

**State of Minnesota**  
**Equity Select Terms and Conditions**

(For use with Equity Select Contracts valued under \$100,000.00)

**1 Conditions of Payment**

As a condition of payment, Contractor must perform to the satisfaction of the State, as determined at the discretion of the State, and not in violation of any federal, state or local laws, ordinances, rules and regulations.

**2 Pre-Existing Intellectual Property**

State and Contractor shall each retain ownership of, and all rights, title and interest in their respective pre-existing intellectual property and all derivative works arising therefrom. Contractor grants to the State a perpetual, fully paid, non-exclusive, royalty-free, irrevocable license to use and modify any pre-existing intellectual property and derivative works delivered to State under this Contract, solely for governmental purposes, not for commercial purposes. Should the terms of any related license agreement conflict with the terms of this Contract or the laws of the State of Minnesota, the terms of this Contract and laws of the State of Minnesota shall prevail, and the conflicting terms shall be null and void.

**3 Force Majeure**

Neither party hereto shall be considered in default in the performance of its obligations to the extent that performance of any such obligations is prevented or delayed by acts of God, war, riot or other catastrophes beyond the reasonable control of the party unless the act or occurrence could have been reasonably foreseen and reasonable action could have been taken to prevent the delay or failure to perform. A party defaulting under this provision must provide the other party prompt written notice of the default and take all necessary steps to bring about performance as soon as practicable.

**4 Liability**

Each party shall be responsible for its own acts and behavior and the results thereof. Minnesota Tort Claims Act, Minnesota Statutes §3.736 and other applicable laws govern the State's liability. Contractor, its principals, members and employees shall not be liable for any actions, damages, claims, liabilities, costs, expenses, or losses in any way arising out of or relating to the goods provided or general or professional/technical services performed hereunder for an aggregate amount in excess of the greater amount of either: a) ten times the total obligation amount; or b) Contractor's insurance coverage. This limitation of liability does not apply to damages for personal injury or death, or for claims arising from Contractor's unauthorized release of non-public or not-public data.

**5 State Audit**

Pursuant to Minn. Stat. § 16C.05, subd. 5, the books, records, documents, and accounting procedures and practices of the Contractor and its employees or representatives, relevant to this Contract must be made available and subject to examination by the State, including the State, Legislative Auditor, and State Auditor, for a minimum of six years from the end of this Contract.

**6 Government Data Practices**

The Contractor must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by the State in accordance with this Contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor in accordance with this Contract. The civil remedies of Minnesota Statutes Section 13.08, apply to the release of the data referred to in this Article by either the Contractor or the State. In the event the Contractor receives a request to release the data referred to in this Article, the Contractor must immediately notify the State. The State will give the Contractor instructions concerning the release of the data to the requesting party before the data is released.

**7 Data Disclosure**

Under Minnesota Statute § 270C.65, subdivision 3, and other applicable law, the Contractor consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state laws which could result in action requiring the Contractor to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities.

**8 Governing Law, Jurisdiction and Venue**

This Contract is governed by the laws of the State of Minnesota. Venue for all legal proceedings arising out of this Contract, or breach thereof, will be in the state or federal court with competent jurisdiction in Ramsey County, Minnesota. Contractor shall comply with federal, state, and local law, including Minn. Stat. § 181.59, Minn. Stat. Ch. 363 prohibiting discrimination, and applicable laws and rules regarding suspension and debarment.

**9 Prohibited Substances**

Contractor shall not provide any goods containing triclosan, coal tar, or polybrominated diphenyl ether to the State.

**10 Survival of Terms**

The following clauses survive the expiration or cancellation of this Contract: Pre-Existing Intellectual Property; Conditions of Payment; Liability; Government Data Practices; Data Disclosure; and Governing Law, Jurisdiction and Venue.

**11 Cancellation**

This Contract may be canceled by the State or the commissioner of Administration at any time, with or without cause, upon 30 days' written notice to the Contractor. In the event of a cancellation without cause, the Contractor will be entitled to payment, determined on a pro rata basis, for goods, services, or both, which have been satisfactorily received and accepted.

**12 Certification of Nondiscrimination (in accordance with Minn. Stat. § 16C.053)**

If the value of this Contract, including all extensions, is \$50,000 or more, Contractor certifies it does not engage in and has no present plans to engage in discrimination against Israel, or against persons or entities doing business in Israel, when making decisions related to the operation of the vendor's business. For purposes of this section, "discrimination" includes but is not limited to engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel, when such actions are taken in a manner that in any way discriminates on the basis of nationality or national origin and is not based on a valid business reason.

**13. E-Verify Certification (in accordance with Minn. Stat. § 16C.075)**

For services valued in excess of \$50,000, Contractor certifies that as of the date of services performed on behalf of the State, Contractor and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify Program for all newly hired employees in the United States who will perform work on behalf of the State. Contractor is responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available at [E-Verify Subcontractor Certification Form](#). All subcontractor certifications must be kept on file with Contractor and made available to the State upon request.