section 2.5.2 below.

2.5.2 Distribution License. Subject to the terms and conditions set forth herein, we grant to you a limited, non-exclusive, royalty-free, non-sublicensable, non-transferable, license to (i) compile the Source Code of the SDK

into Object Code, and (ii) reproduce and distribute such Object Code solely as part of, and solely as integrated into, a mobile application and solely for your internal business purposes.

- 2.5.3 Distribution Agreements.** Any distribution of Object Code by you under Section 2.5.2 above must be under the terms of distribution agreements and end user agreements containing the following minimum terms: (i) a provision that prohibits title to the distributed Object Code from passing to the end user or any third party; (ii) a provision that prohibits transfer or duplication (except for back-up and archival copies) of the distributed Object Code; and (iii) a provision that prohibits causing or permitting the reverse engineering, disassembly, decompiling or any other attempt to derive Source Code of the distributed Object Code, except to the extent the laws of the end user's jurisdiction give the end user the right to do so to obtain information necessary to render the applicable Object Code interoperable with other software or hardware. You will enforce each such agreement with at least the same degree of diligence that you use to enforce similar agreements for other products or services, but in no event with less than reasonable effort. You will not (and will not authorize or knowingly permit any third party to) identify us as the source of any software contained in any of your applications.
- 2.5.4 Open Source Software.** You will not (and will not authorize or permit any third party to) incorporate any Open Source Software into, or link (statically or dynamically) any Open Source Software with, any of your mobile applications into which any portion of the SDK is integrated in a manner that that would permit or require: (i) the disclosure or distribution of any portion of the SDK in Source Code or Object Code form; (ii) the license or other provision of any portion of the SDK on a royalty-free basis or under the terms of any Open Source Software license, including any such open source license terms that would supersede or conflict with the license terms of the SDK; (iii) the grant of any right to modify, make derivative works based on, decompile, disassemble or reverse engineer any portion of the SDK; or (iv) the grant of any right or license under any patent owned by us or any of our affiliated companies or with respect to which we or any of our affiliated companies controls any rights of enforcement. You hereby acknowledge that you will be solely responsible for compliance with any applicable open source license terms of any Open Source Software that is permitted to be used in the SDK..
- 2.5.5 Source Code Restrictions.** You will not (and will not authorize or knowingly permit any third party to): (i) disclose all or any portion of the Source Code for the SDK or related Documentation to anyone other than your employees on a need-to-know basis solely for purposes authorized under this Agreement, provided such employees are expressly bound by the nondisclosure obligations equally as protective as those in this Agreement; (ii) reproduce all or any portion of the Source Code for the SDK, in any form or medium, except as necessary for exercising your rights under this Agreement; (iii) allow hard copy printouts of any portion of the Source Code for the SDK to exist except within secured locations; (iv) allow soft copy versions of any portion of the Source Code for the SDK to reside on computers or networks unless such computers or networks are password protected (with such passwords only being made available to such employees); or (v) use any portion of the Source Code for the SDK for any purpose not specifically authorized in this Agreement. You will advise all employees with access to any portion of the Source Code for the SDK of their responsibilities under this Agreement and their respective individual confidentiality agreement both at the time such person's access to the Source Code for the SDK commences, and at the time such access terminates. You will be responsible to the extent provided by law for any breach of the requirements in this Section by any of your employees.
- 2.5.6 Users.** You may authorize other Users to access and use the SDK as granted to you hereunder; provided, however that you will be responsible for all the acts and omissions of such Users as if they were your own acts or omissions.
- 2.6. Trials.** We may provide certain F5 Services that are available for purchase under an Order at no charge for evaluation (each such evaluation, a "Trial"). This Agreement applies to Trials, except for the following different or additional terms: (i) unless otherwise agreed to in writing by the Parties, the term for a Trial is 30 days, which may be extended upon our written consent; (ii) Trials are provided "as is", without warranty of any kind, and we disclaim all warranties, indemnities, and all other liabilities for Trials; (iii) the term for a Trial shall commence on the date that we enable you to access the F5 Services that are the subject of the Trial; (iv) you are not entitled to any support and maintenance services or any updates for a Trial; and (vi) either Party can terminate a Trial subscription upon five days' written

notice to the other Party. In the event of a conflict between this Section and any other portion of this Agreement, this Section shall control.

2.7. Free Services. We may make Free Services available to you. Use of Free Services is subject to the terms of this Agreement. In the event of a conflict between this section and any other portion of this Agreement, this section shall control. Free Services are provided to you without charge up to certain limits as described in the Service Policies. Usage over these limits requires your purchase of additional resources or services. You agree that we, in our sole discretion and for any or no reason, may terminate your access to the Free Services or any part thereof and delete or destroy any Customer Data associated with Free Services. You agree that any termination of your access to the Free Services and/or deletion or destruction of Customer Data may be without prior notice, and you agree that we will not be liable to you for such termination and/or deletion or destruction. THE FREE SERVICES AND ANY OUTPUT GENERATED THEREFROM ARE PROVIDED "AS-IS" WITHOUT ANY WARRANTY AND WE DISCLAIM ALL WARRANTIES AND SHALL HAVE NO INDEMNIFICATION OBLIGATIONS NOR LIABILITY OF ANY TYPE WITH RESPECT TO THE FREE SERVICES OR ANY OUTPUT GENERATED THEREFROM UNLESS SUCH EXCLUSION OF LIABILITY IS NOT ENFORCEABLE UNDER APPLICABLE LAW IN WHICH CASE F5's LIABILITY WITH RESPECT TO THE FREE SERVICES SHALL NOT EXCEED \$100.00. The foregoing provisions of this subsection shall also apply to F5 Services that are designated by us as "Preview", "Beta", "Early Access", "Early Release", or "Limited Access" ("**Preview Services**"). Unless otherwise specified in such Service Policies applicable to such Preview Services, you shall use such Preview Services only for your internal demonstration, test, or evaluation purposes and not in a production environment.

2.8. Terms Applicable to Data.

2.8.1 Customer Data. You hereby grant us a non-exclusive right and license to use the Customer Data solely for the purpose of providing any F5 Service to which you subscribe to provide the F5 Services purchased by you. You represent that you have the right to disclose and provide to us any data provided through your use of and access to the F5 Services, and that no Customer Data will violate or infringe upon the rights of any third party.

2.8.2 You acknowledge and agree that certain of the F5 Services may rely on timely submission of complete and accurate Customer Data and you will submit all required Customer Data as specified in an Order, the Service-Specific Terms or Documentation.

2.8.3 Usage Data. In connection with the F5 Services, we may collect Usage Data. We may use Usage Data to operate our business, including to support your Account and support, improve, and enhance the F5 Services.

2.8.4 Aggregated Data. We may use Aggregated Data derived from the F5 Services to support and improve our products and services, including in the development of new features, products, tools, and content, and for other commercial purposes.

2.9. Third-Party Software. We may in our sole discretion, make available third-party software ("**Third-Party Software**") embedded in, or otherwise provided with, the F5 Services. Third-Party Software is expressly excluded from the defined term "F5 Services," as used throughout this Agreement. Your use of the Third-Party Software is subject to the applicable third-party license terms, which we will make available to you on request, and such Third-Party Software is not licensed to you under the terms of this Agreement. If you do not agree to abide by the applicable license terms for the Third-Party Software, then you may not access or use the F5 Services or the Third-Party Software. Additionally, the F5 Services may allow you to connect to and/or integrate certain Third-Party Applications. The access and use of such Third-Party Applications in connection with the F5 Services is governed solely by the license agreement between the applicable third party and you governing your use of such Third-Party Applications, and F5 does not endorse, is not responsible for, and makes no representations as to such Third-Party Applications. We are not liable for any damage or loss caused or alleged to be caused by or in connection with the access or use of any such Third-Party Applications.

3. Your Obligations.

3.1. Use Restrictions. You are responsible to the extent provided by law for all activities conducted by you and your Users with respect to the F5 Services, including violations of this Agreement and any Service Policies by any of your Users. You shall use the F5 Services in compliance with the Statewide Contract this Agreement, the applicable Orders, Service-Specific Terms, Service Policies, and all applicable laws and shall not directly or indirectly: (a) copy, modify, or create derivative works of the F5 Services, any software component of the F5 Services, or Documentation; (b) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the F5 Services or Documentation except as expressly permitted under this Agreement; (c) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the F5 Services; (d) remove any proprietary notices from the F5 Services or Documentation; (e) disassemble any hardware made available to you as part of the F5 Services; (f) use the F5 Services or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Right or other right of any person, or that violates any applicable laws; (g) access or use the F5 Services or Documentation for purposes of competitive analysis thereof or the development, provision or use of a competing software service or product; (h) hack, manipulate, interfere with, disrupt, disable or circumvent the F5 Services, including, but not limited to, the security, integrity or performance of the F5 Services or otherwise attempt to gain unauthorized access to the F5 Services; or (i) take any action that imposes an unreasonably large load or excessive traffic demands on the F5 Services.

3.2. Acceptable Use Policy. You will use the F5 Services solely in accordance with the Acceptable Use Policy, and you agree that any breach of the Acceptable Use Policy shall be deemed an impermissible use of the F5 Services and constitute a material breach of this Agreement by you. You will use reasonable efforts to cooperate with us to resolve any such breach.

3.3. Suspension; Discontinuation. We reserve the right to suspend or limit your access to F5 Services if: (a) we reasonably believe you have violated or are about to violate the Acceptable Use Policy; (b) you have not paid the applicable fees for the F5 Services; (c) you are in material breach of any of the terms of the Agreement or the Service Policies; (d) we reasonably believe your use of the F5 Services poses a risk to us, the F5 Services, our other customers or third parties; or (e) you are using the F5 Services or our intellectual property for fraudulent or illegal activities. We will use commercially reasonable efforts to (x) provide you with written notice of any suspension of or limitation on your access (which may be no notice at all) and (y) resume providing access to the F5 Services as soon as reasonably possible after the event giving rise to the suspension or limitation is cured. We will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that you may incur as a result of a suspension or limitation imposed in accordance with this Section 3.3. We reserve the right to discontinue any or all of the F5 Services or change or remove functionality of any or all of the F5 Services from time to time. We will notify you of any discontinuation of the F5 Services to which you are subscribed.

4. Ordering; Fees and Payment.

4.1. Ordering. You shall order the desired F5 Services either directly with us or through an Authorized Distribution Partner using the ordering process described for each such F5 Service in the Service-Specific Terms. If you have purchased a MY Subscription, you may be subject to specific ordering, reporting and payment terms contained in the Program Terms. If you purchase an F5 Service through an Authorized Distribution Partner, the terms of this Agreement will apply except for any terms related to pricing, payment, Service Term, or Taxes. Such terms will be negotiated solely by and between you and such Authorized Distribution Partner.

4.2. Fees and Payment Terms.

4.2.1 Taxes. You are responsible for any fees, taxes, duties, withholdings, and other assessments based on your purchase of the F5 Services (not including those taxes based on our net income or those taxes for which you are exempt).

4.2.2 Fees. Where applicable, fees are based on your specific usage of the F5 Services (e.g., for our cloud services SaaS Offerings). Notwithstanding the foregoing, the amount of fees for F5 Services will be set forth in each Order or the documentation for the applicable F5 Service. Unless specified in an Order, all fees will be billed in United States dollars. Specific payment terms for each SaaS Offering are set forth in the Service-Specific Terms for such SaaS Offering. Unless you have purchased a SaaS Offering with a committed fee structure for a specified period, we may adjust the fees applicable to any SaaS Offering by providing notice to you

(which may be by publication within the Portal). Any adjustments to the F5 Services fees will not be effective until at least thirty (30) days after we provide notice to you.

4.2.3 Payment via Cloud Provider. If you order a SaaS Offering through a cloud computing or similar environment provider (“**Cloud Provider**”), you will pay all usage or subscription fees plus any applicable sales and/or use taxes or other charges directly to the Cloud Provider. If you are required to pay any taxes based on any SaaS Offering subscriptions, you will pay such taxes with no reduction or offset in the amounts payable to the Cloud Provider.

4.2.4 Payment via Credit Card. If you provided us with credit card information for payments of amounts owed, you authorize us to immediately charge when due all applicable fees, or other charges, to the card number you provided. If you pay any fees with a credit card, we may seek pre-authorization of your credit card account prior to your purchase to verify that the credit card is valid and has the necessary funds or credit available to cover your purchase. You authorize us to periodically charge until cancellation or termination of either the recurring payments or your account, all fees when due. Any recurring subscription payments will continue unless and until cancelled by you.

4.2.5 Usage Metrics. Certain F5 Services may be subject to Usage Metrics, as specified in an Order, the Documentation, or the Service-Specific Terms. Upon written request from us, you will: (a) certify in writing compliance with the applicable Usage Metrics (for example, by providing written evidence of the number of user accounts being monitored by the F5 Services); and/or (b) provide us reasonable access to your usage records and/or other internal logs, solely for the purpose of validating your compliance with the applicable Usage Metrics. If your use of the F5 Services exceeds the applicable Usage Metrics (“**Excess Usage**”), the Parties may work together to reduce such usage so that it conforms to applicable limits. If you are unable or unwilling to abide by any Usage Metrics, you will execute an Order for additional quantities of the applicable F5 Services promptly upon our request in order to become compliant with such Usage Metrics. You will be liable for fees associated with any Excess Usage determined in accordance with this Section.

4.2.6 Payment Terms. Reserved.

4.2.7 Credit Terms Reserved.

4.2.8 Billing Disputes. In the event that you, in good faith, dispute any amount charged or invoiced hereunder, you will provide written notice of such dispute following receipt of invoice or the applicable statement, provided that in no event shall you withhold any fees not subject to a good faith dispute. Billing disputes do not constitute a material breach.Late Payments. Reserved.

5. Term and Termination.

5.1. Term. Reserved.

5.2. Termination. Reserved.

5.3. Effect of Termination. Reserved.

6. Confidentiality. Reserved.

7. Security and Privacy. Reserved.

8. Warranties and Disclaimers.

8.1. Your Representations. You hereby represent and covenant that (a) in your performance under the Agreement and use of the F5 Services, you will comply with all applicable laws and will not infringe the proprietary rights or privacy rights of any third parties; (b) you will and have provided accurate, current and complete information in connection with your Account and you will maintain and promptly update your Account information to keep it accurate, current and complete; and (c) you will maintain the security of your username(s) and password(s). You will promptly notify us if you discover or otherwise suspect any unauthorized access to your Account or the F5 Services, including any

unauthorized use or disclosure of your Customer Data. You represent that the individuals and your Affiliates using the F5 Services under your Account act with full authority of the Account owner.

8.2. Our Warranties.

8.2.1 SaaS Offerings. We hereby warrant that we will provide the SaaS Offerings in a manner that substantially conforms to the Documentation for the applicable SaaS Offerings. This warranty shall not extend to non-conformance that results from: (a) your breach of the Service Policies or other use of the SaaS Offerings in violation of the Agreement or not in accordance with the Documentation; (b) a Force Majeure Event (as defined below); or (c) failures caused by your software or other software, hardware, services, or products not provided by us.

8.2.2 Remedy. For any SaaS Offerings not in conformance with Section 8.2.1, your sole and exclusive remedy shall be that we will correct the non-conformity or, if we fail to correct the non-conformity within 30 days after receiving written notice from you, or such other time period as may be mutually agreed upon by the parties, you may terminate the Service Term for the affected SaaS Offering. In the event that you terminate the Service Term pursuant to this Section 8.2.2 we will promptly issue you a refund for the pro-rata amount of any unused fees prepaid by you for such terminated SaaS Offering, calculated from the effective date of termination. The foregoing states your exclusive remedy, and our sole liability arising in connection with the limited warranties herein. The access to and use of the SaaS Offerings granted hereunder do not replace the need for you to maintain regular data backups or redundant data archives. WE HAVE NO OBLIGATION OR LIABILITY FOR ANY LOSS, ALTERATION, DESTRUCTION, DAMAGE, CORRUPTION OR RECOVERY OF YOUR DATA.

8.3. Hardware Warranty. If the F5 Services purchased by you under this Agreement include hardware, any warranties in connection with such hardware will be set forth in the applicable Service-Specific Terms.

8.4. Reserved.

8.5. Limitations. YOU RECOGNIZE THAT THE INTERNET CONSISTS OF MULTIPLE PARTICIPATING NETWORKS THAT ARE SEPARATELY OWNED AND THEREFORE ARE NOT SUBJECT TO OUR CONTROL (SUCH NETWORKS, “**NON-CONTROLLED NETWORKS**”). MALFUNCTION OR CESSATION OF INTERNET SAAS OFFERINGS BY INTERNET SERVICE PROVIDERS OR OF ANY NON-CONTROLLED NETWORKS THAT FORM THE INTERNET MAY MAKE THE F5 SERVICES TEMPORARILY OR PERMANENTLY UNAVAILABLE. YOU AGREE THAT WE SHALL NOT HAVE ANY LIABILITY WHATSOEVER WHEN THE F5 SERVICES ARE TEMPORARILY OR PERMANENTLY UNAVAILABLE DUE TO NON-AVAILABILITY OF NON-CONTROLLED NETWORKS INCLUDING DUE TO THE MALFUNCTION OR CESSATION OF INTERNET SERVICES BY NON-CONTROLLED NETWORK(S) OR INTERNET SERVICE PROVIDERS NOT SUBJECT TO OUR CONTROL, OR DUE TO ANY ACCIDENT OR BY YOU. WE SHALL NOT BE LIABLE TO YOU FOR ANY BREACH OF SECURITY ON YOUR NETWORK, SYSTEM OR EQUIPMENT, OR FOR ANY LOSS OR THEFT OF INFORMATION TRANSMITTED OVER THE INTERNET OR STORED ON COMPUTERS DIRECTLY CONNECTED TO THE INTERNET EXCEPT WHERE SUCH BREACH, LOSS OR THEFT IS CAUSED BY OUR WILFUL MISCONDUCT. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

9. Limitation of Liability. Reserved.

10. Indemnification. Reserved.

11. Miscellaneous.

11.1. Relationship of Parties. The parties are independent contractors in the performance of their obligations under this Agreement, and nothing contained herein shall be deemed to constitute either party as the agent or representative of the other party, or both parties as joint venturers or partners for any purpose.

11.2. [Reserved].

11.3. Force Majeure. If either party is unable to perform any of its obligations under the Agreement or such performance is delayed, other than payment obligations, which may be delayed but not excused, due to any cause or event beyond the reasonable control of such party (a “**Force Majeure Event**”), then such party shall be excused for such delay or non-performance, as applicable, of those obligations for as long as such Force Majeure Event continues.

- 11.4. Export Control.** F5 Services may be subject to export control legal requirements of various countries, including the laws of the United States. You shall comply with the U.S. Foreign Corrupt Practices Act and all applicable export laws, restrictions and regulations of the U.S. Department of Commerce, and any other applicable U.S. and foreign authority. Without limiting the foregoing, (a) you represents that your entity is not named on any U.S. government list of persons or entities prohibited from receiving exports, (b) you shall not permit access or use of the F5 Services in violation of any U.S. export embargo, prohibition or restriction, and (c) you shall comply with all applicable laws regarding the transmission of technical data exported from the United States and the country in which the F5 Service is located. Information regarding F5’s product export classifications is available at <https://www.f5.com/company/policies/export-compliance>.
- 11.5. Government Restricted Rights.** The SaaS Offerings and any other software licensed to you under this Agreement is “commercial computer software” as that term is described in DFAR 252.227- 7014(a)(1). If acquired by or on behalf of a civilian agency, the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms of this Agreement as specified in 48 C.F.R. 12.212 (Computer Software) and 12.11 (Technical Data) of the Federal Acquisition Regulations (“**FAR**”) and its successors. If acquired by or on behalf of any agency within the Department of Defense (“**DOD**”), the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms of this Agreement as specified in 48 C.F.R. 227.7202 of the DOD FAR Supplement and its successors.
- 11.6. Assignment; Subcontractors.** You may not assign the Agreement in whole or in part, without our prior written consent. We may assign the Agreement or any of our rights and obligations under it at any time. Any attempted assignment or transfer in violation of this Section 11.6 will be void and without effect. Subject to the foregoing, the Agreement will be binding upon and shall inure to the benefit of the parties and their respective permitted successors and assigns. We may subcontract to third parties (including but not limited to our Affiliates) parts of the F5 Services, including but not limited to services related to management and hosting of the F5 Services. We shall be responsible for breaches of the Agreement caused by any subcontractors used in pursuant to the foregoing sentence.
- 11.7. Modification.** No modification of this Agreement shall be affected by either party’s use of any order form, purchase order, acknowledgement, shrinkwrap, boxtop, or clickwrap license, or other form containing additional or different terms. This Agreement may only be modified by an instrument in writing duly executed by both Parties, making specific reference to this Agreement and the clause to be modified.
- 11.8. No Third-Party Beneficiaries.** Nothing in this Agreement, expressed or implied, is intended to confer upon any third party, any rights, remedies, obligations, or liabilities under or by reason of this Agreement.

Choose an item. **Customer**

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Attachment 1C
F5 Product Warranty

LIMITED WARRANTY

All references to "F5" in this Product Warranty ("Product Warranty") will be deemed to be a reference to the applicable F5 entity as follows: (i) if the customer's ("Customer") primary place of business is located in the European Economic Area, the Middle East or Africa ("EMEA"), the F5 entity is F5 Networks Ltd.; (ii) if the Customer's primary place of business is located in the Asia-Pacific region ("APAC"), the F5 entity is F5 Networks Singapore Pte Ltd; and (iii) if the Customer's primary place of business is located in a region outside of EMEA or APAC, the F5 entity is F5 Networks, Inc.

1. Software. F5 warrants that for a period of ninety (90) days from the date of shipment: (i) the media on which the software is furnished will be free of defects in materials and workmanship under normal use; and (ii) the software substantially conforms to its published specifications. Except for the foregoing, the software is provided AS IS. In no event does F5 warrant that the Software is error free, that the Product will operate with any software or hardware other than that provided by F5 or specified in the documentation, or that the Product will satisfy Customer's own specific requirements.
2. Hardware. F5 warrants that the hardware component of any Product will, for a period of one (1) year from the date of shipment by F5, be free from defects in material and workmanship under normal use.
3. Remedy. Customer's exclusive remedy and the entire liability of F5 under this limited warranty and any other guarantee made by F5 is, at F5's option, to repair or replace any Product or component that fails during the warranty period at no cost to Customer. Products returned to F5 must be pre-authorized by F5 with a Return Material Authorization (RMA) number marked on the outside of the package, and sent prepaid, insured and packaged appropriately for safe shipment. The decision to issue an RMA shall be at F5's sole discretion, subject to the warranty terms hereof. Only packages with RMA numbers written on the outside of the shipping carton and/or the packing slips and shipping paperwork will be accepted by F5's receiving department. All other packages will be rejected. The repaired or replaced item will be shipped to Customer, at F5's expense, no later than 7 days after receipt by F5. For customers with Advance Exchange RMA approval (as detailed in Customer's support contract, where applicable), a replacement Product or component will be shipped to Customer on the first business day following confirmation of the failure of the original Product or component per the terms of Customer's support contract. F5 may invoice the Customer for any failed Products or components (a) with respect to which the damage to such Products or components is attributable to actions taken by Customer or any of its agents (including but not limited to the categories set forth in the "Restrictions" paragraph immediately below); or (b) not returned within ten (10) days of shipment of the replacement unit(s). Title to any returned Products or components will transfer to F5 upon receipt. F5 will replace defective media or documentation or, at its option, undertake reasonable efforts to modify the software to correct any substantial non-conformance with the specifications.
4. Restrictions. The foregoing limited warranties extend only to the original Customer, and do not apply if a Product (a) has been altered, except by F5 or an F5-designated representative or in accordance with F5 instructions, (b) has not been installed, operated, repaired, or maintained in accordance with F5's instructions, (c) has been subjected to abnormal physical or electrical stress, misuse, negligence or accident or (d) has been operated outside of the environmental specifications for the Product. Software corrections or upgrades do not extend the Software warranty. The Product is not for resale. Customer may not copy or reproduce the Software, and may not copy or translate the written materials without F5's prior, written consent. Customer may not copy, modify, reverse compile or reverse engineer the Software, or sell, sub-license, rent or transfer any Products or any associated documentation to any third party. F5 reserves the right to limit or terminate support (including error correction services) of any Product version one (1) year after the date of release of a subsequent Product version (not counting bug fixes). The foregoing restriction shall apply even if Customer elects to install a Product version other than the then-currently shipping version of the Product.
5. DISCLAIMER; LIMITATION OF REMEDY. EXCEPT FOR THE WARRANTIES SPECIFICALLY

DESCRIBED IN THE STATEWIDE CONTRACT FOR NETWORKING AND SERVICES AND HEREIN, F5 AND ITS THIRD PARTY LICENSORS DISCLAIM ANY AND ALL WARRANTIES AND GUARANTEES, EXPRESS, IMPLIED OR OTHERWISE, ARISING, WITH RESPECT TO THE PRODUCT, SPECIFICATIONS, SUPPORT OR SERVICES DELIVERED HEREUNDER, INCLUDING BUT NOT LIMITED TO THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. NEITHER F5 NOR ITS THIRD PARTY LICENSORS HAVE AUTHORIZED ANYONE TO MAKE ANY REPRESENTATIONS OR WARRANTIES OTHER THAN AS PROVIDED ABOVE. THE COLLECTIVE LIABILITY OF F5 AND ITS THIRD PARTY LICENSORS UNDER THIS LIMITED WARRANTY WILL BE LIMITED TO THE AMOUNT PAID FOR THE PRODUCT.



F5, INC.
NETWORKING EQUIPMENT PRODUCTS AND SERVICES
PRICE SCHEDULE
CONTRACT ID #99999-SPD-SPD0000219-0005
EXHIBIT "A"

Category 2: Network Optimization & Management Products

Products/Equipment/Hardware/Software	MSRP % DISCOUNT	EDUCATIONAL MSRP % DISCOUNT
Network Optimization Products / Equipment / Hardware Discount	6%	7%
Product / Hardware Maintenance Licensing & Support Discount	3%	4%
Software / Subscription Discount	3%	4%

Category 3: Network Security Products & Security Solutions

Products/Equipment/Hardware/Software	MSRP % DISCOUNT	EDUCATIONAL MSRP % DISCOUNT
Security Products / Equipment / Hardware Discount	6%	7%
Product / Hardware Maintenance Licensing & Support Discount	3%	4%
Software/Subscription Discount	3%	4%

Related Value-Added Services

MSRP % DISCOUNT	EDUCATIONAL MSRP % DISCOUNT
2%	3%