



# COMMONWEALTH of VIRGINIA

VIRGINIA INFORMATION TECHNOLOGIES AGENCY  
 SUPPLY CHAIN MANAGEMENT  
 110 SOUTH 7TH STREET  
 RICHMOND, VIRGINIA 23219

**VITA STATEWIDE TERM CONTRACT: [VA-040730-ON24](#)**

## CONTRACTOR / PARTNER

COMPANY NAME:	<u><a href="#">ON24 Inc.</a></u>	SALES CONTACT:	<u><a href="#">Rosemary Florez</a></u>
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### *[THE FOLLOWING INFORMATION IS FOR VITA INTERNAL USE ONLY.]*

<b>Services:</b>	<b>Video Production and Streaming Media Services</b>
<b>Authorized Contract Users:</b>	<b>VA Agencies, Institutions and all other public bodies</b>
<b>Contract Term:</b>	<b>Two (2) years, with three optional one (1) year renewals</b>
<b>Pricing (Not-to-Exceed):</b>	<b>Standard order process for Products in "Attachment C"</b>
<b>Delivery:</b>	<b>30 days After Receipt of Order (ARO)</b>
<b>Shipping Costs:</b>	<b>FOB Destination</b>
<b>Additional Discounts:</b>	<b>None</b>
<b>RFQ Process:</b>	<b>Available for large, non-standard order purchases</b>
<b>RFQ Categories:</b>	<b>Video Production and Streaming Video Services</b>
<b>Installation Services:</b>	<b>Optional, Available</b>
<b>Warranty/Maintenance:</b>	<b>Provided as specified in each quotation</b>

<b>VITA SCM Contacts:</b>	<b><u>Contract Information</u></b>	<b><u>Contract Administration/Compliance</u></b>
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*[THE ABOVE INFORMATION IS FOR VITA INTERNAL USE ONLY.]*

**VITA CONTRACT AND MANUAL**  
**A Guide to Acquiring**  
**Video Production and Streaming Media Services**  
*From*



**Contract VA-040730-ON24**

**July 30, 2004**

**ON24, Inc.**

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**SUPPLY CHAIN MANAGEMENT**



*Partners in Service to the Commonwealth's IT Community*

## VITA CONTRACT and MANUAL

### Preface

This VITA *Contract and Manual (VCM)* is published under *Commonwealth of Virginia* Contract Number VA-040730-ON24. Its purpose is to set forth a description of how to acquire services from VITA's Video Production and Streaming Media Services contract.

Copies of the *VCM* are available to all Commonwealth of Virginia agencies and other public bodies either in hard copy or in electronic format through the Supply Chain Management web page at: ([www.asd.virginia.gov/contract/abstracts/VA-000000-FIRM.html](http://www.asd.virginia.gov/contract/abstracts/VA-000000-FIRM.html))

Any state agency or other public body interested in obtaining Streaming Video Services should be familiar with the contents of the VCM. It describes the FIRM NAME Master Contract, the FIRM NAME team participants, and all aspects of how to use the contract.

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## 1. INDUSTRY PARTNER INTRODUCTION

ON24 has enabled timely multimedia communications for large organizations since 1998. Since then, we have developed a suite of robust webcasting applications and a professional services organization to support our customers. This has resulted in government agencies and large global organizations entrusting us to manage their streaming media projects. ON24 operates a robust and extremely scalable service supporting the development and delivery of webcast presentations. Using the most cutting edge platform and tools available in today's marketplace, ON24 provides the richest, most capable, most highly customizable set of capabilities available in the market today. ON24's business model is unique because we provide a comprehensive source for Webcasting solutions, network infrastructure, operations, applications development and support, allowing our clients to focus on their core mission.

We specialize in providing consultative services and solutions to managing production in an ongoing fashion. ON24's flagship publishing platform allows organizations to take total control, share, or completely outsource their webcasting production. Our customers have the option to utilize ON24 for complete multimedia service or a customer can do the set up by using self-provision supporting features, such as user registration, lobby pages, custom designed audience interfaces, encoding of media, and distribution. This approach allows users to fix their costs and automate their streaming media events as much as possible.

ON24's offers long-term experience and expertise, having produced over 100,000 pieces of streaming content in the last 5 years. Our experience and commitment to our customers to provide service "above and beyond the expected" provides our customer with a trusted one-stop solution for all of their *multimedia communication needs*.

## 2. REQUEST FOR QUOTATION (RFQ)

**2.1 RFQ PROCESS:** For all major acquisitions, except incidental purchases from the contractor's eVA catalog, or punch-out catalog, contract users should contact at least two contractors to request a quotation.

A full and complete description of requirements must be provided in order to insure an accurate RFQ response is obtained from each contractor.

**2.2 RFQ SUBMISSION:** All RFQs will be issued via e-mail to the e-mail address identified by each contractor firm, unless specified otherwise below.

**2.3 RFQ RESPONSE:** Contractor will prepare a detailed, priced offer and respond within seven (7) days from the date of the RFQ. The contractor's contract number must be referenced on all quotes sent in response to all RFQs. Face to face meetings and phone conferences may be requested by any contract user to facilitate each party's complete understanding of what is being acquired. In all but the most complex cases, meetings and conferences will not delay the seven (7) day response time. In these instances, the party's may mutually agree to a response date and a delivery date.

**Rosemary Florez, Government Sales Manager**

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Please submit all requests for quotation by e-mail to: **[rosemary.florez@on24.com](mailto:rosemary.florez@on24.com)**

### 3. LISTING OF SERVICES, PRICING & CONTRACT USAGE INSTRUCTIONS

**3.1 SERVICES:** All services are contained in “Appendix A – Price List”.

**3.2 PRICING:** All pricing shown in “Appendix A” is Not-to-Exceed pricing for the term of this contract. All “Percentage Discounts” indicated are fixed for the entire term of this contract. For services acquired through the standard order process, pricing will be determined by the contractor’s current eVA catalog. For services acquired through the RFQ order process, pricing will be determined by each contractor’s quotation. Separate pricing may be submitted for Government vs. Academic to account for higher discounts to education and, if offered, are indicated in the eVA catalog.

It is important to remember that the net price indicated in the original price list, Appendix A, is a “not-to-exceed” price. A Contractor may opt to be more competitive than this price for a specific purchase or a specific authorized user, but pricing shall never exceed the net price indicated in Attachment C.

#### 3.3 CONTRACT USAGE INSTRUCTIONS:

**A. Standard Order Process: Direct Orders placed in eVA, without the benefit of a quote from the contractor, are considered an order using the standard order process. This process is normally used for small, incidental items.**

In the standard process, authorized users will refer to a catalog-type Product/Price List, which will be available on eVa, to determine pricing for the required service. The authorized user will determine (on its own or by working with a contractor) the required specifications for the purchase. The authorized user will then place an order on eVA for that service configuration. The pricing for that service will not exceed (but may be lower than) the net price indicated for that service in the eVA catalog.

**B. Request for Quote (RFQ) Order Process: This process involves contacting one or more Video Production and Streaming Video contractors and requesting formal written quotes be provided. An eVA Direct Order, based upon and referencing the quote received is then issued. This process is normally used for all but small, incidental purchases.**

In some instances, authorized users may be purchasing a very large or complex configuration of services that justify price breaks above-and-beyond those offered in the “not-to-exceed” pricing indicated in the eVA catalog price lists. In this case, authorized users may complete and issue a Request for Quotation, or RFQ. In most cases where an RFQ is used, the authorized user will define the specifications of the required service(s) and issue the RFQ to the appropriate contractors. Contractors will respond to the RFQ with qualitative responses (if requested) and a price quotation. Each Quotation provided by contractors must reference this contract number and provide a unique quote number to be referenced when an order is placed. Authorized users may not sign any other contractor agreements or documents of any kind, as a condition of the contractor accepting the order. Generally, the authorized user will select the contractor offering the lowest total cost proposal; however non-price factors may be included in the evaluation criteria for a given RFQ. The evaluation criteria, format, timing, and requirements will be

clearly outlined on the RFQ document. In some situations, the authorized user may not identify the exact specifications required. If this is the case, the RFQ respondents will be given the opportunity to identify and propose their recommended specifications. Any purchase that is a result of the RFQ process will be subject to the Terms and Conditions specified and outlined in this Contract and any subsequent modifications. Additional Terms and Conditions may be requested or mandated within the RFQ document.

**3.4 Availability of Services:** Contractors will agree that there will be no cancellation of listed services without an equal and acceptable replacement approved by the designated Commonwealth of Virginia representative during the term of the agreement. Contractors will communicate discontinuation of any services to the contract officer in writing within five (5) business days. In such instances, Contractors will work with the contract officer(s) to identify and implement alternative options that will maintain or reduce costs associated with the replacements. Contractors will be prepared to offer detailed quarterly reports if requested by the Commonwealth, displaying removed SKUs off of contract list and suggested replacements. Contractors will offer suggested replacements of discontinued services at least 30 days prior to substitution, including replacement SKU, description, and contract price.

**3.5 Ordering Methods:** The Commonwealth requires that contractors accept orders via the eVA system. Contractors must also have a local Virginia telephone number, or a toll free (800) number, or agree to accept collect calls. Each Authorized User is responsible for placing its own orders, which may be accomplished by eVA Direct Order, written purchase order, telephone, fax or computer on-line systems (eVA Punch-out catalog). The Contractor may also provide customized websites to enable online orders by institutions of higher education, local and municipal governments. Shipping and billing addresses will be included on the individual Orders of Authorized Users referencing this Contract.

**3.6 eVA Orders:** Upon receipt of quotations, contract users may choose the quote that best meets their needs, offering the best value for the acquisition; price alone need not be the sole deciding factor.

A confirming order, which references the contractor's quote number and contract number, will be sent via eVA. A copy of the quotation may also be attached to the eVA order.

Please refer to the eVA Ordering section of the eVA website for step-by-step instructions regarding how to place an eVA order, located at [www.eva.state.va.us](http://www.eva.state.va.us).

**3.7 Payment Options:** Authorized Users pay by check, electronic funds transfer, or with the Commonwealth's authorized procurement (charge) card. Contractor(s) shall accept the Commonwealth's card for single purchases under the per transaction limit for the respective Agencies/Institution of Higher Education.

**3.8 Freight Policy: All shipments will be F.O.B. Delivered to the specified location.** Contractor(s) is responsible for filing and expediting all freight claims with the carrier. The Contractor will pay title and risk of loss or damage charges. Emergency/rush delivery requiring special shipping and handling will be at Authorized Users' expense (with prior written approval only). Rush delivery that occurs as a result of the Contractor's error will be free of charge.

**3.9 Shipping:** A packing label will be on each box and include the following items, visible on the outside of the box:

- Authorized User
- Address
- Department and floor
- Contact Name
- Telephone number

A packing slip will also be included with each shipment, which will include at least the following information in no particular order:

- Line item description
- Quantity ordered
- Quantity included in shipment
- Any back order items
- Unit Price
- Number of parcels
- Purchase Order Number
- Agency name and department
- F.O.B. (destination)
- All information contained on the packing label

**3.10 Return of Product:** Any materials delivered in poor condition, in excess of the amount authorized by the eVA Direct Order or other or not included on the requisition form or purchase order may, at the discretion of the Authorized Users, be returned to the Contractor's warehouse at the Contractor's expense within 30 days. Credit for returned goods shall be made immediately once contractor receives returned goods.

If any product is returned to a Contractor for failure of performance, the Contractor will, at the Commonwealth's discretion, refund all amounts paid to the Contractor for such product or replace the product, and the following shall apply:

- Within twenty (20) days of written notification by the using Authorized User, the Contractor will make arrangements for the return of the product.
- All shipping and insurance costs will be borne by the Contractor.

- Contractor will be liable for damages to the product, unless caused by fault or negligence of the Agency that occur during the return process.
- If the product is returned to the Contractor for any other reason, then the Agency will be responsible for all costs associated with the preparation of the product for shipping, and for shipping costs to the Contractor's nearest service location.

**3.11 Post-Order Customer Service:** The Contractor(s) will provide all of the designated Authorized Users a single, local point of contact (and a backup) to handle questions and resolve problems that arise. At least one Customer Service Representative will be available during Contractor's operating hours. All service representatives will have on-line access to information to provide immediate response to inquiries concerning the status of orders (shipped or pending), delivery information, back-order information, State-wide contract pricing, contracted product offerings/exclusions, contract compliance requirements, and general product information. Representatives should be available by phone, fax, or email (local or 800 # preferred). Both Authorized Users and the Contractor(s) will commit to quarterly reviews of internal customer satisfaction and will make consistent efforts to improve customer satisfaction.

### 4. VIDEO PRODUCTION AND STREAMING MEDIA SERVICES:

- 4.1. **ENCODING** - Priced per hour of encoded content (compression of media files into a streaming format allowing automatic playback and transmittal at different rates depending on the end-users available network connection)
- 4.2. **TRANSCODING** - Priced per hour of encoded content and includes reformation of content to suitable formats for various platforms, regardless of protocol, application, screen size and language used. In addition to standard transcoding, ON24 can encode in Windows “Intellistream” or Real “Surestream”, which will allow users to receive streaming that is optimized for their Internet Connection.
- 4.3. **LIVE VIDEO WEBCAST** - Defined as those ON24 Services involving the provisioning, encoding, and streaming of a live audio/video webcast event for a Customer. Allows for any number of speakers to present live to simultaneous users on a Custom Audience console streamed in Real and Windows Media format.
- 4.4. **LIVE VIDEO WEBCAST WITH SLIDES:** - Defined as those ON24 Services involving the provisioning, encoding, and streaming of a live audio/video webcast event for a Customer. Allows for any number of speakers to present live to simultaneous users on a Custom Audience console streamed in Real and Windows Media format, as well as slide synchronization.
- 4.5. **AUDIO WEBCAST** - Defined as those ON24 Services involving the provisioning, encoding, and streaming of a live audio webcast event for a Customer. Allows for any number of speakers to present live to simultaneous users on a Custom Audience console streamed in Real and Windows Media format.
- 4.6. **LIVE AUDIO WEBCAST WITH SLIDES:** Defined as those ON24 Services involving the provisioning, encoding, and streaming of a live audio webcast event for a Customer. Allows for any number of speakers to present live to simultaneous users on a Custom Audience console streamed in Real and Windows Media format, as well as slide synchronization.
- 4.7. **DELIVERY:**                   Live Audio Webcast  
   Live Video Webcast  
   (Two-hour event with up to 250 simultaneous participants)
- 4.8. **ARCHIVING:**               Priced per Month - Audio  
   Priced per Month – Video or streaming presentation/year



<u>Line Item</u>	<u>Unit</u>	<u>Description</u>
<b><u>ON24 Personnel:</u></b>		
ON24 Sr. Field Manager (ON24)	Hour	Senior ON24 Producer, onsite at event to manage AV and capture crew if applicable. Field manager may also be responsible for pushing slides for a synch. slide event, or capturing slide timings for an archive.
Event Manager (ON24)	Hour	The Event Manager is the central point of contact from ON24. He / she will be responsible for handling design and development of the web pages around a streaming presentation
Technical Manager (ON24)	Hour	Responsible for signal acquisition of a live webcast event, routing video signal to provisioned encoder, and monitoring quality of incoming signal. Used primarily on live video webcasts
Audio/Video Engineer (ON24)	Hour	Individual responsible for encoding of a streaming presentation and indexing with slide timings
Event Monitor (ON24)	Day	The Event Monitor is responsible for listening/watching and quality control around live Webcast Events
Edits	Round	Round of edits around a streaming presentation
<b><u>Web Services:</u></b>		
Schedule Page		Schedule-agenda page can be fully VA agency-branded, and will allow all users to choose their media format and bit rate for a particular presentation



Registration System	n/a	Access to ON24's standard registration, which allows for capturing fields such as name, address, email, phone, job title, etc. Can be most any combination of form fields, radio buttons, and/or drop down menus
Branded Interface	n/a	ON24's graphic design team will create a fully customized and VA State agency-branded audience interface, with embedded audio/video player, slide window, Q&A submission box, and most any other information the agency would like displayed (i.e. speaker photos, bios, supporting documentation)
Presentation Manager	Hour	Access to ON24's Presentation Manager tool, enabling the presenter and/or producer to push synchronized slides, moderate Q&A, push polls to audience, push URL's to audience
Transcription	Hour	Creation of a text transcript from event audio

**Video Services:**

Video Tape Backup	Day	Running a video tape as a backup to a live webcast
Video Encoder	Day	Provision of an encoder for live video event only

**Contractor Personnel:**

Field Producer (contractor)	Day	Regional Field Producer
Field Camera Crew w/ Audio	Day	Camera crew with broadcast quality camera, lighting, audio, and background
Engineer and Producer		Studio in most metropolitan locations set up for 3 camera shoot



Studio	Half-day	
<b><u>Connectivity:</u></b>		
Phone Lines	Day	May be setup at event venue for a hard line communication back to ON24 in SF (usually hotels, convention centers, etc.) When cell service is not available, or to be used for an audio webcast
Long Distance phone rate	Hour	For phone line above
LAN drop	Day	For Presentation Manager Session
ISDN Line	Day	For ISDN-Video Conferencing unit transmission (need 3 ISDN lines for ON24 "VideoCast Live" solution)
ISDN Toll Charges	Hour	For each ISDN line
Fiber	Hour	Fiber time, usually used to send video signal from studio or convention center setting back to ON24
Conference calls	Per User/Minute	Used for audio webcasts with multiple speakers
Polycom unit	Day	For transmission of video signal via ISDN from event to ON24 for encoding

#### **4. SERVICES AND SERVICE LEVELS:**

##### **4.1. ON24 provides multiple levels of support features: Live e-mail and phone support, 1-800 support and Tier II technical support.**

**Available options described:**

- a) The client provides first-tier support. ON24 provides second-tier support via a toll-free number.**
- b) ON24 provides first-tier support via a toll-free number**
- c) ON24 provides first-tier support via a toll-free number. A toll number can also be provided for non-US end-users.**
- d) E-mail support, On-demand support only**
  - For e-mail supported events, ON24 will provide a log of all e-mails received, contact information, a description of their problem, and resolution.**
  - For phone-supported events, ON24 will provide a log of all phone calls received, contact information, a description of their problem, and resolution.**
  - ON24 provides customer support during the hours of 6:00 a.m. to 6:00 p.m. PT, Monday through Friday. If you event requires customer support outside of these operating hours, days or on holidays, there will be additional charges incurred.**

## 5. MANDATORY CONTRACTUAL TERMS AND CONVITAIONS

### 1 SCOPE OF AGREEMENT

This is an agreement (the "Agreement") between the Commonwealth of Virginia ("Commonwealth") and ON24, Inc. (the "Contractor"), a California corporation having its principal place of business at 833 Market Street, San Francisco, CA 94103 for the purchase of Video Production and Streaming Media Services ("Services") pursuant to the Commonwealth's Request For Proposal #2003-027, dated May 16, 2003 (the "RFP") and the Contractor's proposal, dated June 19, 2003 in response thereto. This Agreement contains the contractual terms and conditions by which Agencies, Institutions, and other public bodies as defined in Section 2.2-4301 of the Virginia Public Procurement Act (VPPA) hereinafter referred to as "Authorized Users" will acquire Services.

Authorized Users may either issue an eVA Direct Order for specific Services at the prices contained herein or issue a Request for Quote from the Contractor for a firm fixed price for Services. After receipt of the firm fixed price for Services, the Authorized User, at their sole discretion, may then issue an eVA Direct Order for the specific Services at the prices quoted.

### 2 INTERPRETATION OF AGREEMENT

Headings are for reference purposes only and shall not be considered in construing this Agreement.

The documents comprising this Agreement, and their order of precedence in case of conflict, are: (1) all executed Orders and Attachments referencing this Agreement; (2) this document; (3) the Contractor's proposal if any, if submitted in response to a Request For Proposal ("RFP"); and (4) the Commonwealth's RFP, if any. The foregoing documents represent the complete and final agreement of the parties with respect to the subject matter of this Agreement.

If any term or condition of this Agreement is found to be illegal or unenforceable, it shall be severed, and the validity of the remaining terms and conditions shall not be affected.

Nothing in this Agreement shall be construed as an express or implied waiver of the Commonwealth's sovereign or Eleventh Amendment immunity, or as a pledge of its full faith and credit.

### 3 APPLICABLE LAWS AND COURTS

This solicitation and any resulting Contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The Contractor shall comply with all applicable federal, state and local laws, rules and regulations.

#### 4 ANTI-DISCRIMINATION

By submitting their bids, bidders certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and §2.2-4311 of the Virginia Public Procurement Act. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the Contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that Contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (Code of Virginia, § 2.2-4343.1E).

In every Contract over \$10,000 the provisions in A. and B. below apply:

A. During the performance of this Contract, the Contractor agrees as follows:

- 1) The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- 2) The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
- 3) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.

B. The Contractor will include the provisions of A. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

## 5 ETHICS IN PUBLIC CONTRACTING

By submitting their proposals, offerors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

## 6 IMMIGRATION REFORM AND CONTROL ACT OF 1986

By submitting their proposals, offerors certify that they do not and will not during the performance of this Contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

## 7 DEBARMENT STATUS

By submitting their proposals, offerors certify that they are not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on Contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.

## 8 ANTITRUST

By entering into a Contract, the Contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said Contract.

## 9 PAYMENT

### A. To Prime Contractor:

- 1) Invoices for items ordered, delivered and accepted shall be submitted by the Contractor directly to the payment address shown on the purchase order/Contract. All invoices shall show the state Contract number and/or purchase order number; social security number (for individual Contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).



- 2) Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
  - 3) All goods or services provided under this Contract or purchase order, that are to be paid for with public funds, shall be billed by the Contractor at the Contract price, regardless of which public agency is being billed.
  - 4) The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
  - 5) Unreasonable Charges. Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, Contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges that appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Commonwealth shall promptly notify the Contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A Contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges that are not in dispute (*Code of Virginia*, § 2.2-4363).
- B. To Subcontractors:
- 1) A Contractor awarded a Contract under this solicitation is hereby obligated:
    - (a) To pay the subcontractor(s) within seven (7) days of the Contractor's receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the subcontractor(s) under the Contract; or
    - (b) To notify the agency and the subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.
    - (c) The Contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the Contract) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in (b) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier Contractor performing under the primary Contract. A Contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.

## 10 TESTING AND INSPECTION

The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

## 11 ASSIGNMENT OF CONTRACT

A Contract shall not be assignable by the Contractor in whole or in part without the written consent of the Commonwealth.

## 12 CHANGES TO THE CONTRACT

This contract maybe modified in accordance with §2.2-4309 of the Code of Virginia. No modifications to this contract shall be effective unless it is in writing and signed by the duly authorized representative of both parties. No term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent to breach is in writing.

Any contract issued on a firm fixed price basis may not be increased more than twenty five percent (25%) or \$50,000.00 whichever is greater, without the approval of the Governor of the Commonwealth of Virginia or his authorized designee.

## 13 TAXES

Sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request, and can be obtained online at <http://www.tax.state.va.us/>. Deliveries against this Contract shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.

## 14 NONVISUAL ACCESS TO TECHNOLOGY and Compliance with Section 508 of the Rehabilitation Act:

- All information technology which, pursuant to this Agreement, is purchased or upgraded by or for the use of any State agency or institution or political subdivision of the Commonwealth (the "Technology") shall comply with the following nonvisual access standards from the date of purchase or upgrade until the expiration of this Agreement:
- Effective, interactive control and use of the Technology shall be readily achievable by nonvisual means;
- The Technology equipped for nonvisual access shall be compatible with information technology used by other individuals with whom any blind or visually impaired user of the Technology interacts;
- Nonvisual access technology shall be integrated into any networks used to share communications among employees, program participants or the public; and

- The technology for nonvisual access shall have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

Compliance with the foregoing nonvisual access standards shall not be required if the head of the using agency, institution or political subdivision determines that (i) the Technology is not available with nonvisual access because the essential elements of the Technology are visual and (ii) nonvisual equivalence is not available.

Installation of hardware, software, or peripheral devices used for nonvisual access is not required when the Technology is being used exclusively by individuals who are not blind or visually impaired, but applications programs and underlying operating systems (including the format of the data) used for the manipulation and presentation of information shall permit the installation and effective use of nonvisual access software and peripheral devices.

If requested, the Contractor must provide a detailed explanation of how compliance with the foregoing nonvisual access standards is achieved and a validation of concept demonstration.

All information technology which, pursuant to this Agreement, is purchased or upgraded by or for the use of any Commonwealth agency or institution or political subdivision of the Commonwealth (the "Technology") shall comply with Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended. If requested, the Contractor must provide a detailed explanation of how compliance with Section 508 of the Rehabilitation Act is achieved and a validation of concept demonstration.

(<http://www.section508.gov/>)

The requirements of this Paragraph along with the Non-Visual Access to Technology Clause shall be construed to achieve full compliance with the Information Technology Access Act, §§2.2-3500 through 2.2-3504 of the Code of Virginia.

## 15 INSURANCE

By signing and submitting a bid or proposal under this solicitation, the bidder or offeror certifies that if awarded the Contract, it will have the following insurance coverages at the time the Contract is awarded. For construction Contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The bidder or offeror further certifies that the Contractor and any subcontractors will maintain these insurance coverages during the entire term of the Contract and that all insurance coverages will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

### INSURANCE COVERAGES AND LIMITS REQUIRED:

- Worker's Compensation - Statutory requirements and benefits.
- Employers Liability - \$100,000.
- Commercial General Liability - \$500,000 combined single limit. Commercial General Liability is to include Premises/Operations Liability, Products and Completed Operations Coverage, and Independent Contractor's Liability or Owner's and Contractor's Protective Liability. The Commonwealth of Virginia must be named as an additional insured when requiring a Contractor to obtain Commercial General Liability coverage.

## 16 DRUG-FREE WORKPLACE

During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, “drug-free workplace” means a site for the performance of work done in connection with a specific Contract awarded to a Contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the Contract.

## 17 NONDISCRIMINATION OF CONTRACTORS

A bidder, offeror, or Contractor shall not be discriminated against in the solicitation or award of this Contract because of race, religion, color, sex, national origin, age, or disability or against faith-based organizations. If the award of this Contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this Contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

## 18 eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION

The eVA Internet electronic procurement solution, web site portal [www.eva.state.va.us](http://www.eva.state.va.us) streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for vendors to conduct business with state agencies and public bodies.

All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution either through the eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service, and complete the Ariba Commerce Services Network registration.

Vendors are strongly encouraged to register prior to submitting a bid or offer. Failure to register will result in the bid being found non-responsive and rejected. All vendors must register in both the eVA and the Ariba Commerce Services Network Vendor Registration Systems.

- a. eVA Basic Vendor Registration Service: \$25 Annual Fee plus a Transaction Fee of 1% per order received. The maximum transaction fee is \$500 per order. eVA Basic Vendor Registration Service includes electronic order receipt, vendor catalog posting, on-line registration, and electronic bidding, as they become available.
- b. eVA Premium Vendor Registration Service: \$200 Annual Fee plus a Transaction Fee of 1% per order received. The maximum transaction fee is \$500 per order. eVA Premium Vendor Registration Service includes all benefits of the eVA Basic Vendor Registration Service plus automatic email or fax notification of solicitations and amendments, and ability to research historical procurement data, as they become available.
- c. Ariba Commerce Services Network Registration. The Ariba Commerce Services Network (ACSN) registration is required and provides the tool used to transmit information electronically between state agencies and vendors. There is no additional fee for this service.

### 19 eVA BUSINESS-TO-GOVERNMENT CONTRACTS

The eVA Internet electronic procurement solution, web site portal [www.eva.state.va.us](http://www.eva.state.va.us), streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for vendors to conduct business with state agencies and public bodies.

Failure to comply with the requirements in a. and b. below will be just cause for the Commonwealth to reject your bid/offer or terminate this contract for default.

Vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution and agree to comply with the following:

Submit a fully executed American Management Systems, Inc., (AMS) Trading Partner Agreement, a copy of which can be accessed and downloaded from [www.eva.state.va.us](http://www.eva.state.va.us). AMS is the Commonwealth's service provider to implement and host the eVA e-procurement solution.

- b. Provide an electronic catalog (price list) for items awarded under a term contract. The format of this electronic catalog shall conform to the eVA Catalog Interchange Format (CIF) Specification that can be accessed and downloaded from [www.eva.state.va.us](http://www.eva.state.va.us).

### 20 BREACH

The Contractor shall be deemed in breach of this Agreement if the Contractor (a) fails to make any Product or Service ready for acceptance testing by the specified delivery date; (b)

repeatedly fails to respond to requests for maintenance or other required service within the time limits set forth in this Agreement; (c) fails to comply with any other term of this Agreement and fails to cure such noncompliance within ten days (or such greater period as is acceptable to the Commonwealth) following Contractor's receipt of a Show Cause Notice identifying such noncompliance; or (d) fails to provide a written response to the Commonwealth's Show Cause Notice within ten days after receiving same.

The Contractor shall not be in breach of this Agreement if its default was due to causes beyond the reasonable control of, and occurred without any fault or negligence on the part of, both the Contractor and its subcontractors. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Commonwealth in either its sovereign or Contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather.

In the event of breach, in addition to any other remedies provided by law, the Commonwealth may cancel its obligations with respect to any or all unaccepted Products or Services. All costs for deinstallation and return of Products shall be borne by the Contractor. In no event shall any failure by the Commonwealth to exercise any remedy available to it be construed as a waiver of or consent to any breach.

## 21 NON-APPROPRIATION

All funds for payment of Services ordered under this Contract are subject to the availability of legislative appropriation for this purpose. In the event of non-appropriation of funds by the Legislature for the items under this Contract, the Commonwealth will terminate this Contract for those Services for which funds have not been appropriated. Written notice will be provided to the Contractor as soon as possible after legislative action is completed.

If any purchases are to be supported by federal funding, and such funding is not made available, the Commonwealth may terminate this Contract for goods or services dependent on such federal funds without further obligation.

## 22 CONTRACTUAL RECORDS

The Contractor shall make all Contractual books and records and other documents relating to matters under this Agreement available to the Commonwealth and its designated agents for purposes of audit and examination for a period of five years after final payment.

Contractual records include, but are not limited to, this Agreement and all executed Orders, Attachments, modifications, invoices, and correspondence between the parties to this Agreement.

## 23 PRIME CONTRACTOR RESPONSIBILITY

If the Contractor's proposal includes any goods or services to be supplied by another party, the Contractor agrees as follows:

a. The Contractor shall act as prime Contractor for the procurement and maintenance of the entire proposed configuration and shall be the sole point of contact with regard to all obligations under this Agreement.

b. The Contractor hereby represents and warrants that the Contractor has made such other party aware of the proposed use and disposition of the other party's product or services, and that such other party has agreed in writing that it has no objection thereto.

## 24 PATENT/COPYRIGHT PROTECTION

Contractor, at its own expense, shall defend any suit brought against the Commonwealth for the infringement of patents, copyrights or trade secrets enforceable in the United States if the claim of infringement is alleged to relate to or arise from the Contractor's or Commonwealth's use of any equipment, software, materials or information prepared, developed or delivered in connection with performance of this Agreement. In such suit, Contractor shall indemnify the Commonwealth, its agents, officers and employees for any loss, liability or expense incurred as a result of such suit.

The purchasing agency shall notify the Contractor of such suit within a reasonable time after learning of it and shall give the Contractor the full right and opportunity to conduct the defense of the suit, subject however to the requirements of Section 2.2-510 and Section 2.2-514 of the Code of Virginia or any successor statute. If principles of governmental or public law are involved, the Commonwealth may, at its option and expense, participate in the defense of the suit.

The Contractor shall not be required to indemnify the Commonwealth for liability arising solely out of the Commonwealth's own specifications or design or solely from the combination of equipment or software furnished hereunder with any equipment or software not supplied by the Contractor.

If, any Product or Service becomes, or in the Contractor's opinion, is likely to become, the subject of a claim of infringement, Contractor may, at its option, provide noninfringing substitutes that are satisfactory to the Commonwealth, or at Contractor's option and expense, may obtain the right for the Commonwealth to continue the use of such Product or Service.

If the use of such equipment or software by the Commonwealth is prevented by permanent injunction or by Contractor's failure to procure the right for the Commonwealth to continue using the software, the Contractor agrees to take back the infringing equipment, software, materials or information and refund the total amount the Commonwealth has paid Contractor under this Agreement, less one half (1/2%) percent of the total paid for each month of use by the Commonwealth.

## 25 DISPUTES:

In accordance with Section 2.2-4363 of the Code of Virginia, Contractual claims, whether for money or other relief, shall be submitted in writing to the VITA no later than sixty (60) days after final payment; however, written notice of the Contractor's intention to file such claim must

be given to VITA at the time of the occurrence upon which the claim is based. Pendency of claims shall not delay payment of amounts agreed due in the final payment. VITA shall render a final decision in writing within thirty (30) days after its receipt of the Contractor's written claim.

The Contractor may not invoke any available administrative procedure under Section 2.2-4365 of the Code of Virginia nor institute legal action prior to receipt of the purchasing agency's decision on the claim, unless that agency fails to render its decision within thirty (30) days. The decision of the purchasing agency shall be final and conclusive unless the Contractor, within six (6) months of the date of the final decision on the claim, invokes appropriate action under Section 2.2-4364, Code of Virginia or the administrative procedure authorized by Section 2.2-4365, Code of Virginia.

Contractor agrees to submit any and all contractual disputes arising from this contract to VITA's alternative dispute resolution procedures. Contractor may invoke VITA's alternative dispute resolution procedures at any time and concurrently with any other statutory remedies prescribed by the Code of Virginia. (ADR Procedures - <http://www.vita.virginia.gov/integration/adrProceduresForDisputes.cfm>)

In the event of any breach by the Commonwealth, Contractor's remedies shall be limited to claims for damages and Prompt Payment Act interest and, if available and warranted, equitable relief, all such claims to be processed pursuant to this Section. In no event shall Contractor's remedies include the right to terminate any license or support services hereunder.

## 26 LIMITATION OF LIABILITY

To the maximum extent permitted by applicable law, the Contractor will not be liable under this Contract for any indirect, incidental, special or consequential damages, or damages from loss of profits, revenue, data or use of the supplies, equipment and/or services delivered under this Contract. This limitation of liability will not apply, however, to liability arising from: (a) personal injury or death; (b) defect or deficiency caused by willful misconduct or negligence on the part of the Contractor; or (c) circumstances where the Contract expressly provides a right to damages, indemnification or reimbursement.

## 27 PERIODIC PROGRESS REPORTS/INVOICES

For Contracts requiring the submission of periodic Contract performance progress reports or program status reports, the offeror will include a section on involvement of small businesses and businesses owned by women and minorities. This section will specify the actual dollars Contracted to-date with such businesses, actual dollars expended to-date with such businesses and the total dollars planned to be Contracted for with such businesses on this Contract. This information shall be provided separately for small businesses, minority-owned businesses and women-owned businesses.

If the Contract does not require the submission of periodic progress reports, the offeror will provide the above required information on actual involvement of small businesses and businesses owned by minorities and women as part of their periodic invoices.



28 FINAL ACTUAL INVOLVEMENT REPORT

The Contractor will submit, prior to completion or at completion of the Contract and subject to final payment, a report on the actual dollars spent with small businesses and businesses owned by women and minorities during the performance of the Contract. At a minimum, this report shall include for each firm Contracted with and for each such business class (i.e., small, minority-owned, women-owned) the total actual dollars spent on this Contract, the planned involvement of the firm and business class as specified in the proposal, and the actual percent of the total estimated Contract value. A suggested format is as follows:

ON24

<u>ADDRESS AND PHONE NUMBER</u>	<u>TYPE GOODS/ SERVICES</u>	<u>ACTUAL DOLLARS</u>	<u>PLANNED DOLLARS</u>	<u>% OF TOTAL CONTRACT</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Totals for Business Class		_____	_____	_____

29 COMPLIANCE WITH FEDERAL LOBBYING ACT

- A. Contractor shall not, in connection with this Agreement, engage in any activity prohibited by 31 U.S.C.A. Section 1352 (entitled "Limitation on use of appropriated funds to influence certain Federal Contracting and financial transactions") or by the regulations issued from time to time thereunder (together, the "Lobbying Act"), and shall promptly perform all obligations mandated by the Lobbying Act in connection with this Agreement, including, without limitation, obtaining and delivering to the Commonwealth all necessary certifications and disclosures.
- B. Contractor is hereby advised that a significant percentage of the funds used to pay Contractor's invoices under this Agreement may be federal funds. Under no circumstances shall any provision of this Agreement be construed as requiring or requesting the Contractor to influence or attempt to influence any person identified in 31 U.S.C.A. Section 1352 (a) (1) in any matter.
- C. A representative of Contractor shall sign the certification attached as Attachment "B" and deliver such certification to the Commonwealth simultaneously with the execution and delivery of this Agreement. Contractor shall have the certification signed by a representative with knowledge of the facts and shall fulfill the promises of undertakings set forth in the certification.

30 CONTRACTOR'S REPORT OF SALES

The Contractor must report the quarterly dollar value, in U.S. dollars and rounded to the nearest whole dollar, of all sales under this Contract by calendar quarter; i.e., January through March, April through June, July through September, and October through December. The dollar value of a sale is the price paid by the user for products and services on a Contract order as recorded

by the Contractor. The reported Contract sales value must include the Industrial Funding Adjustment, as delineated in paragraph entitled “Industrial Funding Adjustment”. The Contractor shall provide this report in hard copy to the Controller, VITA, and a copy of the report to the Contracts Manager, VITA, both within 30 days after the end of each quarterly reporting period as defined herein. The report must show each individual item and quantities purchased and the purchaser. The report is required to be hard copy. VITA may at a later time, agree to an electronic version of the report, however, in lieu of any express agreement by both parties as to the electronic format, the Commonwealth will only accept a hardcopy version. The Contractor shall define “sale” prior to the first reporting period and then shall maintain that definition through out the term of this Agreement. Sale may be defined as; 1) when the Commonwealth pays the purchase price, or 2) when the Commonwealth accepts the Products or 3) other as defined by the Contractor.

### 31 INDUSTRIAL FUNDING ADJUSTMENT

The Contractor must pay VITA, an Industrial Funding Adjustment (IFA). The Contractor must remit the IFA within 30 days after the end of each quarterly reporting period as established in the clause entitled “Contractor’s Report of Sales”. The IFA equals two percent (2%) of the total quarterly sales reported. Contractor shall remit the IFA together with a copy of the Contractor’s Report of Sales as delineated in the paragraph herein entitled “Contractor’s Report of Sales”. The IFA reimburses the Commonwealth and defrays the costs for IT procurement and the administration of the subsequent awards. The IFA amount due must be paid by check with identification of “Contract number”, “report amounts”, and “report period”, on either the check stub or other remittance material. VITA may at its discretion, agree to an electronic funds transfer, in lieu of a check, however in the absence of an express written agreement from VITA that validates agreement, then the payment shall be made by check as described herein made payable to the Controller, VITA.

If the full amount of the IFA is not paid within thirty (30) calendar days after the end of the applicable reporting period, it shall constitute a Contract debt to the Commonwealth of Virginia, and the State may exercise all rights and remedies available under law. Failure to submit sales reports, falsification of sales reports, and or failure to pay the IFA in a timely manner may result in termination or cancellation of this Contract. Willful failure or refusal to furnish the required reports, falsification of sales reports, or failure to make timely payment of the IFA constitutes sufficient cause for terminating this Contract for default.

It is the intent of the Commonwealth to capture 2% of all sales, including temporary reduced pricing, fire sales, one time sales, trade ins, promotional items that have been marked down and all sales to the Commonwealth under this Agreement.

### 32 MAINTENANCE

Beginning on the date of acceptance, Contractor shall furnish all Maintenance services necessary for the Services to be provisioned as Contracted. The cost to the Authorized User for this Maintenance service shall be included in the price.

Help Desk technical support must be available during local business hours of 8:00 a.m. to 5:00 p.m. M-F, with a four (4) telephone response time.

### 33 ORDERS

Authorized ordering officials representing the “Authorized Users” of this Contract may order Services from this Contract by any of the following Order methods, and the Contractor is required to accept any Order from A, and B, and C as shown below. The Contractor may also accept Orders using D, as shown below:

A. eVA: An order placed through the eVA electronic procurement website portal <http://www.eva.state.va.us>

B. Purchase Order (PO): An official PO form issued by an Authorized User.

C. Delivery Order (DO): A DO issued by the Acquisition Services Division, VITA.

D. Charge/Credit Card:

Any order/payment transaction processed through the Commonwealth’s contract with American Express (AMEX). Each Commonwealth Charge Card Order must not exceed \$5,000, or the then current charge card limit. Payment will be made by AMEX to Contractor within three (3) business days.

Any other order/payment charge or credit card process, e.g. AMEX, MASTERCARD, or VISA, under contract for use by an Authorized User.

This ordering authority is limited to issuing Orders for Services that are available only under this Agreement. Notwithstanding the section herein, entitled Modifications, no Authorized User or other public body of the Commonwealth shall have the authority to modify this Contract.

### 34 TERM

This Agreement shall take effect on the date of its final execution by both parties, and shall continue for two (2) years (the initial Term). The Commonwealth may extend this Agreement at its sole option, for three (3) additional one year renewals after the initial Term. The Commonwealth shall provide a writing to the Contractor thirty (30) days prior to the expiration of the initial Term or any extension thereof, stating the requirement to extend.

### 35 INSTALLATION RESPONSIBILITY

Except where otherwise expressly provided, "delivery" does not include installation.

### 36 SITE PREPARATION

At least thirty (30) days prior to the scheduled delivery date, the Contractor shall provide the Commonwealth with any environmental specifications necessary to ensure the proper and efficient operation of all Services. All such specifications shall be in writing.

The Commonwealth shall prepare the site at its own expense and in accordance with all such environmental specifications.

Ten days prior to the scheduled delivery date, the Contractor shall, if Contractor deems it necessary, inspect the site and notify the Commonwealth in writing of any environmental inadequacies. In the absence of notification to the contrary, the Commonwealth's environment shall be deemed acceptable to the Contractor.

Any delay or additional site preparation expense caused in whole or in part by erroneous or incomplete environmental specifications shall be the Contractor's responsibility.

### 37 DELIVERY DATE

The Contractor shall deliver the Services, ready for testing, by the delivery date specified in any executed Attachment or Order referencing the Agreement. If delivery of all Services is not completed within thirty (30) days after the scheduled delivery date, the Commonwealth may cancel the Agreement without further obligation or may cancel the individual Order without further obligation. The Commonwealth may postpone any delivery date by notifying the Contractor at least seven (7) days prior to the delivery date. However, the delivery date shall not be postponed more than a total of thirty (30) days.

The Commonwealth will provide 48 hours advance notice of cancellation of an eVA Direct Order. The entry of an eVA Change Order effecting cancellation of the original Direct Order, at least 48 hours (2 days) prior to the scheduled delivery date of services, shall be deemed sufficient notice to contractor.

### 38 COMMENCEMENT OF ACCEPTANCE TESTING

The Services shall be considered ready for testing when the Contractor provides the Commonwealth with the documentation of a successful diagnostic test performed at the site which demonstrates, to the satisfaction of the Commonwealth, that all Services meet the minimum capabilities specified by Contractor, and this Agreement. If the Contractor certifies that the Services are ready to begin acceptance testing prior to the scheduled delivery date, the Commonwealth, at its option, may elect to test the Services and change the delivery date accordingly.

### 39 REQUIRED PERFORMANCE LEVEL

To qualify for acceptance, all Services must concurrently perform in accordance with the technical specifications and functional descriptions, as contained or referenced in this Agreement, and must concurrently perform in accordance with any published technical specifications from the Contractor. The Services are required to meet the Required Performance Level for a successful test.

### 40 ACCEPTANCE

The Services shall be deemed accepted on the first day after successful completion of the acceptance period. Upon request, the Commonwealth shall provide written confirmation of acceptance. If the standard of performance has not been met after thirty (30) calendar days have elapsed from the start of the acceptance period, the Commonwealth may consider the Services

Virginia Information Technologies Agency



as not delivered and avail itself of any remedies identified in the above paragraph entitled "Delivery Date".

41 CONTRACTOR'S MAINTENANCE POINT-OF-CONTACT

The Contractor shall provide the Commonwealth with designated points-of-contact and make arrangements to enable its maintenance representative to receive such notification or other continuous telephone coverage to permit the Commonwealth to make such contact.

PERSONS SIGNING THIS CONTRACT ARE AUTHORIZED REPRESENTATIVES OF EACH PARTY TO THIS CONTRACT AND ACKNOWLEDGE THAT EACH PARTY AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THE CONTRACT.

ON24, INC.

COMMONWEALTH OF VIRGINIA

BY: Rosemary Florcz

BY: John J. Tackley

NAME: Rosemary Florcz

NAME: JOHN J. TACKLEY

TITLE: Government Sales Manager

TITLE: SR. Sourcing Consultant

DATE: 7-29-04

DATE: 8/2/2004



**ATTACHMENT "A"  
TO  
VA-040730-ON24**

Attachment "A" is hereby incorporated into and made an integral part of Agreement Number VA-040730-ON24 between ON24, Inc. and the Commonwealth of Virginia.

**CONTRACTORS DO NOT ADD ANY INFORMATION TO THIS ATTACHMENT "A" AT THIS TIME. THIS ATTACHMENT WILL BE COMPLETED DURING CONTRACT NEGOTIATIONS BETWEEN THE PARTIES TO THIS AGREEMENT.**

**LISTING OF ALL PRODUCT PRICES**

Appendix A – Price List

**LISTING OF ALL PRODUCT MAINTENANCE PRICES**

Appendix A – Price List

**SHIP TO BILL TO ADDRESSES**

Specified on each eVA Direct Order

**DELIVERY SCHEDULE**

30 days ARO or, as specified in each Quotation

**AGENCY POINTS OF CONTACT**

As specified in each eVA Direct Order.

Virginia Information Technologies Agency



ATTACHMENT "B"

TO

RFP 2003-027

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal Contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

c. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and Contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature: Rosemary Florez

Printed Name: Rosemary Florez

Organization: ON24, Inc.

Date: 7/29/04

## 6. Appendix A: Price List

<b>Video Encoding</b>	<b>\$75/hr</b>
<b>Transcoding</b>	<b>\$75/hr</b>
<b>Video Webcast</b>	<b>\$300-2hrs/250 part.</b>
<b>Audio Webcast</b>	<b>\$150-2hrs/250 part.</b>
<b>Archiving-Audio</b>	<b>\$150/mo.</b>
<b>Archiving-Video</b>	<b>\$25/GB/mo</b>
<b>OnDemand Storage</b>	<b>\$25/GB/mo</b>
<b>Streaming/Authoring/Slide integration</b>	<b>\$0.003/MB</b>
<b>Live Event</b>	<b>\$500/Hr</b>
<b>Production Staff</b>	<b>\$150/hr./crew member</b>
<b>1-Camera Production</b>	<b>\$1425/day-2 crew</b>
<b>2-Camera Production</b>	<b>\$2625/day-3 crew</b>
<b>3-Camera Production</b>	<b>\$4,200/day-5 crew</b>
<b>Editing</b>	<b>\$1000/presentation</b>
<b>Audio Encoding</b>	<b>\$75/hr.</b>
<b>Branded Interface page</b>	<b>\$1,200</b>
<b>Tape backup</b>	<b>\$200/day</b>
<b>Video encoder provisioning</b>	<b>\$250 for live event</b>
<b>ISDN Line</b>	<b>\$500/day each</b>
<b>ISDN Toll Charges</b>	<b>\$50/hr.</b>
<b>Fiber</b>	<b>\$500/hr.</b>
<b>Polycom unit</b>	<b>\$750/day</b>
<b>Support toll free phone</b>	<b>25 calls-\$250/hr</b>
<b>Support Email</b>	<b>\$200/mo. Unlimited</b>
<b>Schedule/agenda page</b>	<b>\$500</b>
<b>Satellite downlink</b>	<b>\$250/day truck</b>
<b>Reports</b>	<b>Included</b>
<b>Video Wedcast Production</b>	<b>\$150/hr.</b>
<b>Audio Webcast Production</b>	<b>\$150/hr.</b>
<b>Transcription</b>	<b>\$300/hr.</b>
<b>Netscape Support</b>	<b>Included</b>
<b>Polling/Q&amp;A/Email Form</b>	<b>Included</b>
<b>Secure Content Delivery</b>	<b>Included in Event fee</b>
<b>Scheduling/Encoding Automation</b>	<b>\$250/hr</b>
<b>Teleprompter</b>	<b>\$400/day</b>