

MASTER CONTRACT

No. 00918

For Use by Eligible Purchasers

By and Between

**STATE OF WASHINGTON
DEPARTMENT OF ENTERPRISE SERVICES**

and

ALTURA COMMUNICATIONS SOLUTIONS LLC

Dated October 31, 2018

MASTER CONTRACT

No. 00918

IT CABLING

ALTURA COMMUNICATION SOLUTIONS LLC

This Master Contract ("Master Contract") is made and entered into by and between the State of Washington acting by and through the Department of Enterprise Services, a Washington State governmental agency ("Enterprise Services") and Altura Communication Solutions LLC, a California limited liability company ("Contractor") and is dated as of October 31, 2018.

RECITALS

- A.** Pursuant to Legislative direction codified in RCW chapter 39.26, Enterprise Services, on behalf of the State of Washington, is authorized to develop, solicit, and establish master contracts for goods and/or services for general use by Washington state agencies and certain other entities (eligible purchasers).
- B.** On behalf of the State of Washington, Enterprise Services, as part of a competitive governmental procurement, issued Request for Quotes and Qualifications No. 00918 August 24, 2018, regarding **INFORMATION TECHNOLOGY (IT) CABLING**.
- C.** Enterprise Services evaluated all responses to the Invitation For Bid and identified Contractor as an apparent successful bidder.
- D.** Enterprise Services has determined that entering into this Master Contract will meet the identified needs and be in the best interest of the State of Washington.
- E.** The purpose of this Master Contract is to enable eligible purchasers to purchase the goods and/or services as set forth herein.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises, covenants, and conditions set forth herein, the parties hereto hereby agree as follows:

- 1. TERM.** The term of this Master Contract is thirty-six (36) months, commencing November 13, 2018, and ending November 12, 2021.
- 2. ELIGIBLE PURCHASERS.** This Master Contract may be utilized by any of the following types of entities ("Purchaser"):
 - 2.1. WASHINGTON STATE AGENCIES.** This Master Contract may be utilized by:
 - Washington state agencies, departments, offices, divisions, boards, and commission; and
 - Any the following institutions of higher education: state universities, regional universities, state college, community colleges, and technical colleges.

- 2.2. MCUA PARTIES. This Master Contract also may be utilized by any of the following types of entities that have executed a Master Contract Usage Agreement with Enterprise Services:
- Political subdivisions (e.g., counties, cities, school districts, public utility districts);
 - Federal governmental agencies or entities;
 - Public-benefit nonprofit corporations (i.e., § 501(c)(3) nonprofit corporations that receive federal, state, or local funding); and
 - Federally-recognized Indian Tribes located in the State of Washington.

3. SCOPE – INCLUDED GOODS/SERVICES AND PRICE.

- 3.1. CONTRACT SCOPE. Pursuant to this Master Contract, Contractor is authorized to sell services and materials set forth in *Exhibit A – Scope and Requirements* and *Exhibit B – Prices*. Contractor shall not represent to any Purchaser under this Master Contract that Contractor has contractual authority to sell any services and materials beyond those set forth in this Master Contract and its exhibits.
- 3.2. STATE’S ABILITY TO MODIFY SCOPE OF MASTER CONTRACT. Subject to mutual agreement between the parties, Enterprise Services reserves the right to modify the services and materials included in this Master Contract; *Provided*, however, that any such modification shall be effective only upon thirty (30) days advance written notice; and *Provided further*, that any such modification must be within the scope of this Master Contract.
- 3.3. PREVAILING WAGE. This Contract is subject to Washington’s Prevailing Wage on Public Works Act (RCW 39.12). Accordingly, for work pursuant to this Contract, Contractor (including any subcontractors), unless exempt, shall pay all workers employed in the performance of any part of the work in accordance with RCW 39.12 and the rules promulgated by the Washington State Department of Labor and Industries.
- (a) WAGE RATES. Contractor, and any subcontractor or other person doing any portion of the work covered by this Contract, shall not pay any laborer, worker, or mechanic less than the applicable and most current prevailing hourly wage rates and fringe benefits for said worker’s classification to all laborers workers or mechanics who perform any work pursuant to any resulting contract, in conformance with the scope or work description of the Industrial Statistician of the Washington State Department of Labor and Industries. Contractor shall have sole responsibility to ascertain the applicable prevailing rate of wage for such classification, as set forth by the State of Washington for the County in which the work is performed. The applicable prevailing wage rates are set forth on the [website](#) for the Washington State Department of Labor and Industries. Prevailing wage rates are updated twice a year, on the first business day in February and August, and take effect thirty (30) days after publication.
- (b) STATEMENT OF INTENT TO PAY PREVAILING WAGES. Before commencing any work under this Contract, Contractor (and all subcontractors) shall file with the Washington State Department of Labor and Industries, for approval, a statement, under oath, certifying its Intent to Pay Prevailing Wages. Contractor also shall provide a copy of the Intent to Pay Prevailing Wages to Enterprise Services.
- (c) INVOICES & CONTRACT PAYMENTS. Contractor understands and agrees that each invoice for payment submitted to Enterprise Services and Purchaser shall state that prevailing

wages have been paid in accordance with the pre-filed Statement(s) of Intent, as approved. Copies of the Intent to Pay Prevailing Wages shall be posted on the work site with the address and telephone number of the Industrial Statistician of the Washington State Department of Labor and Industries where a complaint or inquiry regarding prevailing wages may be made.

- (d) AFFIDAVIT OF WAGES PAID. Upon completion of the work under this Contract, Contractor (and each subcontractor) shall file with the Washington State Department of Labor and Industries the approved Affidavit of Wages Paid. Enterprise Services shall condition final payment to Contractor on the submittal of such Affidavit of Wages Paid.
- (e) LABOR & INDUSTRIES FEES. Contractor shall pay to the Washington State Department of Labor and Industries any applicable fees for the Statement of Intent and/or Affidavit of Wages Paid that are to be submitted to the Washington State Department of Labor and Industries for certification.
- (f) PAYROLL RECORDS. Contractor shall retain payroll records pertaining to work performed for this Contract for three (3) years following expiration or termination of this Contract and, upon request, provide certified copies of such payroll records to Enterprise Services.

- 3.4. PRICE CEILING. Although Contractor may offer lower prices to Purchasers, during the term of this Master Contract, Contractor guarantees to provide the Goods/Services at no greater than the prices set forth in *Exhibit B – Prices*.

Contract pricing (labor rates) covered by Washington state law for prevailing wage, expressed as percentage markup over the prevailing wage in applicable labor classifications, may not be adjusted.

Contract pricing for materials, expressed as a percentage markup over supplier invoice, may not be adjusted.

- 3.5. E-RATE DISCOUNT PROGRAM. Contractor agrees to participate in the Federal Communication Commission's E-rate discount program established pursuant to the Telecommunications Act of 1996, in accordance with the Schools and Libraries Division (SLD) of the Universal Service Administration Corporation (USAC) requirements.
- 3.6. MASTER CONTRACT INFORMATION. Enterprise Services shall maintain and provide information regarding this Master Contract, including scope and pricing, to eligible Purchasers.

- 4. CONTRACTOR REPRESENTATIONS AND WARRANTIES.** Contractor makes each of the following representations and warranties as of the effective date of this Master Contract and at the time any order is placed pursuant to this Master Contract. If, at the time of any such order, Contractor cannot make such representations and warranties, Contractor shall not process any orders and shall, within three (3) business days notify Enterprise Services, in writing, of such breach.

- 4.1. QUALIFIED TO DO BUSINESS. Contractor represents and warrants that it is in good standing and qualified to do business in the State of Washington, that it possesses and shall keep current all required licenses and/or approvals, and that it is current, in full compliance, and has paid all applicable taxes owed to the State of Washington.

- 4.2. SUSPENSION AND DEBARMENT. Contractor represents and warrants that neither it nor its principals or affiliates presently are debarred, suspended, proposed for debarment,

declared ineligible, or voluntarily excluded from participation in any governmental contract by any governmental department or agency within the United States.

- 4.3. QUALITY OF SERVICES AND MATERIALS. Contractor represents and warrants that any services and materials sold pursuant to this Master Contract shall have the warranty as set forth in *Exhibit A – Scope and Requirements*. Contractor further represents and warrants it has clear title to the materials and that the same shall be delivered free of liens and encumbrances and that the same do not infringe any third party patent. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.
- 4.4. WAGE VIOLATIONS. Contractor represents and warrants that, during the term of this Master Contract and the three (3) year period immediately preceding the award of the Master Contract, it is not determined, by a final and binding citation and notice of assessment issued by the Washington Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction, to be in willful violation of any provision of Washington state wage laws set forth in RCW chapters 49.46, 49.48, or 49.52.
- 4.5. PAY EQUALITY. Contractor represents and warrants that, as required by Washington state law (Laws of 2017, Chap. 1, § 147), during the term of this Master Contract through June 30, 2019, it agrees to equality among its workers by ensuring similarly employed individuals are compensated as equals. For purposes of this provision, employees are similarly employed if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed. Contractor may allow differentials in compensation for its workers based in good faith on any of the following: a seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels. A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience, that is: consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential. A bona fide regional difference in compensation level must be consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential. Notwithstanding any provision to the contrary, upon breach of warranty and Contractor's failure to provide satisfactory evidence of compliance within thirty (30) days, Enterprise Services may suspend or terminate this Master Contract and any Purchaser hereunder similarly may suspend or terminate its use of the Master Contract and/or any agreement entered into pursuant to the Master Contract.
- 4.6. PROCUREMENT ETHICS AND PROHIBITION ON GIFTS. Contractor represents and warrants that it complies fully with all applicable procurement ethics restrictions including, but not limited to, restrictions against Contractor providing gifts or anything of economic value, directly or indirectly, to Purchasers' employees.
- 4.7. WASHINGTON'S ELECTRONIC BUSINESS SOLUTION (WEBS). Contractor represents and warrants that it is registered in Washington's Electronic Business Solution (WEBS), Washington's contract registration system and that, all of its information therein is current and accurate and that

throughout the term of this Master Contract, Contractor shall maintain an accurate profile in WEBS.

- 4.8. STATEWIDE PAYEE DESK. Contractor represents and warrants that it is registered with the Statewide Payee Desk, which registration is a condition to payment.
- 4.9. MASTER CONTRACT PROMOTION, ADVERTISING AND ENDORSEMENT. Contractor represents and warrants that it shall use commercially reasonable efforts both to promote and market the use of this Master Contract with eligible Purchasers and to ensure that those entities that utilize this Master Contract are eligible Purchasers. Contractor understands and acknowledges that neither Enterprise Services nor Purchasers are endorsing Contractor's services or suggesting that such services are the best or only solution to their needs. Accordingly, Contractor represents and warrants that it shall make no reference to Enterprise Services, any Purchaser, or the State of Washington in any promotional material without the prior written consent of Enterprise Services.
- 4.10. MASTER CONTRACT TRANSITION. Contractor represents and warrants that, in the event this Master Contract or a similar contract is transitioned to another contractor (e.g., Master Contract expiration or termination), Contractor shall use commercially reasonable efforts to assist Enterprise Services for a period of sixty (60) days to effectuate a smooth transition to another contractor to minimize disruption of service and/or costs to the State of Washington.

5. USING THE MASTER CONTRACT – PURCHASES.

- 5.1. ORDERING REQUIREMENTS. Eligible purchasers shall order services and materials from this Master Contract, consistent with the terms hereof and by using any ordering mechanism agreeable both to Contractor and Purchaser but, at a minimum, including the use of a purchase order. When practicable, Contractor and Purchaser also shall use telephone orders, email orders, Web-based orders, and similar procurement methods (collectively "Purchase Order"). All order documents must reference the Master Contract number.

6. INVOICING AND PAYMENT.

- 6.1. CONTRACTOR INVOICE. Contractor shall submit to Purchaser's designated invoicing contact properly itemized invoices. Such invoices shall itemize the following:
 - (a) Master Contract No. 00918
 - (b) Contractor name, address, telephone number, and email address for billing issues (i.e., Contractor Customer Service Representative)
 - (c) Contractor's Federal Tax Identification Number
 - (d) Date(s) of delivery
 - (e) Description of services and materials provided, including hourly rate and total hours for each labor category, if applicable
 - (f) Invoice amount; and
 - (g) Payment terms, including any available prompt payment discounts.

Contractor's invoices for payment shall reflect accurate Master Contract prices. Invoices will not be processed for payment until receipt of a complete invoice as specified herein.

- 6.2. **PAYMENT.** Payment is the sole responsibility of, and will be made by, the Purchaser. Payment is due within 30 days of invoice. If Purchaser fails to make timely payment(s), Contractor may invoice Purchaser in the amount of 1 percent per month on the amount overdue or a minimum of \$1. Payment will not be considered late if a check or warrant is mailed within the time specified.
- 6.3. **OVERPAYMENTS.** Contractor promptly shall refund to Purchaser the full amount of any erroneous payment or overpayment. Such refunds shall occur within thirty (30) days of written notice to Contractor; *Provided*, however, that Purchaser shall have the right to elect to have either direct payments or written credit memos issued. If Contractor fails to make timely payment(s) or issuance of such credit memos, Purchaser may impose a 1 percent (1 percent) per month on the amount overdue 30 days after notice to the Contractor.
- 6.4. **NO ADVANCE PAYMENT.** No advance payments shall be made for any products or services furnished by Contractor pursuant to this Master Contract.
- 6.5. **NO ADDITIONAL CHARGES.** Unless otherwise specified herein, Contractor shall not include or impose any additional charges including, but not limited to, charges for shipping, handling, or payment processing.
- 6.6. **TAXES/FEES.** Contractor promptly shall pay all applicable taxes on its operations and activities pertaining to this Master Contract. Failure to do so shall constitute breach of this Master Contract. Unless otherwise agreed, Purchaser shall pay applicable sales tax imposed by the State of Washington on purchased goods and/or services. Contractor, however, shall not make any charge for federal excise taxes and Purchaser agrees to furnish Contractor with an exemption certificate where appropriate.
- 7. OWNERSHIP IN DATA.** Purchaser and Contractor agree that all data and work products (collectively called "Work Product") produced pursuant to this Contract shall be considered work made for hire under the U.S. Copyright Act, 17 U.S.C. §101 et seq, and shall be owned by Purchaser. Contractor is hereby commissioned to create the Work Product. Work Product includes, but is not limited to, discoveries, formulae, ideas, improvements, inventions, methods, models, processes, techniques, findings, conclusions, recommendations, reports, designs, plans, diagrams, drawings, Software, databases, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions, to the extent provided by law. Ownership includes the right to copyright, patent, register and the ability to transfer these rights and all information used to formulate such Work Product. If for any reason the Work Product would not be considered a work made for hire under applicable law, Contractor assigns and transfers to Purchaser the entire right, title and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof. Contractor shall not use or in any manner disseminate any Work Product to any third party, or represent in any way Contractor ownership in any Work Product, without the prior written permission of Purchaser. Contractor shall take all reasonable steps necessary to ensure that its agents, employees, or Subcontractors shall not copy or disclose, transmit or perform any Work Product or any portion thereof, in any form, to any third party.
- 8. PUBLIC WORKS.** This Master Contract is not a "Public Works" contract. Depending on the nature of the work to be performed, the Purchaser may declare any project (or work) performed under the contract to be a "Public Works." If a project is a Public Works, it will be declared in the Purchase Order/Statement of Work. It is the responsibility of the Purchaser to make a determination as to whether work performed under this agreement qualifies as a public work. See RCW 39.04 for more

information. Contractor shall comply with all statutory and administrative requirements concerning public works, including without limitation, prevailing wage.

9. PROTECTION OF PURCHASER'S CONFIDENTIAL INFORMATION.

- 9.1. CONFIDENTIAL INFORMATION. Contractor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Master Contract or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either Chapter 42.56 RCW or other state or federal statutes ("Confidential Information"). Confidential Information includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records, Purchaser source code or object code, or Purchaser or State security information.
- 9.2. PROTECTION OF CONFIDENTIAL INFORMATION. Contractor agrees to hold Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this Master Contract, to release it only to authorized employees or Subcontractors requiring such information for the purposes of carrying out this Master Contract, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without Purchaser's express written consent or as provided by law. Contractor agrees to release such information or material only to employees or Subcontractors who have signed a nondisclosure agreement, the terms of which have been previously approved by Purchaser. Contractor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information. Immediately upon expiration or termination of the Purchase Order, Contractor shall, at Purchaser's option: (i) certify to Purchaser that Contractor has destroyed all Confidential Information; or (ii) return all Confidential Information to Purchaser; or (iii) take whatever other steps Purchaser requires of Contractor to protect Purchaser's Confidential Information.

10. CONTRACT MANAGEMENT.

- 10.1. CONTRACT ADMINISTRATION AND NOTICES. Except for legal notices, the parties hereby designate the following contract administrators as the respective single points of contact for purposes of this Master Contract. Enterprise Services' contract administrator shall provide Master Contract oversight. Contractor's contract administrator shall be Contractor's principal contact for business activities under this Master Contract. The parties may change contractor administrators by written notice as set forth below.

Any notices required or desired shall be in writing and sent by U.S. mail, postage prepaid, or sent via email, and shall be sent to the respective addressee at the respective address or email address set forth below or to such other address or email address as the parties may specify in writing:

Enterprise Services

Attn: Bart Potter
 Washington Dept. of Enterprise Services
 PO Box 41411
 Olympia, WA 98504-1411
 (360) 407-9431
bart.potter@des.wa.gov

Contractor

Attn: Mary Ellen Cardenas
 Altura Communication Solutions LLC
 1540 S. Lewis St.
 Anaheim, CA 92805-6423
 Tel: 714-948-8730
 Email: mcardenas@alturacs.com

Notices shall be deemed effective upon the earlier of receipt, if mailed, or, if emailed, upon transmission to the designated email address of said addressee.

- 10.2. CONTRACTOR CUSTOMER SERVICE REPRESENTATIVE. Contractor shall designate a customer service representative (and inform Enterprise Services of the same) who shall be responsible for addressing Purchaser issues pertaining to this Master Contract.
- 10.3. LEGAL NOTICES. Any legal notices required or desired shall be in writing and delivered by U.S. certified mail, return receipt requested, postage prepaid, or sent via email, and shall be sent to the respective addressee at the respective address or email address set forth below or to such other address or email address as the parties may specify in writing:

Enterprise Services

Attn: Legal Services Manager
 Washington Dept. of Enterprise Services
 PO Box 41411
 Olympia, WA 98504-1411
 Tel: 360-407-9038
 Email: greg.tolbert@des.wa.gov

Contractor

Attn: Mary Ellen Cardenas
 Altura Communication Solutions LLC
 1540 S. Lewis St.
 Anaheim, CA 92805-6423
 Tel: 714-948-8730
 Email: mcardenas@alturacs.com

Notices shall be deemed effective upon the earlier of receipt when delivered, or, if mailed, upon return receipt, or, if emailed, upon transmission to the designated email address of said addressee.

11. CONTRACTOR SALES REPORTING; VENDOR MANAGEMENT FEE; AND CONTRACTOR REPORTS.

- 11.1. MASTER CONTRACT SALES REPORTING. Contractor shall report total Master Contract sales quarterly to Enterprise Services, as set forth below.
- (a) Master Contract Sales Reporting System. Contractor shall report quarterly Master Contract sales in Enterprise Services' Master Contract Sales Reporting System. Enterprise Services will provide Contractor with a login password and a vendor number. The password and vendor number will be provided to the Sales Reporting Representative(s) listed on Contractor's Bidder Profile.
- (b) Data. Each sales report must identify every authorized Purchaser by name as it is known to Enterprise Services and its total combined sales amount invoiced during the reporting period (i.e., sales of an entire agency or political subdivision, not its individual subsections). The "Miscellaneous" option may be used only with prior approval by Enterprise Services. Upon request, Contractor shall provide contact information for all authorized purchasers specified herein during the term of the Master Contract. If there are no Master Contract sales during the reporting period, Contractor must report zero sales.

- (c) Due dates for Master Contract Sales Reporting. Quarterly Master Contract Sales Reports must be submitted electronically by the following deadlines for all sales invoiced during the applicable calendar quarter:

FOR CALENDAR QUARTER ENDING	MASTER CONTRACT SALES REPORT DUE
March 31:	April 30
June 30:	July 31
September 30:	October 31
December 31:	January 31

11.2. **VENDOR MANAGEMENT FEE.** Contractor shall pay to Enterprise Services a vendor management fee (“VMF”) of 1.50 percent on the purchase price for all Master Contract sales (the purchase price is the total invoice price less applicable sales tax).

- (a) The sum owed by Contractor to Enterprise Services as a result of the VMF is calculated as follows:

$$\text{Amount owed to Enterprise Services} = \text{Total Master Contract sales invoiced (not including sales tax)} \times .0150.$$

- (b) The VMF must be rolled into Contractor’s current pricing. The VMF must not be shown as a separate line item on any invoice unless specifically requested and approved by Enterprise Services.
- (c) Enterprise Services will invoice Contractor quarterly based on Master Contract sales reported by Contractor. Contractors are not to remit payment until they receive an invoice from Enterprise Services. Contractor’s VMF payment to Enterprise Services must reference this Master Contract number, work request number (if applicable), the year and quarter for which the VMF is being remitted, and the Contractor’s name as set forth in this Master Contract, if not already included on the face of the check.
- (d) Failure to accurately report total net sales, to submit a timely usage report, or remit timely payment of the VMF, may be cause for Master Contract termination or the exercise of other remedies provided by law. Without limiting any other available remedies, the Parties agree that Contractor’s failure to remit to Enterprise Services timely payment of the VMF shall obligate Contractor to pay to Enterprise Services, to offset the administrative and transaction costs incurred by the State to identify, process, and collect such sums. The sum of \$200.00 or twenty-five percent (25 percent) of the outstanding amount, whichever is greater, or the maximum allowed by law, if less.
- (e) Enterprise Services reserves the right, upon thirty (30) days advance written notice, to increase, reduce, or eliminate the VMF for subsequent purchases, and reserves the right to renegotiate Master Contract pricing with Contractor when any subsequent adjustment of the VMF might justify a change in pricing.

11.3. **ANNUAL MASTER CONTRACT SALES REPORT.** Contractor shall provide to Enterprise Services a detailed annual Master Contract sales report. Such report shall include, at a minimum:

product description, part number or other product identifier, per unit quantities sold, and Master Contract price. This report must be provided in an electronic format that can be read by MS Excel.

- 11.4. SMALL BUSINESS INCLUSION. Upon request by Enterprise Services, Contractor shall provide, within 30 days, an Affidavit of Amounts Paid. Such Affidavit of Amounts Paid either shall state, if applicable, that Contractor still maintains its MWBE certification or state that its subcontractor(s) still maintain(s) its/their MWBE certification(s) and specify the amounts paid to each certified MWBE subcontractor under this Master Contract. Contractor shall maintain records supporting the Affidavit of Amounts Paid in accordance with this Master Contract's records retention requirements.

12. RECORDS RETENTION AND AUDITS.

- 12.1. RECORDS RETENTION. Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Contract and orders placed by Purchasers under it to the extent and in such detail as shall adequately reflect performance and administration of payments and fees. Contractor shall retain such records for a period of six (6) years following expiration or termination of this Master Contract or final payment for any order placed by a Purchaser against this Master Contract, whichever is later; *Provided*, however, that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved.
- 12.2. AUDIT. Enterprise Services reserves the right to audit, or have a designated third party audit, applicable records to ensure that Contractor has properly invoiced Purchasers and that Contractor has paid all applicable contract management fees. Accordingly, Contractor shall permit Enterprise Services, any Purchaser, and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Contract or orders placed by a Purchaser under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of six (6) years following expiration or termination of this Master Contract or final payment for any order placed by a Purchaser against this Master Contract, whichever is later; *Provided*, however, that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved.
- 12.3. OVERPAYMENT OF PURCHASES OR UNDERPAYMENT OF FEES. Without limiting any other remedy available to any Purchaser, Contractor shall (a) reimburse Purchasers for any overpayments inconsistent with the terms of this Master Contract or orders, at a rate of 125 percent of such overpayments, found as a result of the examination of the Contractor's records; and (b) reimburse Enterprise Services for any underpayment of fees, at a rate of 125 percent of such fees found as a result of the examination of the Contractor's records (e.g., if Contractor underpays the Vendor Management Fee by \$500, Contractor would be required to pay to Enterprise Services $\$500 \times 1.25 = \625).

13. INSURANCE.

- 13.1. **REQUIRED INSURANCE.** During the Term of this Master Contract, Contractor, at its expense, shall maintain in full force and effect the insurance coverages set forth in *Exhibit C – Insurance Requirements*.
- 13.2. **WORKERS COMPENSATION.** Contractor shall comply with applicable workers compensation statutes and regulations (e.g., RCW Title 51, Industrial Insurance). If Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, Enterprise Services may terminate this Master Contract. This provision does not waive any of the Washington State Department of Labor and Industries (L&I) rights to collect from Contractor. In addition, Contractor waives its immunity under RCW Title 51 to the extent it is required to indemnify, defend, and hold harmless the State of Washington and its agencies, officials, agents, or employees.

14. CLAIMS.

- 14.1. **ASSUMPTION OF RISKS; CLAIMS BETWEEN THE PARTIES.** Contractor assumes sole responsibility and all risks of personal injury or property damage to itself and its employees, agents, and Contractors in connection with Contractor's operations under this Master Contract. Enterprise Services has made no representations regarding any factor affecting Contractor's risks. Contractor shall pay for all damage to any Purchaser's property resulting directly or indirectly from its acts or omissions under this Master Contract, even if not attributable to negligence by Contractor or its agents.
- 14.2. **THIRD-PARTY CLAIMS; INDEMNITY.** To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless Enterprise Services and any Purchaser and their employees and agents from and against all claims, demands, judgments, assessments, damages, penalties, fines, costs, liabilities or losses including, without limitation, sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees (collectively "claims") arising from any act or omission of Contractor or its successors, agents, and subcontractors under this Master Contract, except claims caused solely by Enterprise Services or any Purchasers' negligence. Contractor shall take all steps needed to keep Purchaser's property free of liens arising from Contractor's activities, and promptly obtain or bond the release of any such liens that may be filed.

15. DISPUTE RESOLUTION. The parties shall cooperate to resolve any dispute pertaining to this Master Contract efficiently, as timely as practicable, and at the lowest possible level with authority to resolve such dispute. If, however, a dispute persists and cannot be resolved, it may be escalated within each organization. In such situation, upon notice by either party, each party, within five (5) business days shall reduce its description of the dispute to writing and deliver it to the other party. The receiving party then shall have three (3) business days to review and respond in writing. In the event that the parties cannot then agree on a resolution of the dispute, the parties shall schedule a conference between the respective senior manager of each organization to attempt to resolve the dispute. In the event the parties cannot agree, either party may resort to court to resolve the dispute.

16. SUSPENSION AND TERMINATION; REMEDIES.

- 16.1. **SUSPENSION AND TERMINATION FOR DEFAULT.** Enterprise Services may suspend Contractor's operations under this Master Contract immediately by written cure notice of any default. Suspension shall continue until the default is remedied to Enterprise Services' reasonable

satisfaction; *Provided*, however, that, if after 30 days from such a suspension notice, Contractor remains in default, Enterprise Services may terminate Contractor's rights under this Master Contract. All of Contractor's obligations to Enterprise Services and Purchasers survive termination of Contractor's rights under this Master Contract, until such obligations have been fulfilled.

16.2. DEFAULT. Each of the following events shall constitute default of this Master Contract by Contractor:

- (a) Contractor fails to perform or comply with any of the terms or conditions of this Master Contract including, but not limited to, Contractor's obligation to pay contract management fees when due;
- (b) Contractor breaches any representation or warranty provided herein; or
- (c) Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary.

16.3. REMEDIES FOR DEFAULT.

- (a) Enterprise Services' rights to suspend and terminate Contractor's rights under this Master Contract are in addition to all other available remedies.
- (b) In the event of termination for default, Enterprise Services may exercise any remedy provided by law including, without limitation, the right to procure for all Purchasers replacement goods and/or services. In such event, Contractor shall be liable to Enterprise Services for damages as authorized by law including, but not limited to, any price difference between the Master Contract price and the replacement or cover price as well as any administrative and/or transaction costs directly related to such replacement procurement – e.g., the cost of the competitive procurement.

16.4. LIMITATION ON DAMAGES. Notwithstanding any provision to the contrary, the parties agree that in no event shall any party or Purchaser be liable to the other for exemplary or punitive damages.

16.5. GOVERNMENTAL TERMINATION.

- (a) Termination for Withdrawal of Authority. Enterprise Services may suspend or terminate this Master Contract if, during the term hereof, Enterprise Services' procurement authority is withdrawn, reduced, or limited such that Enterprise Services, in its judgment, would lack authority to enter into this Master Contract; *Provided*, however, that such suspension or termination for withdrawal of authority shall only be effective upon twenty (20) days prior written notice; and *Provided further*, that such suspension or termination for withdrawal of authority shall not relieve any Purchaser from payment for goods and/or services already ordered as of the effective date of such notice. Except as stated in this provision, in the event of such suspension or termination for withdrawal of authority, neither Enterprise Services nor any Purchaser shall have any obligation or liability to Contractor.
- (b) Termination for Convenience. Enterprise Services, for convenience, may terminate this Master Contract; *Provided*, however, that such termination for convenience must, in Enterprise Services' judgment, be in the best interest of the State of Washington; and *Provided further*, that such termination for convenience shall only be effective upon sixty (60) days prior written notice; and *Provided further*, that

such termination for convenience shall not relieve any Purchaser from payment for goods and/or services already ordered as of the effective date of such notice. Except as stated in this provision, in the event of such termination for convenience, neither Enterprise Services nor any Purchaser shall have any obligation or liability to Contractor.

- 16.6. TERMINATION PROCEDURE. Regardless of basis, in the event of suspension or termination (in full or in part), the parties shall cooperate to ensure an orderly and efficient suspension or termination. Accordingly, Contractor shall deliver to Purchasers all goods and/or services that are complete (or with approval from Enterprise Services, substantially complete) and Purchasers shall inspect, accept, and pay for the same in accordance with this Master Contract and the applicable Purchase Order. Unless directed by Enterprise Services to the contrary, Contractor shall not process any orders after notice of suspension or termination inconsistent therewith.

17. GENERAL PROVISIONS.

- 17.1. TIME IS OF THE ESSENCE. Time is of the essence for each and every provision of this Master Contract.
- 17.2. COMPLIANCE WITH LAW. Contractor shall comply with all applicable law.
- 17.3. INTEGRATED AGREEMENT. This Master Contract constitutes the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior negotiations, representations, and understandings between them. There are no representations or understandings of any kind not set forth herein.
- 17.4. AMENDMENT OR MODIFICATION. Except as set forth herein, this Master Contract may not be amended or modified except in writing and signed by a duly authorized representative of each party hereto.
- 17.5. AUTHORITY. Each party to this Master Contract, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this Master Contract and that its execution, delivery, and performance of this Master Contract has been fully authorized and approved, and that no further approvals or consents are required to bind such party.
- 17.6. NO AGENCY. The parties agree that no agency, partnership, or joint venture of any kind shall be or is intended to be created by or under this Master Contract. Neither party is an agent of the other party nor authorized to obligate it.
- 17.7. ASSIGNMENTS. Contractor may not assign its rights under this Master Contract without Enterprise Services' prior written consent and Enterprise Services may consider any attempted assignment without such consent to be void; *Provided*, however, that, if Contractor provides written notice to Enterprise Services within thirty (30) days, Contractor may assign its rights under this Master Contract in full to any parent, subsidiary, or affiliate of Contractor that controls or is controlled by or under common control with Contractor, is merged or consolidated with Contractor, or purchases a majority or controlling interest in the ownership or assets of Contractor. Unless otherwise agreed, Contractor guarantees prompt performance of all obligations under this Master Contract notwithstanding any prior assignment of its rights.

- 17.8. **BINDING EFFECT; SUCCESSORS AND ASSIGNS.** This Master Contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
- 17.9. **PUBLIC INFORMATION.** This Master Contract and all related documents are subject to public disclosure as required by Washington's Public Records Act, RCW chapter 42.56.
- 17.10. **ASSIGNMENT OF ANTITRUST RIGHTS REGARDING PURCHASED GOODS/SERVICES.** Contractor irrevocably assigns to Enterprise Services, on behalf of the State of Washington, any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws in connection with any goods and/or services provided in Washington for the purpose of carrying out the Contractor's obligations under this Master Contract, including, at Enterprise Services' option, the right to control any such litigation on such claim for relief or cause of action.
- 17.11. **FEDERAL FUNDS.** To the extent that any Purchaser uses federal funds to purchase goods and/or services pursuant to this Master Contract, such Purchaser shall specify, with its order, any applicable requirement or certification that must be satisfied by Contractor at the time the order is placed or upon delivery.
- 17.12. **SEVERABILITY.** If any provision of this Master Contract is held to be invalid or unenforceable, such provision shall not affect or invalidate the remainder of this Master Contract, and to this end the provisions of this Master Contract are declared to be severable. If such invalidity becomes known or apparent to the parties, the parties agree to negotiate promptly in good faith in an attempt to amend such provision as nearly as possible to be consistent with the intent of this Master Contract.
- 17.13. **WAIVER.** Failure of either party to insist upon the strict performance of any of the terms and conditions hereof, or failure to exercise any rights or remedies provided herein or by law, or to notify the other party in the event of breach, shall not release the other party of any of its obligations under this Master Contract, nor shall any purported oral modification or rescission of this Master Contract by either party operate as a waiver of any of the terms hereof. No waiver by either party of any breach, default, or violation of any term, warranty, representation, contract, covenant, right, condition, or provision hereof shall constitute waiver of any subsequent breach, default, or violation of the same or other term, warranty, representation, contract, covenant, right, condition, or provision.
- 17.14. **SURVIVAL.** All representations, warranties, covenants, agreements, and indemnities set forth in or otherwise made pursuant to this Master Contract shall survive and remain in effect following the expiration or termination of this Master Contract, *Provided*, however, that nothing herein is intended to extend the survival beyond any applicable statute of limitations periods.
- 17.15. **GOVERNING LAW.** The validity, construction, performance, and enforcement of this Master Contract shall be governed by and construed in accordance with the laws of the State of Washington, without regard to its choice of law rules.
- 17.16. **JURISDICTION AND VENUE.** In the event that any action is brought to enforce any provision of this Master Contract, the parties agree to submit to exclusive in personam jurisdiction in Thurston County Superior Court for the State of Washington and agree that in any such action venue shall lie exclusively at Olympia, Washington.
- 17.17. **ATTORNEYS' FEES.** Should any legal action or proceeding be commenced by either party in order to enforce this Master Contract or any provision hereof, or in connection with any

alleged dispute, breach, default, or misrepresentation in connection with any provision herein contained, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs incurred in connection with such action or proceeding, including costs of pursuing or defending any legal action, including, without limitation, any appeal, discovery, or negotiation and preparation of settlement arrangements, in addition to such other relief as may be granted.

- 17.18. FAIR CONSTRUCTION AND INTERPRETATION. The provisions of this Master Contract shall be construed as a whole according to their common meaning and not strictly for or against any party and consistent with the provisions contained herein in order to achieve the objectives and purposes of this Master Contract. Each party hereto and its counsel has reviewed and revised this Master Contract and agrees that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be construed in the interpretation of this Master Contract. Each term and provision of this Master Contract to be performed by either party shall be construed to be both a covenant and a condition.
- 17.19. FURTHER ASSURANCES. In addition to the actions specifically mentioned in this Master Contract, the parties shall each do whatever may reasonably be necessary to accomplish the transactions contemplated in this Master Contract including, without limitation, executing any additional documents reasonably necessary to effectuate the provisions and purposes of this Master Contract.
- 17.20. EXHIBITS. All exhibits referred to herein are deemed to be incorporated in this Master Contract in their entirety.
- 17.21. CAPTIONS AND HEADINGS. The captions and headings in this Master Contract are for convenience only and are not intended to, and shall not be construed to, limit, enlarge, or affect the scope or intent of this Master Contract nor the meaning of any provisions hereof.
- 17.22. ELECTRONIC SIGNATURES. A signed copy of this Master Contract or any other ancillary agreement transmitted by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Master Contract or such other ancillary agreement for all purposes.
- 17.23. COUNTERPARTS. This Master Contract may be executed in any number of counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Master Contract at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Master Contract.

EXECUTED as of the date and year first above written.

STATE OF WASHINGTON
Department of Enterprise Services

ALTURA COMMUNICATION SOLUTIONS LLC, a California
limited liability company

By: _____
Type Name
Its: Title

By: _____
Type Name
Its: Title

Exhibit A – Scope and Requirements

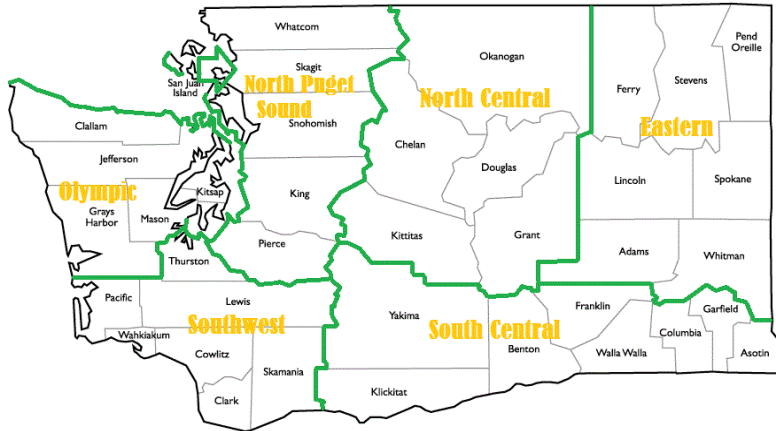
Master Contract 00918

ALTURA COMMUNICATIONS SOLUTIONS LLC

1. SCOPE

Altura Communications will provide IT cabling materials and services to new and previously installed Local Area Networks (LANs) and Wide Area Networks (WANs) and other voice, data or video systems. Inside work under Master Contract 00918 will include IT cabling installations in new buildings, major renovated buildings and additions to existing cabling networks.

2. REGIONS AND CATEGORIES



Altura Communications will provide contract services in the following categories and regions:

Category	Region
Inside	Southwest
	North Central
	South Central
	Eastern
Outside	None

3. GENERAL REQUIREMENTS

The Contractor shall furnish all necessary labor, supervision, tools, materials and testing required to complete the project as specified in each Purchase Order or Statement of Work (SOW) entered into with a Purchaser under the Master Contract.

4. STANDARDS COMPLIANCE

All work and materials covered by this Master Contract shall be performed in compliance with Chapter 19.28.410 Revised Code of Washington, Chapter 296-46B-010 Washington Administrative Code, and the most current versions of the following mandatory standards:

- NFPA-70 National Electrical Code
- ANSI\TIA\EIA 568 series, Commercial Building Telecommunications Cabling Standard
- ANSI\TIA\EIA 569 series, Commercial Building Standard for Telecommunications Pathways and Spaces, with ANSI/TIA-569-D-1 "Addendum 1, Revised Temperature and Humidity Requirements for Telecommunications Spaces."
- ANSI-J-STD-607-C, Commercial Building Grounding (Earthing) and Bonding Requirements for Telecommunications
- Any additional codes/standards required under a Purchaser's Purchase Order/SOW or by state or federal regulation. Contractor will be held responsible for compliance with the most recent versions of the specified codes/standards/regulations and any revisions or updates.

Should conflicts arise with the foregoing, the Department of Enterprise Services will have responsibility for making final interpretation.

5. CONTRACTOR LICENSING/CERTIFICATION AND STAFFING.

Contractor shall maintain the following requirements during the term of the Master Contract:

- a) Contractor shall maintain certification from the Manufacturer(s) that provides structured cabling system twenty-five (25) year or more warranties as identified in Contractor's response to this RFQQ.
- b) Contractor shall have employed staff or subcontractors that meet the certification criteria for installation for each Manufacturer upon which award of this Master Contract is predicated.
- c) Contractor shall maintain one or more Registered Communications Distribution Designers (RCDD) on staff. A subcontractor cannot fulfill this requirement.
- d) Contractor shall have employed staff or subcontractors that meet the Licensed Electricians licensing requirements of chapter 19.28 RCW.
- e) Contractor shall employ an individual who currently possesses a telecommunications administrator certificate that meets the requirements of chapter 19.28.430 RCW.

6. STATEMENT OF WORK/PURCHASE ORDER

All services shall be performed pursuant to the terms of this Contract and shall be documented in a Statement of Work (SOW) or Purchase Order established between Purchaser and Contractor. No work shall be performed by Contractor until an SOW or Purchase Order is executed by Contractor and Purchaser and is received by Contractor. Contractor shall keep a record of every Purchase Order/SOW established under this Master Contract. Contractor shall provide a copy of any Purchase Order/SOW to Enterprise Services upon request.

7. SITE SECURITY AND ACCESS

While on Purchaser's premises, Contractor, its agents, employees, or Subcontractors shall conform in all respects with physical, fire, and security regulations. Contractor understands that all Purchaser's building entrances are controlled for access. Contractor agrees to become familiar with Purchaser's building and security policies, and further agrees to observe and comply with all Purchaser's building and security policies or procedures. Contractor understands that in order to obtain access to Purchaser's premises, Contractor shall be issued a security badge by Purchaser. Contractor shall provide certain personal information, including valid government issued photo identification, prior to obtaining a security badge. Contractor further understands that Purchaser will collect and retain such personal information for so long as the contract is in effect and such individual(s) has access to the premises. Purchaser reserves the right to deny an application for a security badge. Failure of Contractor to comply with Purchaser's security and safety policies and procedures is sufficient grounds for revoking, modifying, suspending or terminating access to Purchaser's facilities.

8. SHIPPING AND RISK OF LOSS

- a) SHIPPING. Contractor shall ship all materials purchased pursuant to this Contract, freight prepaid, FOB Purchaser's destination. The method of shipment shall be consistent with the nature of the materials and hazards of transportation.
- b) RISK OF LOSS. Regardless of FOB point, Contractor agrees to bear all risks of loss, damage, or destruction of the materials ordered hereunder that occurs prior to Acceptance, except loss or damage attributable to Purchaser's fault or negligence; and such loss, damage, or destruction shall not release Contractor from any obligation hereunder. After Acceptance, the risk of loss or damage shall be borne by Purchaser, except loss or damage attributable to Contractor's fault or negligence.

9. CONSTRUCTION COORDINATION

- a) COORDINATING WITH PURCHASER. The Contractor is responsible for coordinating with the Purchaser for specific needs or requirements such as facility access, security, and work hours. Contractor shall coordinate with Purchaser to schedule project work to allow maximum access to the Contractor while minimizing disruption of Purchaser's business. According, the Contractor will frequently be required to work after normal business hours (Monday through Friday, 8 a.m. to 5 p.m.) and on weekends.
- b) NEW CONSTRUCTION. When the project is for new construction or renovation, the Contractor shall coordinate with the Purchaser's project manager to ensure that all work is performed in coordination with ongoing construction activities in such a manner as to cause the least possible disruption to other Contractors, finished surfaces, and facilitate the most efficient method for completion of the work.
- c) SAFETY REQUIREMENTS. Contractor shall observe and comply with OSHA/WISHA regulations, all applicable safety and environmental laws and regulations, and all Purchaser's rules, guidelines, policies and procedures relating to safety, workplace conditions, health and the environment, including physical, fire, evacuation, accidents, hazardous materials or situations, or other safety regulations and policies during all work operations. OSHA/WISHA guidelines and rules shall be followed and Contractor's adherence is subject to review by the State.
 - All debris generated by the Contractor shall be picked up and lawfully disposed of at the conclusion of each work day.
 - Hallways shall be kept free of debris, scaffolds, etc., during peak use.

- Traffic control devices, safety barricades, and other such devices shall be utilized where necessary.
- Where performing work at a construction site, the Contractor will be required to abide by the Purchaser's primary contractor's additional safety requirements.
- Whenever project requires Contractor to transit a firewall, the Contractor shall meet all codes and requirements for proper fire-stop materials and methods.

d) DELIVERY AND STORAGE.

- Contractor shall be responsible for making the arrangements for delivery, unloading, and storage of materials for each project.
- Purchaser will assume no responsibility for receiving any materials shipped to Purchaser's facility by or on behalf of the Contractor.
- No storage area will be available at Purchaser's facility for long-term storage of Contractor's materials or supplies unless so stated in the Purchaser's SOW.
- If providing any storage for the convenience of the Contractor, the Purchaser assumes no responsibility for any items that may be lost, stolen, damaged, or destroyed, and will not take possession of or title to any items prior to installation and Acceptance.
- All materials purchased under this Contract shall be completely installed and ready to begin Acceptance Testing within the time period specified in the Purchase Order or SOW after Contractor's receipt of an Order. Extensions will be granted at the sole option of the Purchaser. Time is of the essence with respect to delivery and Contractor may be subject to liquidated damages or termination of a Purchase Order/SOW or of this Master Contract and/or other damages available under law for failure to deliver on time.
- All deliveries made pursuant to this Contract shall be complete. Unless Contractor has obtained prior written approval from Purchaser, which shall not be withheld unreasonably, incomplete deliveries or backorders will not be accepted. All packages shall be accompanied by a packing slip that identifies all items included with the shipment and the Purchaser's Purchase Order/SOW number. Contractor's delivery receipt shall be signed by an authorized representative of Purchaser for all deliveries made hereunder.

- e) PATHWAY ACCESS. The Contractor will be responsible for providing equipment necessary to access the vertical and lateral pathways to place specified cables and support work.
- f) CARE OF PURCHASER FACILITIES AND EQUIPMENT. The Contractor is responsible for replacing, restoring and/or bringing to original condition all floors, ceilings, walls, furniture, grounds, pavement, utilities, etc. damaged by Contractor's personnel and operations. The Contractor is responsible for care of the Purchaser's affected equipment during installation/maintenance. The Contractor must notify the Purchaser if additional equipment is needed to complete the project. The Contractor is responsible for modifying, as needed, existing Equipment to ensure compatibility with any new Equipment being installed.
- g) PERMITS. The Contractor is responsible for obtaining applicable permits, unless otherwise specified by the Purchaser.

- h) **PERFORMANCE BONDS.** The Contractor is responsible for obtaining performance bonds when required by the Purchaser.
- i) **HAZARDOUS MATERIALS REMEDIATION.** It is the Contractor's responsibility to meet all state/federal rules and regulations pertaining to the presence of asbestos or other hazardous materials. Purchaser does not contemplate work in any area that contains hazardous materials, unless specified in writing in the SOW. Contractor shall cease all work in any area where hazardous materials are discovered and shall immediately notify Purchaser in writing. The Purchaser shall be responsible for determining the disposition of hazardous materials identified by the Contractor.

10. DOCUMENTATION

The Contractor must prepare and maintain records in accordance with the State and Purchaser's documentation requirements. If the Purchaser has a cabling management system, the Contractor is responsible for working with the Purchaser's cabling management personnel to provide a format compatible with this system. For remodeling projects, the Contractor is responsible for updating appropriate records.

- a) **AS-BUILT DRAWINGS.** Contractor must maintain a working copy of an as-built drawing of the Contractor's current project that shows the progress/changes of the work completed and the location of all the cabling, outlets, etc. This working document shall be updated as often as specified in the Purchase Order/SOW.

In addition, the Contractor may be required to provide up to three (3) complete sets of as-built drawings following project completion. These drawings must, at a minimum, show all distribution cable runs utilized, number of pairs added, all distribution frames affected, and the location of all instruments and outlets installed. All outlets must be physically labeled according to Purchaser specifications and these labels must be used in the as-built drawings to indicate outlet locations. All voice and data cable paths and terminations must be coded according to the Purchaser's requirements. The Purchaser is responsible for providing the Contractor with building plans that will be used to prepare the as-built drawings.

- b) **TESTING DOCUMENTATION.** Contractor must provide the results of all testing done on installed cable to the Purchaser, in either hard copy or by email, as directed by the Purchaser.
- c) **LABELING.** Labeling of jacks, wiring, panels, cross connect blocks and any other installed items that would regularly be labeled, is required for all installations, and must comply with the labeling requirements of EIA/TIA 606-B unless otherwise specified by the Purchaser. As-built drawings are to reflect this labeling methodology.

Labeling must be permanent and legible. Labeling shall be installed at cabling points identified within the specifications in the RFQQ and Purchase Order/SOW. Unless specified differently by Purchasers, all cable labels must comply with the labeling requirements of EIA/TIA 606-B.

11. CONSTRUCTION COORDINATION (ADDITIONAL) – OUTSIDE CONTRACTORS ONLY

- a) **UTILITIES.** The location of all existing buried facilities shall be located and marked prior to any digging by the Contractor. The Contractor shall be responsible for damage to any existing buried utilities.

- b) AERIAL PLACEMENT. The Contractor shall utilize standard industry hardware to attach aerial cable at pole locations (strand vices, guy hooks, cable suspension clamps, corner suspension clamps, etc.)
- c) EQUIPMENT. All gas/diesel motorized equipment shall have proper mufflers and meet any other environmental/safety requirements.
- d) TRENCHING/DIGGING/BORING. Any trenching/digging/boring sites shall be backfilled to contours and elevations of undisturbed surrounding terrain. Sidewalks restoration shall match the sidewalk being removed. Driveway and roadway restoration shall match the driveway and/or roadway being removed. To the extent necessary trench excavation shall meet the requirements of RCW 39.04.180.
- e) WORK IN MAINTENANCE HOLES. Before work commences in conduit system maintenance holes, the Contractor shall follow industry standards and WA State Regulations (WAC 296-809 – Confined Spaces) for atmospheric testing, ventilation, barricading and signage of each manhole that will be entered by the Contractor as applicable. Contractor shall maintain proper ventilation throughout the work process.
- f) OSP OPTICAL FIBER CONSTRUCTION. All optic fiber cables utilized for outside plant applications shall be suitable for outside use between buildings in a campus environment. It shall be suitable for runs in buried conduits and aerial runs. The outer jacket shall be smooth and free from holes, blisters, splits, and other surface flaws.

12. MATERIAL COMPATIBILITY, SPECIFICATIONS AND CONFIGURATIONS

- a) Contractor shall be responsible to notify Purchaser of the existence of any compatibility issues between Contractor's materials and Purchaser's already existing or planned for hardware, software or cabling. Purchaser will provide Contractor access in a timely fashion to necessary areas and equipment sites and shall provide Contractor with a list of any existing or planned for hardware, software and cabling, as necessary.
- b) Materials delivered hereunder will conform to that item's detailed specifications in all respects including, but not limited to; physical characteristics, operating characteristics, space requirements, power requirements, maintenance or warranty characteristics, modularity, compatibility, and the like, as may be modified in writing and agreed to by the parties.
- c) If requested by Purchaser, Contractor agrees to identify on all materials supplied under this Master Contract, all appropriate test points for connecting commercially available equipment monitors designed to measure system capacity, performance, or activity.

13. INSTALLATION AND SET-UP

- a) Contractor shall separately itemize all installation and physical requirements for materials as listed below:
 - Ventilation or Air conditioning
 - Electrical requirement
 - Special grounding
 - Cabling requirement

- Weight (floor loading)
 - Space requirements
 - Humidity and temperature limits
 - Noise level
- b) When installing materials, Contractor will provide, at no additional charge:
- A written installation support plan and schedule addressing staffing, site preparation requirements, resource allocation, testing procedures;
 - Site surveys;
 - Station reviews to identify user requirements; and
 - An on-site Manufacturer certified technician during and after the Project until the Materials operate properly;
- c) Contractor personnel shall be Manufacturer certified in accordance with Manufacturer requirements. Upon request Contractor will furnish a copy of such certification to Purchaser or DES.
- d) Purchaser shall have access to the work site at all times during installation.
- e) Purchaser shall prepare the environment to house the Materials based upon written requirements provided by Contractor in its installation plan, as modified in writing and agreed to by the parties. Contractor's specialists shall be available to provide required consultation related to environment preparation at no extra cost to Purchaser apart from the costs presented in Contractor's Response. Any requirements for the environment not disclosed in Contractor's installation plan will be completed by Contractor at no additional cost to Purchaser. Purchaser will provide standard commercial power. Contractor shall install an external, Manufacturer recommended surge protector between the power source and each major system.
- f) Contractor shall be responsible for acquiring any required permits.
- g) Contractor shall replace, restore and/or return all floors, ceilings, walls, grounds, pavement, etc., damaged by Contractor personnel to their original condition at no additional cost to Purchaser.
- h) All debris generated by Contractor shall be picked up and lawfully disposed of at the conclusion of each work day. Hallways shall be kept free of debris, scaffolds, etc., during peak use. Traffic control devices, safety barricades, and other such devices shall be utilized where necessary.
- i) Contractor is hereby notified that fiber optic, communications, control systems, and other types of cable (collectively called "cabling") may be located within or on Purchaser's grounds and facilities.
- j) Before beginning work on or about Purchaser's premises, Contractor shall contact Purchaser's communications network control center to determine if Purchaser's cabling systems will be impacted and to make necessary arrangements. Prior to the commencement of any work that may impact underground utilities not owned by Purchaser, Contractor

agrees to notify affected owners under the requirements of chapter 19.122 RCW, Underground Utilities.

- k) Purchaser hereby permits Contractor to interface with such cabling and design engineering systems in support of the delivery of the Materials and Services ordered under this Master Contract.
- l) Contractor shall install the materials, with all features, options, parts and wiring ordered by Purchaser, ready for Acceptance Testing, on or before the Installation Date(s) specified in the Purchase Order/SOW. Failure to meet the Installation Date(s) may subject Contractor to liquidated damages or termination of a Purchase Order or of this Master Contract and damages available under law, unless such failure is caused by acts or omissions of Purchaser.
- m) After installing the materials, Contractor shall provide Purchaser with documentation of a successful system audit using Contractor's diagnostic routines, as approved by Purchaser, demonstrating that the materials meet or exceed the Specifications. Contractor shall certify to Purchaser in writing that the materials are ready for Acceptance Testing. If after reviewing such documentation Purchaser agrees that the materials are ready for Acceptance Testing, Purchaser shall begin Acceptance Testing, as set forth in the section titled **Standard of Performance and Acceptance**.

14. STANDARD OF PERFORMANCE AND ACCEPTANCE

This section establishes a Standard of Performance that shall be met before Acceptance. This Standard of Performance is also applicable to any additional, replacement, or substitute materials and any materials that are modified by or with the written approval of Contractor after having been accepted.

- a) MATERIALS TESTING. All installation, wiring, and cabling requirements identified in the Purchase Order/ SOW must be satisfied. All materials must be tested, functional and certified, based on ANSI/TIA/EIA installation requirements and approved by the Purchaser and/or Purchaser's on-site coordinator prior to acceptance for payment. Minimum testing of copper cable is to include Wire Map, continuity, NEXT and attenuation in accordance with the most current ANSI/TIA/EIA-568 standard. Minimum testing for fiber cable is to include testing the attenuation and polarity of the installed cable with an optical loss test set (OLTS) and the installed condition of the fiber cabling with an optical time domain reflectometer (OTDR). Multi-mode and single-mode backbone links shall be tested in accordance with the appropriate current ANSI/TIA and industry standards.
- b) RESPONSIBILITY FOR COMPLIANCE. Inspections, tests, measurements or other acts or functions performed by State of Washington personnel shall in no manner be construed as relieving the Contractor from full compliance with requirements. Upon Purchaser notification of defective or unauthorized equipment or materials, and unacceptable installation/repair practices, the Contractor will immediately replace or modify affected practices or parts at no additional cost to the Purchaser.
- c) ACCEPTANCE. Acceptance of materials and services will be based as follows or as detailed in Purchaser's Purchase Order/SOW. Fifteen (15) consecutive days of one-hundred percent (100 percent) trouble-free performance where:

- 100 percent of all terminations are operational and the Effectiveness Level is 100 percent;
 - 100 percent of all ancillary equipment is operational and the Effectiveness Level is 100 percent;
 - Labeling and as-built drawings have been completed according to Purchaser's specifications and provided to the Purchaser.
- e) **EFFECTIVENESS LEVEL.** The Effectiveness Level is the percentage of time in a month that the materials are functioning properly in accordance with its specifications. The Effectiveness Level is determined by dividing the operational use time of the materials by the sum of the operational use time plus the materials failure downtime, all of which shall be measured in hours and whole minutes. Operational Use Time for materials is defined as the total time the materials would normally be used. Materials Failure downtime is defined as the accumulated time during Operational Use time when work cannot be processed or accurately completed because of materials Failure. Materials Failure is defined as a malfunction that prevents the accomplishment of the intended function(s) of the materials.
- f) **DOWNTIME.** Downtime for each incident shall start from the time that Contractor knew or reasonably should have known of the materials failure, or Purchaser makes a bona fide attempt to contact Contractor's designated representative at the prearranged contact point, whichever occurs earlier, until the materials are returned to fully operational status in conformance with its specifications. During periods of materials failure downtime, Purchaser may use operable portions of the materials when such action does not interfere with repair of the inoperable portions.
- g) **FAILURE TO MEET STANDARD OF PERFORMANCE.** If the services and materials do not meet the Standard of Performance during the first period of Acceptance Testing, Purchaser at its sole option may continue on a day-to-day basis until the Standard of Performance has been met, or terminate the Purchase Order/SOW without penalty, or demand replacement materials or services and/or corrections from the Contractor at no additional cost and continue the Acceptance Testing for an additional fifteen (15) consecutive calendar days after receipt of replacement materials. Purchaser's option to terminate the Purchase Order/SOW shall remain in effect until exercised or until such time as the Acceptance Testing is successfully completed. Contractor shall pay all costs related to the preparation and shipping of materials returned pursuant to this section. Purchaser's option to declare Contractor in breach and terminate this Order shall not be waived by Purchaser's decision to continue Acceptance Testing beyond the delineated testing period.
- h) **WRITTEN NOTICE OF ACCEPTANCE.** Purchaser, at its sole discretion, will determine whether the services and materials have successfully completed Acceptance Testing. Contractor shall not bill Purchaser until this Standard of Performance is met. Upon successful completion of the Acceptance Testing, Purchaser will provide a written notice of a successful Acceptance Testing to the Contractor's Project Manager.
- i) **CONTRACTOR SUPPORT.** Contractor must provide support for the period up to the issuance of Acceptance by Purchaser. This support must include troubleshooting, the correction of any bugs or deficiencies, and the resolution of any operating problems. During this period, Contractor will provide, at no additional cost, unlimited technical support by telephone. If a problem cannot be resolved within forty-eight (48) hours of Purchaser's initial notification,

Contractor shall provide at no additional cost onsite service and support to resolve the problem.

15. WARRANTY

- a) Contractor warrants that the materials shall be new, of the latest design, of good quality, free of defects, fit and safe for the intended purposes, free from defects in materials and workmanship, and shall be produced and delivered in full compliance with applicable law and in conformance with the Master Contract and Purchase Order/SOW (including EIA/TIA Category Certifications for cables and termination components). All materials and work not in conformance with the Master Contract, and Purchase Order/SOW and EIA/TIA Category Certifications for cables and termination components shall be replaced free-of-charge to Purchaser during the base-offer warranty period, commencing upon the first day after the Acceptance Date.
- b) During the Warranty Period, Contractor shall adjust, repair, or replace all materials that are defective or not performing in conformance with the specifications. All costs for such adjustments, repairs, or replacements, including all costs for replacing parts or units and their installation and any transportation and delivery fees, shall be at Contractor's expense. Any defective materials shall be repaired or replaced for Purchaser so that it conforms to the specifications of the Master Contract and Purchase Order/SOW.
- c) Contractor agrees that all warranty service provided hereunder shall be performed by Manufacturer-trained, certified, and authorized technicians. Contractor further agrees to act as the sole point of contact for warranty service. Contractor warrants that it has or will obtain and pass through to Purchaser any and all warranties obtained or available from the Original Equipment Manufacturer (OEM), including any replacement, upgraded, or additional materials warranties.
- d) CONTRACTOR'S WARRANTY PERIOD. The base-offer warranty period for the building wiring system shall be a minimum of twelve (12) months, and can be increased by the Purchase Order/SOW which shall start on the "Acceptance Date."
- e) REPAIRED CABLING/MATERIALS WARRANTY. The Contractor will provide a minimum of twelve (12) months warranty from the time of acceptance by Purchaser on the installed/repaired materials including basic common equipment, terminal equipment and all other ancillary equipment.
- f) Contractor shall provide Help Desk Services for reporting warranty issues and for troubleshooting problems. Contractor's Help Desk Services can be reached at (*to be filled in by Contractor*).

16. MATERIALS MAINTENANCE

- a) Non-emergency maintenance/repair callback response time during warranty will be within eight (8) Business Hours after notification. On-Site response time to routine maintenance/repair requests such as Moves, Adds, and Changes (MACs) shall be within three (3) Business Days of request, unless otherwise negotiated by Purchaser and Contractor. Routine maintenance/repair will be performed during Business Hours. When on-site,

Contractor shall report to Purchaser's designated coordinator prior to and after each service call.

- b) Emergency on-site maintenance/repair response time during warranty will be within two (2) hours, twenty-four (24) hours per day, seven (7) days per week, including holidays. Time to correct an emergency situation shall not exceed eight (8) hours after notification. Emergency maintenance applies to: (i) Failure of signaling; (ii) Failure of power supply; and (iii) Failure of any terminals deemed critical by Purchaser to the functioning of Purchaser's business functions.
- c) Purchaser may impose liquidated damages as part of their Purchase Order/SOW for each "late" hour or part thereof (prorated in whole minutes) beginning with the time of notification and ending with the time of arrival, if Contractor's maintenance personnel fail to meet response times identified above.
- d) Any work or upgrade that may affect service shall be coordinated with Purchaser's coordinator a minimum of 48 hours in advance. Maintenance and upgrades that might affect service will not be conducted during Business Hours without Purchaser's prior written approval.
- e) Purchaser agrees that Contractor will not be liable for any damages caused by Purchaser's actions or failure of Purchaser to fulfill any of its responsibilities for site installation.
- f) Contractor personnel responding to maintenance calls, repairing or servicing the system shall be Manufacturer-certified to work on the materials.
- g) Contractor shall maintain a log on Purchaser's premises that details repairs, maintenance and upgrades to the system. The log shall be available for inspection by Purchaser and/or DES upon request.
- h) Purchaser shall provide Contractor access to the system to perform maintenance service.
- i) When on-site, Contractor shall report to Purchaser's designated coordinator prior to and after each service call.
- j) Upon completion of each maintenance call, Contractor shall furnish a maintenance activity report to Purchaser, which shall include, as a minimum, the following:
 - Date and time notified;
 - Date and time of arrival;
 - Type and serial number(s) of machine(s);
 - Time spent for repair;
 - Description of malfunction;
 - List of parts replaced; and
 - Additional charges, if applicable

- k) There shall be no additional maintenance charges for:
- Replacement parts;
 - Remedial maintenance required within a forty-eight (48) hour period due to recurrence of the same malfunction;
 - Time spent by maintenance personnel after arrival at the site awaiting the arrival of additional maintenance personnel and/or delivery of parts, tools or other required material.
- l) In cases where Contractor does not respond within the required time, Purchaser shall have the option of acquiring repair from another manufacturer-certified source and Contractor shall be responsible for full reimbursement of costs incurred by Purchaser. Maintenance by another manufacturer- certified source when Contractor has failed to respond will not constitute grounds to void the warranty.

17. SPARE PARTS

Contractor shall make available to Purchaser either a depot repair center and/or an availability guarantee of component parts and sub-assemblies necessary for on-going maintenance and operation of the materials. Contractor guarantees part availability for a minimum of seven (7) years from the Acceptance Date of materials by Purchaser. In addition, Contractor shall have a complete on-site "crash kit" of spare parts or a permanent maintenance facility with a full parts inventory within a distance that will meet the specified emergency on-site response times.

Exhibit B

Prices

ALTURA COMMUNICATION SOLUTIONS LLC

Notes on pricing:

LABOR: All prevailing wage labor categories are for journey level workers.

PARTS AND MATERIALS: Percentage markup includes shipping, configuration, kitting, processing, warehousing and any other costs of acquisition or delivery of the parts, supplies and materials.

TRAVEL: Purchasers may request travel costs as a line item in a job quote or estimate and negotiate reimbursement agreements with a Contractor. In no case shall travel charges exceed GSA's mileage reimbursement rate or per diem schedule for the locality.

OTHER CHARGES: Costs of permits and performance bonds, as may be required by Purchaser, shall appear on quotes or invoices at cost with no markup. Equipment rented for a specific advertised job must appear on a quote for Purchaser as a separate line item, at cost.

Category: Inside only

Southwest Region					
Labor Category	Straight Time		Overtime		Holiday
Project Manager (hourly)		125		187.50	250
Foreman (hourly)		125		187.50	250
RCDD (hourly)		125		187.50	250
Telecom technician	PW +	136	%	Note: Percentages provided for Straight Time will also apply to Overtime and Holiday labor rates for job classifications governed by prevailing wage.	
Electronic technician	PW +	136	%		
Electrician (journey level)	PW +	136	%		
Cable splicer (inside)	PW +	136	%		
Markup on parts and materials		35	%		

North Central Region						
Labor Category	Straight Time		Overtime		Holiday	
Project Manager (hourly)		125		187.50		250
Foreman (hourly)		125		187.50		250
RCDD (hourly)		125		187.50		250
Telecom technician	PW +	146	%	Note: Percentages provided for Straight Time will also apply to Overtime and Holiday labor rates for job classifications governed by prevailing wage.		
Electronic technician	PW +	146	%			
Electrician (journey level)	PW +	146	%			
Cable splicer (inside)	PW +	146	%			
Markup on parts and materials		35	%			

South Central Region						
Labor Category	Straight Time		Overtime		Holiday	
Project Manager (hourly)		125		187.50		250
Foreman (hourly)		125		187.50		250
RCDD (hourly)		125		187.50		250
Telecom technician	PW +	146	%	Note: Percentages provided for Straight Time will also apply to Overtime and Holiday labor rates for job classifications governed by prevailing wage.		
Electronic technician	PW +	146	%			
Electrician (journey level)	PW +	146	%			
Cable splicer (inside)	PW +	146	%			
Markup on parts and materials		35	%			

Eastern Region

Labor Category	Straight Time		Overtime	Holiday
Project Manager (hourly)		125	187.50	250
Foreman (hourly)		125	187.50	250
RCDD (hourly)		125	187.50	250
Telecom technician	PW +	146	Note: Percentages provided for Straight Time will also apply to Overtime and Holiday labor rates for job classifications governed by prevailing wage.	
Electronic technician		146		
Electrician (journey level)	PW +	195		
Cable splicer (inside)	PW +	146		
Markup on parts and materials		35		

EXHIBIT C

INSURANCE REQUIREMENTS

1. **INSURANCE OBLIGATION.** During the Term of this Master Contract, Contractor shall obtain and maintain in full force and effect, at Contractor's sole expense, the following insurance coverages, with a maximum deductible of \$10,000, unless otherwise indicated:
 - a. **COMMERCIAL GENERAL LIABILITY INSURANCE.** Commercial General Liability Insurance (and, if necessary, commercial umbrella liability insurance) covering Bodily Injury and Property Damage on an 'occurrence form' in the amount of not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate. This coverage shall include Contractual Liability insurance for the indemnity provided under this Master Contract.
 - b. **BUSINESS AUTOMOBILE LIABILITY** (owned, hired, or non-owned) covering the risks of bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of not less than \$1,000,000 per accident;
 - c. **WORKERS' COMPENSATION INSURANCE & EMPLOYER'S LIABILITY (STOP GAP).** Contractor shall comply with applicable Workers' Compensation or Industrial Accident insurance providing benefits as required by law, including Employer's or Stop-Gap Liability with a minimum limit of \$1,000,000 per accident.
 - d. **UMBRELLA INSURANCE.** Umbrella coverage in the sum of \$3,000,000 shall be provided and shall apply over all liability policies, without exception, including but not limited to Commercial General Liability, Business Automobile Liability, and Workers' Compensation Insurance & Employers' Liability.

The limits of all insurance required to be provided by Contractor shall be no less than the minimum amounts specified. Coverage in the amounts of these minimum limits, however, shall not be construed to relieve Contractor from liability in excess of such limits. Purchasers may negotiate different insurance limits as appropriate for a specific Purchase Order.

A cross-liability clause or separation of insured condition shall be included in a general liability policy required by this Master Contract.

2. **INSURANCE CARRIER RATING.** Coverages provided by the Contractor must be underwritten by an insurance company deemed acceptable to the State of Washington's Office of Risk Management. Insurance coverage shall be provided by companies authorized to do business within the State of Washington and rated A- Class VII or better in the most recently published edition of Best's Insurance Rating. Enterprise Services reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
3. **ADDITIONAL INSURED.** Except for Works' Compensation, all required insurance shall include the State of Washington and all authorized Purchasers (and their agents, officers, and employees) as an Additional Insureds evidenced by copy of the Additional Insured Endorsement attached to the Certificate of Insurance on such insurance policies.
4. **CERTIFICATE OF INSURANCE.** Upon request by Enterprise Services, Contractor shall furnish to Enterprise Services, as evidence of the insurance coverage required by this Master Contract, a certificate of insurance satisfactory to Enterprise Services that insurance, in the above-stated

kinds and minimum amounts, has been secured. A renewal certificate shall be delivered to Enterprise Services no less than ten (10) days prior to coverage expiration. Failure to provide proof of insurance, as required, will result in contract cancellation. All policies and certificates of insurance shall include the Master Contract number stated on the cover of this Master Contract.

5. **PRIMARY COVERAGE.** Contractor's insurance shall apply as primary and shall not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above including, at a minimum, the State of Washington and/or any Purchaser. All insurance or self-insurance of the State of Washington and/or Purchasers shall be excess of any insurance provided by Contractor or subcontractors.
6. **SUBCONTRACTORS.** Contractor shall include all subcontractors as insureds under all required insurance policies, or shall furnish separate Certificates of Insurance and endorsements for each subcontractor. Each subcontractor must comply fully with all insurance requirements stated herein. Failure of any subcontractor to comply with insurance requirements does not limit Contractor's liability or responsibility.
7. **WAIVER OF SUBROGATION.** Contractor waives all rights of subrogation against the State of Washington and any Purchaser for the recovery of damages to the extent such damages are or would be covered by the insurance specified herein.
8. **NOTICE OF CHANGE OR CANCELLATION.** There shall be no cancellation, material change, exhaustion of aggregate limits, or intent not to renew insurance coverage, either in whole or in part, without at least sixty (60) days prior written Legal Notice by Contractor to Enterprise Services. Failure to provide such notice, as required, shall constitute default by Contractor. Any such written notice shall include the Master Contract number stated on the cover of this Master Contract.