



**FULLY EXECUTED - CHANGE 4**  
Contract Number: 4400010786  
Original Contract Effective Date: 12/24/2012  
Contract Change Date: 06/01/2018  
Valid From: 12/18/2012 To: 03/31/2019

All using Agencies of the Commonwealth, Participating Political  
Subdivision, Authorities, Private Colleges and Universities

Your SAP Vendor Number with us: 333535

**Purchasing Agent**  
Name: Pickering Shelbie  
Phone: 717-703-2947  
Fax: 717 346-3820

**Supplier Name/Address:**  
ASSETNATION INC  
DBA ASSETAUCTIONS  
347 Northgate Dr  
Warrendale PA 15086-7572 US

Supplier Phone Number: 412-362-8607

**Please Deliver To:**  
  
To be determined at  
the time of the Purchase Order  
unless specified below.

**Contract Name:**  
Online Auction Services

**Payment Terms**  
NET 30

Solicitation No.: \_\_\_\_\_ Issuance Date: \_\_\_\_\_  
Supplier Bid or Proposal No. (if applicable): \_\_\_\_\_ Solicitation Submission Date: \_\_\_\_\_

This contract is comprised of: The above referenced Solicitation, the Supplier's Bid or Proposal, and any documents attached to this Contract or incorporated by reference.

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total
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**General Requirements for all Items:**

**Information:**

Supplier's Signature \_\_\_\_\_  
Printed Name \_\_\_\_\_

Title \_\_\_\_\_  
Date \_\_\_\_\_



**FULLY EXECUTED - CHANGE 4**  
Contract Number: 4400010786  
Original Contract Effective Date: 12/24/2012  
Contract Change Date: 06/01/2018  
Valid From: 12/18/2012 To: 03/31/2019

**Supplier Name:**  
ASSETNATION INC  
DBA ASSETAUCTIONS

**Header Text**

May 2018: This contract is being amended to include onsite auction services and simultaneous webcasting for DGS/BSSO's Blow Out Auction to be held at the PA Farm Show Complex in September 2018.

March 2018: This contract is being extended as part of an amendment for up to one year (March 31, 2019) OR until a new contract is fully executed, whichever occurs first. This will allow time to complete the RFP process. SJP

December 2017: The Commonwealth is extending this contract until a new contract is fully executed (as a result of Solicitation 6100042673), unless circumstances are otherwise deemed necessary by the Commonwealth. This contract cannot be extended past March 31, 2017. SJP

This revenue generating contract is for Online Auction Services of state surplus property by public auction, in particular the sale of used heavy equipment and general merchandise for the Commonwealth of Pennsylvania.

Pennsylvania Municipalities (County & Local) may elect to participate in private online heavy equipment auction with the same premium buyer fee and services in accordance with the terms and conditions as those provided to the Commonwealth as outlined in the Statement of Work and Exhibit A.

This is a no-cost contract to the Commonwealth, the suppliers source of revenue is generated from the receipt of fees as outlined in Exhibit A.

**Suppliers Contract Information:**

AssetNation, a Ritchie Bors. Company  
Chris Sharron, Director  
347 Northgate Drive  
Warrendales, PA 15086  
Phone/Email: (724)504-9951, csharron@assetnation.com

**Program Office Contact:**

Department of General Services  
Bureau of Supplies and Surplus Operations  
William Carr, Division Chief  
2221 Forster Street, Rm. G-46  
Harrisburg, PA 17125  
Phone/Email: 717-787-9068, wicarr@pa.gov

**Contract Administrator:**

Department of General Services  
Bureau of Procurement  
Forum Place 6th Floor  
555 Walnut Street  
Harrisburg, PA 17101  
Shelbie Pickering, spickering@pa.gov  
No further information for this Contract

**Information:**

**AMENDMENT NUMBER 2**

**TO**

**CONTRACT NO. 4400010786**

This Amendment Number 2 is made by and between AssetNation Inc, d/b/a AssetAuctions ("Contractor"), and the Commonwealth of Pennsylvania, acting through the Department of General Services, (hereinafter called "DGS").

**WHEREAS**, as a result of Request for Proposals No. 6100020923, the Contractor and DGS entered into Contract No. 4400010786 (the "Contract"), for the provision of online auction services.

**WHEREAS**, DGS and the Contractor desire to amend the contract to allow the Contractor to provide services for a two-week online auction concluding with a single-day live and online simulcast auction for surplus heavy equipment, to be conducted at the Pennsylvania Farm Show Complex and to close on Wednesday September 5<sup>th</sup>, 2018.

**NOW THEREFORE**, for valuable mutual consideration and intending to be legally bound hereby, the parties agree as follows:

1. The Contractor will provide services for a two-week online auction, concluding with a single-day live and online simulcast auction for surplus heavy equipment to close on Wednesday September 5<sup>th</sup>, 2018. The auction will be held at the Pennsylvania Farm Show Complex ("Farm Show Complex"). The services to be provided shall include the tasks listed in this paragraph.
  - a. The Contractor will inspect, list, and auction all items via a live and online simulcast auction, collect proceeds and remit payment to the Commonwealth, and assist the Commonwealth in facilitating the pick-up and removal of surplus equipment sold following the auction.
  - b. The Contractor will implement a targeted marketing campaign to support the auction of surplus equipment offered for sale.
  - c. In addition to the live and online simulcast auction, the Contractor will complete the precursor municipal online heavy equipment auction included in the existing scope of the Contract.
  - d. The Contractor will provide adequate staffing required to perform the duties for the live and online simulcast auction such as a Project Manager, Inspectors, Customer Service Manager, Customer Service Representatives, Auctioneers, Bid Catchers, Audio Video Technicians, and support staff.
  - e. The Contractor will list and inspect the surplus items and equipment

offered for sale. Inspections will be conducted in accordance with a pre-determined schedule mutually agreed upon schedule prior to the transfer of the surplus items and equipment to the Farm Show Complex. The Contractor will complete all inspections prior to 3 business days before the sale. The 3-day period prior to the sale will be used to complete modifications to inspection reports or perform inspections for any last-minute additions to the equipment for sale.

- f. The Contractor will sell the surplus items and equipment virtually to registered bidders in attendance at the Farm Show Complex and online.
- g. The Contractor will not operate or move the equipment except as necessary to perform a pre-sale inspection. The Commonwealth will be responsible for the transfer of items and equipment to the Farm Show Complex. Any desired movement of equipment for rolling stock or staging purposes will be performed by Commonwealth personnel.
- h. The Contractor is not responsible for the removal of items or equipment but will provide coordination for removal from the Farm Show Complex (or another applicable Commonwealth location for items or equipment purchased that is not transferred to the Farm Show Complex) between the buyer and the Commonwealth.
- i. The Commonwealth will provide free, marketable, clear, and transferable title to applicable surplus items and equipment that may be sold.
- j. The Commonwealth will provide registration and auction-day infrastructure, including but not limited to high-speed internet access and power outlines.
- k. The Contractor personnel will be granted access to merchandize, perform inspections (when applicable, and create sales listings for surplus items and equipment included in the sale. The Commonwealth will not use, modify, or alter the items and equipment in any way after inspection by the Contractor. Operation of equipment by the Commonwealth after inspection will be limited to only that which is required for transport to the Farm Show Complex
- l. The Contractor is not responsible for services such as food and beverage, restroom facilities, parking and flaggers, emergency services, or security.
- m. The Contractor will collect and retain a buyer transaction fee of 10% of the final selling price of each item purchased as compensation for its services. The Contractor will collect and remit payment to the Department of General Services, Bureau of Supplies and Surplus Operations, minus the buyer transaction fee, within 30 days of the

completion of the sale.

2. The fully-executed Amendment No. 2 to the Contract shall not contain “ink” signatures by the Commonwealth. After signature by the Contractor on this document, the Amendment will be submitted for required Commonwealth approvals through the Commonwealth’s SRM system. Amendment No. 2 will be effective following the final Commonwealth approval.
3. Except as amended by this Amendment Number 2, all other terms and conditions of the Contract shall remain as originally written.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, the parties hereto have signed this Amendment No. 2 to the Contract the day and year first above written. Execution by the Commonwealth will be as described in the Contract Terms and Conditions, paragraph 003.1b Signatures-Contract (March 2007)

WITNESS:

CONTRACTOR: *MonPlanet, Inc.*

*Molly Parks*  
Signature

*Bonnie Waldron*  
Signature

*Molly Parks*  
Printed Name/Date

*Bonnie Waldron, Manager of Legal Affairs*  
Printed Name/Title/Date

*May 9, 2018*

[Redacted]  
Federal Identification Number

**Commonwealth of Pennsylvania  
Department of General Services**

By To be obtained electronically  
Deputy Secretary for Procurement Date

APPROVED AS TO FORM AND LEGALITY:

To be obtained electronically  
Office of Chief Counsel Date

To be obtained electronically  
Office of General Counsel Date

To be obtained electronically  
Office of Attorney General Date

APPROVED FOR FISCAL RESPONSIBILITY, BUDGETARY APPROPRIATENESS AND AVAILABILITY OF FUNDS:

To be obtained electronically  
Comptroller Date



All using Agencies of the Commonwealth, Participating Political  
Subdivision, Authorities, Private Colleges and Universities

**FULLY EXECUTED - CHANGE 3**

Contract Number: 4400010786  
Original Contract Effective Date: 12/24/2012  
Contract Change Date: 03/08/2018  
Valid From: 12/18/2012 To: 03/31/2019

Your SAP Vendor Number with us: 333535

**Purchasing Agent**

Name: Pickering Shelbie  
Phone: 717-703-2947  
Fax: 717 346-3820

**Supplier Name/Address:**

ASSETNATION INC  
DBA ASSETAUCTIONS  
347 Northgate Dr  
Warrendale PA 15086-7572 US

Supplier Phone Number: 412-362-8607

**Please Deliver To:**

To be determined at  
the time of the Purchase Order  
unless specified below.

**Contract Name:**

Online Auction Services

**Payment Terms**

NET 30

Solicitation No.:

Issuance Date:

Supplier Bid or Proposal No. (if applicable):

Solicitation Submission Date:

This contract is comprised of: The above referenced Solicitation, the Supplier's Bid or Proposal, and any documents attached to this Contract or incorporated by reference.

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total
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**General Requirements for all Items:**

**Information:**

Supplier's Signature \_\_\_\_\_

Title \_\_\_\_\_

Printed Name \_\_\_\_\_

Date \_\_\_\_\_



**FULLY EXECUTED - CHANGE 3**

Contract Number: 4400010786  
Original Contract Effective Date: 12/24/2012  
Contract Change Date: 03/08/2018  
Valid From: 12/18/2012 To: 03/31/2019

**Supplier Name:**  
ASSETNATION INC  
DBA ASSETAUCTIONS

**Header Text**

March 2018: This contract is being extended as part of an amendment for up to one year (March 31, 2019) OR until a new contract is fully executed, whichever occurs first. This will allow time to complete the RFP process. SJP

December 2017: The Commonwealth is extending this contract until a new contract is fully executed (as a result of Solicitation 6100042673), unless circumstances are otherwise deemed necessary by the Commonwealth. This contract cannot be extended past March 31, 2017. SJP

This revenue generating contract is for Online Auction Services of state surplus property by public auction, in particular the sale of used heavy equipment and general merchandise for the Commonwealth of Pennsylvania.

Pennsylvania Municipalities (County & Local) may elect to participate in private online heavy equipment auction with the same premium buyer fee and services in accordance with the terms and conditions as those provided to the Commonwealth as outlined in the Statement of Work and Exhibit A.

This is a no-cost contract to the Commonwealth, the suppliers source of revenue is generated from the receipt of fees as outlined in Exhibit A.

Suppliers Contract Information:  
AssetNation, a Ritchie Bors. Company  
Chris Sharron, Director  
347 Northgate Drive  
Warrendales, PA 15086  
Phone/Email: (724)504-9951, csharron@assetnation.com

Program Office Contact:  
Department of General Services  
Bureau of Supplies and Surplus Operations  
William Carr, Division Chief  
2221 Forster Street, Rm. G-46  
Harrisburg, PA 17125  
Phone/Email: 717-787-9068, wicarr@pa.gov

Contract Administrator:  
Department of General Services  
Bureau of Procurement  
Forum Place 6th Floor  
555 Walnut Street  
Harrisburg, PA 17101  
Shelbie Pickering, spickering@pa.gov  
No further information for this Contract

**Information:**



**AMENDMENT NUMBER 1**

**TO**

**CONTRACT NO. 4400010786**

This Amendment Number 1 is made by and between AssetNation Inc, d/b/a AssetAuctions ("Contractor"), and the Commonwealth of Pennsylvania, acting through the Department of General Services, (hereinafter called "DGS").

**WHEREAS**, the Contractor and DGS entered into a contract, identified as SRM No. 4400010786 (the "Contract"), for the provision of online auction services beginning with contract execution and ending December 31, 2017;

**WHEREAS**, DGS exercised the option in Section V.4 of the Contract to extend the term of the Contract for up to three (3) months upon the same terms and conditions, extending the Contract end date to March 31, 2018; and

**WHEREAS**, DGS and the Contractor desire to amend the contract by extending the term of the contract and continuing to provide services upon the same terms and conditions for an additional one-year period to March 31, 2019 or until DGS executes a new contract for online auction services with a successor contractor, whichever occurs first.

**NOW THEREFORE**, for valuable mutual consideration and intending to be legally bound hereby, the parties agree as follows:

1. The term of the Contract is extended by one (1) year and will expire on March 31, 2019, except that DGS may terminate the Contract earlier upon entering a new fully executed contract for online auction services with a successor contractor.
2. Once the Contractor signs this Amendment Number 1, the Commonwealth's Contracting Officer will enter this document into the Commonwealth's SAP/SRM system to obtain the required Commonwealth approvals. This Amendment Number 1 will be effective following the final required Commonwealth approval.
3. Except as amended by this Amendment Number 1, all other terms and conditions of the Contract shall remain as originally written.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]**

*amy*

IN WITNESS WHEREOF, the parties hereto have signed this Amendment No. 1 to the Contract the day and year first above written. Execution by the Commonwealth will be as described in the Contract Terms and Conditions, paragraph 003.1b Signatures-Contract (March 2007)

WITNESS:

CONTRACTOR:

Ajanta Shannon  
Signature

Chris Shannon  
Signature

Ajanta Shannon 1-17-18  
Printed Name/Date

Chris Shannon / Director / 1-17-2018  
Printed Name/Title/Date

  
Federal Identification Number

**Commonwealth of Pennsylvania  
Department of General Services**

By \_\_\_\_\_  
Deputy Secretary for Procurement Date

APPROVED AS TO FORM AND LEGALITY:

To be obtained electronically  
Office of Chief Counsel Date

8-K-1530  
Office of General Counsel Date

8-K-1530  
Office of Attorney General Date

APPROVED FOR FISCAL RESPONSIBILITY, BUDGETARY APPROPRIATENESS AND AVAILABILITY OF FUNDS:

To be obtained electronically  
Comptroller Date

*CMD*



**FULLY EXECUTED - CHANGE 2**  
Contract Number: 4400010786  
Original Contract Effective Date: 12/24/2012  
Contract Change Date: 12/08/2017  
Valid From: 12/18/2012 To: 03/31/2018

All using Agencies of the Commonwealth, Participating Political  
Subdivision, Authorities, Private Colleges and Universities

**Purchasing Agent**

Name: Pickering Shelbie  
Phone: 717-703-2947  
Fax: 717 346-3820

Your SAP Vendor Number with us: 333535

**Supplier Name/Address:**  
ASSETNATION INC  
DBA ASSETAUCTIONS  
347 Northgate Dr  
Warrendale PA 15086-7572 US

Supplier Phone Number: 412-362-8607

**Please Deliver To:**

To be determined at  
the time of the Purchase Order  
unless specified below.

**Contract Name:**  
Online Auction Services

**Payment Terms**  
NET 30

Solicitation No.: \_\_\_\_\_ Issuance Date: \_\_\_\_\_  
Supplier Bid or Proposal No. (if applicable): \_\_\_\_\_ Solicitation Submission Date: \_\_\_\_\_

This contract is comprised of: The above referenced Solicitation, the Supplier's Bid or Proposal, and any documents attached to this Contract or incorporated by reference.

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total
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**General Requirements for all Items:**

**Information:**

Supplier's Signature \_\_\_\_\_  
Printed Name \_\_\_\_\_

Title \_\_\_\_\_  
Date \_\_\_\_\_



**FULLY EXECUTED - CHANGE 2**  
Contract Number: 4400010786  
Original Contract Effective Date: 12/24/2012  
Contract Change Date: 12/08/2017  
Valid From: 12/18/2012 To: 03/31/2018

**Supplier Name:**  
ASSETNATION INC  
DBA ASSETAUCTIONS

**Header Text**

December 2017: The Commonwealth is extending this contract until a new contract is fully executed (as a result of Solicitation 6100042673), unless circumstances are otherwise deemed necessary by the Commonwealth. This contract cannot be extended past March 31, 2017. SJP

This revenue generating contract is for Online Auction Services of state surplus property by public auction, in particular the sale of used heavy equipment and general merchandise for the Commonwealth of Pennsylvania.

Pennsylvania Municipalities (County & Local) may elect to participate in private online heavy equipment auction with the same premium buyer fee and services in accordance with the terms and conditions as those provided to the Commonwealth as outlined in the Statement of Work and Exhibit A.

This is a no-cost contract to the Commonwealth, the suppliers source of revenue is generated from the receipt of fees as outlined in Exhibit A.

**Suppliers Contract Information:**

AssetNation, a Ritchie Bors. Company  
Chris Sharron, Director  
347 Northgate Drive  
Warrendales, PA 15086  
Phone/Email: (724)504-9951, csharron@assetnation.com

**Program Office Contact:**

Department of General Services  
Bureau of Supplies and Surplus Operations  
William Carr, Division Chief  
2221 Forster Street, Rm. G-46  
Harrisburg, PA 17125  
Phone/Email: 717-787-9068, wicarr@pa.gov

**Contract Administrator:**

Department of General Services  
Bureau of Procurement  
Forum Place 6th Floor  
555 Walnut Street  
Harrisburg, PA 17101  
Shelbie Pickering, spickering@pa.gov  
No further information for this Contract

**Information:**



**FULLY EXECUTED - CHANGE 1**

**Contract Number: 4400010786**

Contract Change Effective Date: 06/25/2015

Valid From: 12/18/2012 To: 12/31/2017

All using Agencies of the Commonwealth, Participating Political Subdivision, Authorities, Private Colleges and Universities

**Purchasing Agent**

Name: Bowers Scott

Phone: 717-346-2671

Fax: 717-346-3820

Your SAP Vendor Number with us: 333535

**Supplier Name/Address:**

ASSETNATION INC  
DBA ASSETAUCTIONS  
347 Northgate Dr  
Warrendale PA 15086-7572 US

Supplier Phone Number: 412-362-8607

**Please Deliver To:**

To be determined at the time of the Purchase Order unless specified below.

**Contract Name:**

Online Auction Services

**Payment Terms**

NET 30

Solicitation No.:

Issuance Date:

Supplier Bid or Proposal No. (if applicable):

Solicitation Submission Date:

This contract is comprised of: The above referenced Solicitation, the Supplier's Bid or Proposal, and any documents attached to this Contract or incorporated by reference.

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total
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**General Requirements for all Items:**

**Header Text**

This revenue generating contract is for Online Auction Services of state surplus property by public auction, in particular the sale of used heavy equipment and general merchandise for the Commonwealth of Pennsylvania. Pennsylvania Municipalities (County & Local) may elect to participate in private online heavy equipment auction with the same premium buyer fee and services in accordance with the terms and conditions as those provided to the Commonwealth as outlined in the Statement of Work and Exhibit A. This is a no-cost contract to the Commonwealth, the suppliers source of revenue is generated from the receipt of fees as outlined in Exhibit A. Suppliers Contract Information: AssetNation, a Ritchie Bors. Company Chris Sharron, Director 347 Northgate Drive Warrendales, PA 15086 Phone/Email: (724)504-9951, csharron@assetnation.com Program Office Contact: Department of General Services Bureau of Supplies and Surplus Operations William Carr, Division Chief 2221 Forster Street, Rm. G-46 Harrisburg, PA 17125 Phone/Email: 717-787-9068, wicarr@pa.gov Contract Administrator: Department of General Services Bureau of Procurement Scott Bowers, Commodity Specialist Forum Place 6th Floor 555 Walnut Street Harrisburg, PA 17101 Phone/Email: 717-346-2671, scbowers@pa.gov

No further information for this Contract

**Information:**

Supplier's Signature \_\_\_\_\_

Title \_\_\_\_\_

Printed Name \_\_\_\_\_

Date \_\_\_\_\_



**FULLY EXECUTED - Contract**  
**Number: 4400010786** Contract  
Effective Date: 06/25/2015 Valid From:  
12/18/2012 To: 12/31/2017

All using Agencies of the Commonwealth, Participating Political  
Subdivision, Authorities, Private Colleges and Universities

**Purchasing Agent**  
**Name: Bowers Scott**  
**Phone: 717-346-2671**  
**Fax: 717-346-3820**

Your SAP Vendor Number with us: 333535

**Supplier Name/Address:**  
ASSETNATION INC  
DBA ASSETAUCTIONS  
347 Northgate Dr  
Warrendale PA 15086-7572 US

**Please Deliver To:**  
  
To be determined at  
the time of the Purchase Order  
unless specified below.

Supplier Phone Number: 412-362-8607

**Contract Name:**  
Online Auction Services

**Payment Terms**  
NET 30

Solicitation No.: Issuance Date:  
Supplier Bid or Proposal No. (if applicable): Solicitation Submission Date:

This contract is comprised of: The above referenced Solicitation, the Supplier's Bid or Proposal, and any documents attached to this Contract or incorporated by reference.

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total
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**General Requirements for all Items:**

**Header Text**

This revenue generating contract is for Online Auction Services of state surplus property by public auction, in particular the sale of used heavy equipment and general merchandise for the Commonwealth of Pennsylvania. Pennsylvania Municipalities (County & Local) may elect to participate in private online heavy equipment auction with the same premium buyer fee and services in accordance with the terms and conditions as those provided to the Commonwealth as outlined in the Statement of Work and Exhibit A. This is a no-cost contract to the Commonwealth, the suppliers source of revenue is generated from the receipt of fees as outlined in Exhibit A. Suppliers Contract Information: AssetNation, a Ritchie Bors. Company Chris Sharron, Director 347 Northgate Drive Warrendales, PA 15086 Phone/Email: (724)504-9951, csharron@assetnation.com Program Office Contact: Department of General Services Bureau of Supplies and Surplus Operations William Carr, Division Chief 2221 Forster Street, Rm. G-46 Harrisburg, PA 17125 Phone/Email: 717-787-9068, wicarr@pa.gov Contract Administrator: Department of General Services Bureau of Procurement Scott Bowers, Commodity Specialist Forum Place 6th Floor 555 Walnut Street Harrisburg, PA 17101 Phone/Email: 717-346-2671, scbowers@pa.gov  
No further information for this Contract

**Information:**

Supplier's Signature \_\_\_\_\_  
Printed Name \_\_\_\_\_

Title \_\_\_\_\_  
Date \_\_\_\_\_

**CONTRACT  
FOR  
ONLINE AUCTION SERVICES**

THIS CONTRACT for the provision of Online Auction Services ("Contract") is entered into this 18<sup>th</sup> day of December, 2012, ("Effective Date") by and between the Commonwealth of Pennsylvania, acting through the Department of General Services ("DGS"), and AssetNation ("Contractor").

WHEREAS, DGS issued a Request For Proposals for the provision of Online Auction Services for the Commonwealth of Pennsylvania, RFP No. 6100020923 ("RFP"); and

WHEREAS, Contractor submitted a proposal in response to the RFP; and

WHEREAS, DGS determined that the Contractor's proposal was the most advantageous to the Commonwealth after taking into consideration all of the evaluation factors set forth in the RFP and selected Contractor for contract negotiations; and

WHEREAS, DGS and Contractor have negotiated this Contract as their final and entire agreement in regard to providing Online Auction Services to the Commonwealth of Pennsylvania.

NOW THEREFORE, intending to be legally bound hereby, DGS and Contractor agree as follows:

1. Contractor shall, in accordance with the terms and conditions of this Contract, provide Online Auction Services, as more fully defined in the RFP, to the Commonwealth of Pennsylvania.
2. The Commonwealth of Pennsylvania shall procure their requirements for Online Auction Services in accordance with the terms and conditions of this Contract.
3. DGS and Contractor agree to be bound to the Standard Contract Terms and Conditions, attached hereto as Part V of Exhibit B, and made part of this Contract.
4. Contractor agrees to provide the Online Auction Services listed in its Final Negotiated Price Submittal, which is attached hereto as Exhibit A and made a part hereof, at the prices listed for those items in Exhibit A, as supplemented by the following provisions:
5. The following provisions of the RFP Work Statement in Part IV of Exhibit B are hereby modified to read as follows:
  - a. IV-3, Requirements, F. Payment and Invoicing 1.:

  
12/14/12

AssetNation shall provide payment via Electronic Funds Transfer (EFT) upon final closure of each auction, not to exceed thirty (30) days from the auction. Payment is to be made via EFT to a Commonwealth of Pennsylvania bank account (to be provided by BSSO) for the proceeds of the sales. Documentation detailing final auction results and proof that all collected sales tax in accordance with the Department of Revenue have been paid will be provided directly to BSSO.

- b. IV-3, Requirements, G. Advertising of Auctions (insert following paragraph between 1<sup>st</sup> and 2<sup>nd</sup> paragraph):

When the department (BSSO) deems it feasible in view of the value of the property involved, the sale shall be advertised in at least one (not to exceed five) newspaper once a week for a period of three weeks as agreed to.

- c. IV-3, Requirements, G. Advertising of Auctions 3. Online Reoccurring General Merchandise Auctions (second bullet point):

Reoccurring auctions shall be advertised on a regular (monthly or other) basis through one or more major, metropolitan newspaper publications. Additional specifically targeted advertisement may be placed in a local newspaper publication in close proximity to where the merchandise is being held for public view, the week of the sale or sooner .

- d. IV-3, Requirements, G. Advertising of Auctions 4. Online Right-of-Way Auctions (second bullet point) and 5. Special Sales or any other General Merchandise Auction (second bullet point):

Advertise in a major, metropolitan newspaper publication with regional distribution, and in close proximity to the auction site and/or local newspaper that is in close proximity to the auction site. All advertising is to be approved and completed prior to each auction.

- e. IV-3, Requirements, G. Advertising of Auctions 2. Online Public Heavy Equipment Auctions (third bullet point) 3. Online Reoccurring General Merchandise Auctions (third bullet point) 4. Online Right-of-Way Auctions (third bullet point) and 5. Special Sales or any other General Merchandise Auction (third bullet point):

Direct Mail to potential bidders (minimum 2,000 bidders), to include traditional paper mail (via US Postal Service) and/or e-mail.



6. This Contract is comprised of the following documents, which are listed in order of precedence in the event of a conflict between these documents:
  - a. This Cover Contract document.
  - b. The Contractor's *Final Negotiated Price Submittal*, which is attached hereto as **Exhibit A** and made a part hereof.
  - c. The *Request for Proposals*, including all of the referenced Appendices and as revised by all Addenda issued thereto, which is attached hereto as **Exhibit B** and made a part hereof.
  - d. The Contractor's *Technical Submittal*, which is attached hereto as **Exhibit C** and made a part hereof.

IN WITNESS WHEREOF, the parties hereto have signed this Contract the day and year first above written.

Witness:

CONTRACTOR:

By: Chris Sharron

By: [Signature]

Chris Sharron, Director 12/14/12  
Printed Name/Title Date

Chris Connell, President, 12/14/12  
Printed Name/Title Date

\_\_\_\_\_  
Federal I.D. Number

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF GENERAL SERVICES

By: To be affixed electronically  
Deputy Secretary for Procurement Date

APPROVED AS TO FORM AND LEGALITY:

To be affixed electronically  
Office of Chief Counsel Date

8-K-1530  
Office of General Counsel Date

8-K-1530  
Office of Attorney General Date

APPROVED FOR FISCAL RESPONSIBILITY,  
BUDGETARY APPROPRIATENESS AND  
AVAILABILITY OF FUNDS:

To be affixed electronically  
Comptroller Date

**Exhibit A  
Negotiated Price Submittal**

PAYMENT TYPE	UNIT OF MEASURE	BUYER PREMIUM FEE
<b>ONLINE PRIVATE MUNICIPAL AND ONLINE PUBLIC HEAVY EQUIPMENT AUCTIONS</b>		
Credit Card Payment	EACH	4.5%
Non-Credit Card Payment	EACH	4.5%
NOTE: All auctions for motor vehicles, construction vehicles and equipment, agricultural vehicles and equipment, busses, trucks, aircraft, watercraft, bridges and semi-trailers shall be defined as Online Private Municipal and Online Public Heavy Equipment for purposes of assessing a buyer's fee.		
<b>GENERAL MERCHANDISE AUCTIONS</b>		
Credit Card Payment	EACH	9.0%
Non-Credit Card Payment	EACH	9.0%
<b>RIGHT OF WAY SALES</b>		
Credit Card Payment	EACH	9.0%
Non-Credit Card Payment	EACH	9.0%
<b>SPECIAL SALES</b>		
Credit Card Payment	EACH	9.0%
Non-Credit Card Payment	EACH	9.0%

**REQUEST FOR PROPOSALS FOR**

**ONLINE AUCTION SERVICES**

**ISSUING OFFICE**

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF GENERAL SERVICES  
BUREAU OF PROCUREMENT**

**555 Walnut Street  
Forum Place, 6<sup>th</sup> Floor  
Harrisburg, PA 17101**

**RFP**

**610020923**

**DATE OF ISSUANCE**

**April 20, 2012**

**REQUEST FOR PROPOSALS FOR  
ONLINE AUCTION SERVICES**

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## CALENDAR OF EVENTS

The Commonwealth will make every effort to adhere to the following schedule:

Activity	Responsibility	Date
Deadline to submit Questions via email to Brandi Yagle at <a href="mailto:byagle@pa.gov">byagle@pa.gov</a> .	Potential Offerors	April 26, 2012
Pre-proposal Conference: PA Department of General Services Bureau of Procurement 555 Walnut Street Forum Place, 6 <sup>th</sup> Floor Harrisburg, PA 17101 Conference Room #1 (1:30 – 3:30 PM)	Issuing Office/Potential Offerors	May 1, 2012
Answers to Potential Offeror questions posted to the DGS website ( <a href="http://www.dgsweb.state.pa.us/RTA/Search.aspx">http://www.dgsweb.state.pa.us/RTA/Search.aspx</a> ) no later than this date.	Issuing Office	May 8, 2012
Please monitor website for all communications regarding the RFP.	Potential Offerors	Ongoing
Sealed proposal must be received by the Issuing Office at: PA Department of General Services Bureau of Procurement Attn: Brandi Yagle/RFP #6100020923 555 Walnut Street Forum Place, 6 <sup>th</sup> Floor Harrisburg, PA 17101	Offerors	May 18, 2012 4:00 PM

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## **PART I - GENERAL INFORMATION**

### **PART I - GENERAL INFORMATION**

#### **I.1 RFP-001.1 Purpose (Oct 2006)**

This request for proposals (RFP) provides to those interested in submitting proposals for the subject procurement ("Offerors") sufficient information to enable them to prepare and submit proposals for the DEPARTMENT OF GENERAL SERVICES consideration on behalf of the Commonwealth of Pennsylvania ("Commonwealth") to satisfy a need for ONLINE AUCTION SERVICES ("Project").

#### **I.2 RFP-002.1 Issuing Office (Oct 2006)**

The DEPARTMENT OF GENERAL SERVICES (Issuing Office) has issued this RFP on behalf of the Commonwealth. The sole point of contact in the Commonwealth for this RFP shall be BRANDI YAGLE, 555 WALNUT STREET, FORUM PLACE, 6TH FLOOR, HARRISBURG, PA 17101, byagle@pa.gov, the Issuing Officer for this RFP. Please refer all inquiries to the Issuing Officer.

#### **I.3 RFP-003.1 Scope (Oct 2006)**

This RFP contains instructions governing the requested proposals, including the requirements for the information and material to be included; a description of the service to be provided; requirements which Offerors must meet to be eligible for consideration; general evaluation criteria; and other requirements specific to this RFP.

#### **I.4 RFP-004.1 Problem Statement (Oct 2006)**

The Department of General Services, Bureau of Supplies and Surplus Operations (BSSO), is seeking an experienced, qualified, full-service Online Auction Services firm to facilitate the online sale of Commonwealth surplus property. The BSSO has the following specific objectives for issuing this RFP:

- Maximize the net proceeds to the Commonwealth for the sale of its surplus property.
- Maintain lower buyer's fees.
- Make effective use of advance and targeted advertising of sales.
- Provide a no cost (to the Commonwealth) contract to provide online private municipal and online public auctions.
- Determine the best auction format for generating maximum sale proceeds and minimizing internal costs.
- To provide on-site assistance and sufficient staffing as needed.

Additional detail is provided in **Part IV** of this RFP.

#### **I.5 RFP-005.1 Type of Contract (Oct 2006)**

It is proposed that if the Issuing Office enters into a contract as a result of this RFP, it will be a NO FEE CONTRACT contract containing the Contract Terms and Conditions as shown in Part V of this RFP. The Issuing Office, in its sole discretion, may undertake negotiations with Offerors whose proposals, in the judgment of the Issuing Office, show them to be qualified, responsible and capable of performing the Project.

#### **I.6 RFP-005.2b No Fee Contract Clause (Oct 2006)**

Since the Contract is a no fee contract, services/supplies will be provided at no cost to the Commonwealth.

#### **I.7 RFP-006.1 Rejection of Proposals (Oct 2006)**

The Issuing Office reserves the right, in its sole and complete discretion, to reject any and all proposals received as a result of this RFP.

### **I.8 RFP-007.1 Incurring Costs (Oct 2006)**

The Issuing Office is not liable for any costs the Offeror incurs in preparation and submission of its proposal, in participating in the RFP process or in anticipation of award of the contract.

### **I.9 RFP-008.1a Optional Preproposal Conference (Oct 2006)**

The Issuing Office will hold a preproposal conference. The purpose of this conference is to provide opportunity for clarification of the RFP. Offerors should forward all questions to the Issuing Office in accordance with the instructions in this RFP to ensure adequate time for analysis before the Issuing Office provides an answer. Offerors may also ask questions at the conference. In view of the limited facilities available for the conference, Offerors should limit their representation to two individuals per Offeror. The preproposal conference is for information only. Any answers furnished during the conference will not be official until they have been verified, in writing, by the Issuing Office. Attendance at the Preproposal Conference is optional.

The preproposal conference will be held on 05/01/2012 , at 1:30 PM, DEPARTMENT OF GENERAL SERVICES, BUREAU OF PROCUREMENT, 555 WALNUT STREET, FORUM PLACE, 6TH FLOOR, HARRISBURG, PA 17101, CONFERENCE ROOM 1 .

### **I.10 RFP-009.1 Questions and Answers (October 2010)**

If an Offeror has any questions regarding this RFP, the Offeror must submit the questions by email (**with the subject line '6100020923 Question'**) to the Issuing Officer. If the Offeror has questions, they must be submitted via email **no later than 04/26/2012**. The Issuing Officer shall post the answers to the questions on the following website at [www.emarketplace.state.pa.us](http://www.emarketplace.state.pa.us).

An Offeror who submits a question *after* the deadline date for receipt of questions assumes the risk that its proposal will not be responsive or competitive because the Commonwealth is not able to respond before the proposal receipt date or in sufficient time for the Offeror to prepare a responsive or competitive proposal. When submitted after the deadline date for receipt of questions, the Issuing Officer *may* respond to the questions of an administrative nature by directing the questioning Offeror to specific provisions in the RFP. To the extent that the Issuing Office decides to respond to a non-administrative question *after* the deadline date for receipt of questions, the answer must be provided to all Offerors through an addendum.

All questions and responses as posted on the Issuing Office website are considered as an addendum to, and part of, this RFP. Each Offeror shall be responsible to monitor the Issuing Office website for new or revised RFP information. The Issuing Office shall not be bound by any verbal information nor shall it be bound by any written information that is not either contained within the RFP or formally issued as an addendum by the Issuing Office. The Issuing Office does not consider questions to be a protest of the specifications or of the solicitation.

### **I.11 RFP-010.1 Addenda to the RFP (March 2008)**

If the Issuing Office deems it necessary to revise any part of this RFP before the proposal response date, the Issuing Office will post an addendum to the following website at [www.emarketplace.state.pa.us](http://www.emarketplace.state.pa.us) . It is the Offeror's responsibility to periodically check the website for any new information or addenda to the RFP. Answers to the questions asked during the Questions & Answers period also will be posted to the website as an addendum to the RFP.

### **I.12 RFP-011.1a Proposal Response Date (Nov 2010)**

To be considered for selection, hard copies of proposal must arrive at the Issuing Office on or

before 05/18/2012 by 4:00 PM. The Issuing Office will **not** accept proposals via email or facsimile transmission. Offerors who send proposals by mail or other delivery service should allow sufficient delivery time to ensure timely receipt of their proposals. If, due to inclement weather, natural disaster, or any other cause, the Issuing Office location to which proposals are to be returned is closed on the Proposal Response Date, the deadline for submission will be automatically extended until the next Commonwealth business day on which the office is open, unless the Issuing Office otherwise notifies Offerors. The hour for submission of proposals shall remain the same. The Issuing Office will reject, unopened, any late proposals.

#### **I.13 RFP-012.1.a Proposals (Oct 2009)**

To be considered, Offerors should submit a complete response to this RFP to the Issuing Office, using the format provided in Part II, providing 04 paper copies of the Technical Submittal and one (1) paper copy of the Cost Submittal and two (2) paper copies of the Disadvantaged Business Submittal. In addition to the paper copies of the proposal, Offerors shall submit two complete and exact copies of the entire proposal (Technical, Cost and Disadvantaged Business Submittals, along with all requested documents) on CD-ROM or Flash drive in Microsoft Office or Microsoft Office-compatible format. The electronic copy must be a mirror image of the paper copy and any spreadsheets must be in Microsoft Excel. The Offerors may not lock or protect any cells or tabs. Offerors should ensure that there is no costing information in the technical submittal. Offerors should not reiterate technical information in the cost submittal. The CD or Flash drive should clearly identify the Offeror and include the name and version number of the virus scanning software that was used to scan the CD or Flash drive before it was submitted. The Offeror shall make no other distribution of its proposal to any other Offeror or Commonwealth official or Commonwealth consultant. Each proposal page should be numbered for ease of reference. An official authorized to bind the Offeror to its provisions must sign the proposal. If the official signs the Proposal Cover Sheet (an Appendix to this RFP) and the Proposal Cover Sheet is attached to the Offeror's proposal, the requirement will be met. For this RFP, the proposal must remain valid for 090 days or until a contract is fully executed. If the Issuing Office selects the Offeror's proposal for award, the contents of the selected Offeror's proposal will become, except to the extent the contents are changed through Best and Final Offers or negotiations, contractual obligations.

Each Offeror submitting a proposal specifically waives any right to withdraw or modify it, except that the Offeror may withdraw its proposal by written notice received at the Issuing Office's address for proposal delivery prior to the exact hour and date specified for proposal receipt. An Offeror or its authorized representative may withdraw its proposal in person prior to the exact hour and date set for proposal receipt, provided the withdrawing person provides appropriate identification and signs a receipt for the proposal. An Offeror may modify its submitted proposal prior to the exact hour and date set for proposal receipt only by submitting a new sealed proposal or sealed modification which complies with the RFP requirements.

#### **I.14 RFP-013.1a Disadvantaged Business Information (Sept 2011)**

The Issuing Office encourages participation by small disadvantaged businesses as prime contractors, joint ventures and subcontractors/suppliers and by socially disadvantaged businesses as prime contractors.

Small Disadvantaged Businesses are small businesses that are owned or controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages. The term includes:

- a. Department of General Services Bureau of Minority and Women Business Opportunities (BMWBO)-certified minority business enterprises (MBEs) and women business enterprises (WBEs) that qualify as small businesses; and
- b. United States Small Business Administration certified 8(a) small disadvantaged business concerns.

Small businesses are businesses in the United States that are independently owned, are not dominant in their field of operation, employ no more than 100 full-time or full-time equivalent employees, and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for those businesses in the information technology sales or service business).

Socially disadvantaged businesses are businesses in the United States that BMWBO determines are owned or controlled by a majority of persons, not limited to members of minority groups, who are subject to racial or ethnic prejudice or cultural bias, but which do not qualify as small businesses. In order for a business to qualify as "socially disadvantaged," the offeror must include in its proposal clear and convincing evidence to establish that the business has personally suffered racial or ethnic prejudice or cultural bias stemming from the business person's color, ethnic origin or gender.

Questions regarding this Program can be directed to:

Department of General Services  
Bureau of Minority and Women Business Opportunities  
Room 611, North Office Building  
Harrisburg, PA 17125  
Phone: (717) 783-3119  
Fax: (717) 787-7052  
Email: [gs-bmwbo@state.pa.us](mailto:gs-bmwbo@state.pa.us)  
Website: [www.dgs.state.pa.us](http://www.dgs.state.pa.us)

A database of BMWBO-certified minority- and women-owned businesses can be accessed at <http://www.dgsweb.state.pa.us/mbewbe/VendorSearch.aspx>. The federal vendor database can be accessed at <http://www.ccr.gov> by clicking on *Dynamic Small Business Search* (certified companies are so indicated).

#### **I.15 RFP-013.1b Information Concerning Small Businesses in Enterprise Zones (March 2010)**

The Issuing Office encourages participation by small businesses, whose primary or headquarters facility is physically located in areas the Commonwealth has identified as *Designated Enterprise Zones*, as prime contractors, joint ventures and subcontractors/suppliers.

The definition of headquarters includes, but is not limited to, an office or location that is the administrative center of a business or enterprise where most of the important functions of the business are conducted or concentrated and location where employees are conducting the business of the company on a regular and routine basis so as to contribute to the economic development of the geographical area in which the office or business is geographically located.

Small businesses are businesses in the United States that are independently owned, are not dominant in their field of operation, employ no more than 100 full-time or full-time equivalent employees, and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for those businesses in the information technology sales or service business).

There is no database or directory of small businesses located in Designated Enterprise Zones. Information on the location of *Designated Enterprise Zones* can be obtained by contacting:

Aldona M. Kartorie  
Center for Community Building  
PA Department of Community and Economic Development

4th Floor, Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120-0225  
Phone: (717) 720-7409  
Fax: (717) 787-4088  
Email: akartorie@state.pa.us

**I.16 RFP-014.1 Economy of Preparation (Oct 2006)**

Offerors should prepare proposals simply and economically, providing a straightforward, concise description of the Offeror's ability to meet the requirements of the RFP.

**I.17 RFP-015.1 Alternate Proposals (Oct 2006)**

The Issuing Office has identified the basic approach to meeting its requirements, allowing Offerors to be creative and propose their best solution to meeting these requirements. The Issuing Office will not accept alternate proposals.

**I.18 RFP-016.1 Discussions for Clarification (Sept 2011)**

Offerors may be required to make an oral or written clarification of their proposals to the Issuing Office to ensure thorough mutual understanding and Offeror responsiveness to the solicitation requirements. The Issuing Office will initiate requests for clarification. Clarifications may occur at any stage of the evaluation and selection process prior to contract execution.

**I.19 RFP-017.1 Prime Contractor Responsibilities (Oct 2006)**

The contract will require the selected Offeror to assume responsibility for all services offered in its proposal whether it produces them itself or by subcontract. The Issuing Office will consider the selected Offeror to be the sole point of contact with regard to contractual matters.

**I.20 RFP-018.1 Proposal Contents (April 2009)**

a. Confidential Information. The Commonwealth is not requesting, and does not require, confidential proprietary information or trade secrets to be included as part of Offerors' submissions in order to evaluate proposals submitted in response to this RFP. Accordingly, except as provided herein, Offerors should not label proposal submissions as confidential or proprietary or trade secret protected. Any Offeror who determines that it must divulge such information as part of its proposal must submit the signed written statement described in subsection c. below and must additionally provide a redacted version of its proposal, which removes only the confidential proprietary information and trade secrets, for required public disclosure purposes.

b. Commonwealth Use. All material submitted with the proposal shall be considered the property of the Commonwealth of Pennsylvania and may be returned only at the Issuing Office's option. The Commonwealth has the right to use any or all ideas not protected by intellectual property rights that are presented in any proposal regardless of whether the proposal becomes part of a contract. Notwithstanding any Offeror copyright designations contained on proposals, the Commonwealth shall have the right to make copies and distribute proposals internally and to comply with public record or other disclosure requirements under the provisions of any Commonwealth or United States statute or regulation, or rule or order of any court of competent jurisdiction.

c. **Public Disclosure.** After the award of a contract pursuant to this RFP, all proposal submissions are subject to disclosure in response to a request for public records made under the Pennsylvania Right-to-Know-Law, 65 P.S. § 67.101, et seq. If a proposal submission contains confidential proprietary information or trade secrets, a signed written statement to this effect must be provided with the submission in accordance with 65 P.S. § 67.707(b) for the information to be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests. Financial capability information submitted in response to Part II, Section II-7 of this RFP is exempt from public records disclosure under 65 P.S. § 67.708(b)(26).

**I.21 RFP-019.1 Best and Final Offers (Sept 2011)**

A. While not required, the Issuing Office reserves the right to conduct discussions with Offerors for the purpose of obtaining "best and final offers." To obtain best and final offers from Offerors, the Issuing Office may do one or more of the following, in any combination and order:

1. Schedule oral presentations;
2. Request revised proposals;
3. Conduct a reverse online auction; and
4. Enter into pre-selection negotiations.

B. The following Offerors will **not** be invited by the Issuing Office to submit a Best and Final Offer:

1. Those Offerors, which the Issuing Office has determined to be not responsible or whose proposals the Issuing Office has determined to be not responsive.
2. Those Offerors, which the Issuing Office has determined in accordance with **Part III, Section III-RFP-005.2b**, from the submitted and gathered financial and other information, do not possess the financial capability, experience or qualifications to assure good faith performance of the contract.
3. Those Offerors whose score for their technical submittal of the proposal is less than 70% of the total amount of technical points allotted to the technical criterion.

The issuing office may further limit participation in the best and final offers process to those remaining responsible offerors which the Issuing Office has, within its discretion, determined to be within the top competitive range of responsive proposals.

C. The Evaluation Criteria found in **Part III, Section III-RFP-004.1a** shall also be used to evaluate the Best and Final offers.

D. Price reductions offered through any reverse online auction shall have no effect upon the Offeror's Technical Submittal. Dollar commitments to Disadvantaged Businesses and Enterprise Zone Small Businesses can be reduced only in the same percentage as the percent reduction in the total price offered through any reverse online auction or negotiations.

**I.22 RFP-020.1 News Releases (Oct 2006)**

Offerors shall not issue news releases, Internet postings, advertisements or any other public communications

pertaining to this Project without prior written approval of the Issuing Office, and then only in coordination with the Issuing Office.

#### **I.23 RFP-021.1 Restriction of Contact (Oct 2006)**

From the issue date of this RFP until the Issuing Office selects a proposal for award, the Issuing Officer is the sole point of contact concerning this RFP. Any violation of this condition may be cause for the Issuing Office to reject the offending Offeror's proposal. If the Issuing Office later discovers that the Offeror has engaged in any violations of this condition, the Issuing Office may reject the offending Offeror's proposal or rescind its contract award. Offerors must agree not to distribute any part of their proposals beyond the Issuing Office. An Offeror who shares information contained in its proposal with other Commonwealth personnel and/or competing Offeror personnel may be disqualified.

#### **I.24 RFP-021.2 Notification of Selection (Sept 2011)**

**A. Contract Negotiations.** The Issuing Office will notify all Offerors in writing of the Offeror selected for contract negotiations after the Issuing Office has determined, taking into consideration all of the evaluation factors, the proposal that is the most advantageous to the Issuing Office.

**B. Award.** Offerors whose proposals are not selected will be notified when contract negotiations have been successfully completed and the Issuing Office has received the final negotiated contract signed by the selected Offeror.

#### **I.25 RFP-022.1 Debriefing Conferences (Sept 2011)**

Upon notification of award, Offerors whose proposals were not selected will be given the opportunity to be debriefed. The Issuing Office will schedule the debriefing at a mutually agreeable time. The debriefing will not compare the Offeror with other Offerors, other than the position of the Offeror's proposal in relation to all other Offeror proposals. An Offeror's exercise of the opportunity to be debriefed does not constitute nor toll the time for filing a protest (See Section I-RFP-024.1a or I-RFP-024.1b of this RFP).

#### **I.26 RFP-023.1 Issuing Office Participation (Oct 2006)**

Offerors shall provide all services, supplies, facilities, and other support necessary to complete the identified work, except as otherwise provided in **Part IV**.

#### **I.27 RFP-024.1a Department of General Services RFP Protest Procedure (Jan 2012)**

The RFP Protest Procedure is on the DGS website at <http://www.dgs.state.pa.us>. A protest by a party not submitting a proposal must be filed within **seven** days after the protesting party knew or should have known of the facts giving rise to the protest, but no later than the Proposal Responsive Date. Offerors may file a protest within **seven** days after the protesting Offeror knew or should have known of the facts giving rise to the protest, but in no event may an Offeror file a protest later than **seven** days after the date the notice of award of the contract is posted on the DGS website. The date of filing is the date of receipt of the protest. A protest must be filed in writing with the Issuing Office. To be timely, the protest must be received by 4:00 p.m. on the seventh day.

**I.28 RFP-027.1 COSTARS Program (Aug 2010)**

**COSTARS Purchasers.** Section 1902 of the Commonwealth Procurement Code, 62 Pa.C.S. § 1902 (“Section 1902”), authorizes local public procurement units and state-affiliated entities (together, “COSTARS Members”) to participate in Commonwealth procurement contracts that the Department of General Services (“DGS”) may choose to make available to COSTARS Members. DGS has identified this Contract as one which will be made available for COSTARS Members’ participation.

A. Only those entities registered with DGS are authorized to participate as COSTARS Members in this Contract. A COSTARS Member may be either a local public procurement unit or a state-affiliated entity.

1. A “local public procurement unit” is:

- Any political subdivision (local government unit), such as a municipality, school district, or commission;
- Any public authority (including authorities formed under the Municipality Authorities Act of 1955 or other authorizing legislation, such as the Public Transportation Law or the Aviation Code);
- Any tax-exempt, nonprofit educational institution or organization;
- Any tax-exempt, nonprofit public health institution or organization;
- Any nonprofit fire, rescue, or ambulance company; and
- Any other entity that spends public funds for the procurement of supplies, services, and construction (such as a council of governments, an area government, or an organization that receives public grant funds).

2. A state-affiliated entity is a Commonwealth authority or other Commonwealth entity that is not a Commonwealth agency. The term includes:

- The Pennsylvania Turnpike Commission;
- The Pennsylvania Housing Finance Agency;
- The Pennsylvania Municipal Retirement System;
- The Pennsylvania Infrastructure Investment Authority;
- The State Public School Building Authority;
- The Pennsylvania Higher Education Facilities Authority, and
- The State System of Higher Education.

The term does not include any court or other officer or agency of the unified judicial system, the General Assembly and its officers and agencies, any State-related institution, or any Commonwealth executive or independent agencies, boards, or commissions not listed above. Statewide “row” offices, including the Auditor General, Attorney General, and State Treasurer **are not** State-affiliated entities under the Procurement Code.

However, elements of the court system, the General Assembly, and independent agencies, boards, or commissions have been deemed eligible for COSTARS membership as entities that spend public funds for the procurement of supplies, services, and construction.

3. A complete list of local public procurement units and state-affiliated entities that have registered with DGS and that are authorized to procure items from the Contract can be found at <http://www.dgsweb.state.pa.us/COSTARSReg/Member.aspx>

B. COSTARS Members have the option to purchase from this Contract, from any DGS contract established exclusively for COSTARS Members in accordance with the requirements of Section



1902, from any other cooperative procurement contracts, or from their own procurement contracts established in accordance with the applicable laws governing such procurements. The Contractor understands and acknowledges that there is no guarantee that a COSTARS Member will place an order under this Contract, and that the decision to procure from this Contract is within the sole discretion of each COSTARS Member.

C. DGS is acting as a facilitator for COSTARS Members who may wish to purchase under this Contract. COSTARS Members that participate in this Contract and issue purchase orders (“POs”) to Contractors are third party beneficiaries who have the right to sue and be sued for breach of this Contract without joining the Commonwealth or DGS as a party. The Commonwealth will not intervene in any action between a Contractor and a COSTARS Member unless substantial interests of the Commonwealth are involved.

D. COSTARS Members electing to participate in this Contract will order items directly from the Contractor and be responsible for payment directly to the Contractor.

E. Those Contractors electing to permit COSTARS Members to procure from this Contract shall pay the Required Administrative Fee applicable to the Contractor’s classification:

Contractor Classification	Required Administrative Fee
<b>Qualified Small Business Bidder</b> , defined as having less than 100 full-time employees or full-time equivalent employees and Gross Annual Revenue less than \$20,000,000 (\$25,000,000 for IT sales or service businesses)	\$500
All Other Bidders	\$1,500

1. Each bidder electing to permit COSTARS Members to participate in the Contract must pay the applicable Administrative Fee upon Contract award in order to sell the awarded items/services to COSTARS Members. If the bidder is asserting that it is a Qualified Small Business, a completed Department of General Services Small Business Certification must be returned with the bid package.

2. At the beginning of each Contract year and upon any Contract renewal, the Contractor shall submit a check for the required amount, payable to “ Commonwealth of PA ”. The Contractor must pay the Administrative Fee at each contract renewal date to continue to sell the awarded items/services to COSTARS Members.

F. DGS has registered the COSTARS name and logo (together, the “COSTARS Brand”) as a trademark with the Pennsylvania Department of State. Therefore, the Contractor may use the COSTARS Brand only as permitted under in this Subsection.

1. The Contractor shall pay the Administrative Fee covering its participation in the

program, including without limitation any use of the COSTARS Brand, for each year of the Contract period. The fee is payable upon Contract award and prior to the renewal date for each succeeding Contract period

2. DGS grants the Contractor a nonexclusive license to use the COSTARS Brand, subject to the following conditions:

a. The Contractor agrees not to transfer to any third party, including without limitation any of its subcontractors or suppliers, any privileges it may have to use the COSTARS Brand under this Contract.

b. The Contractor agrees not to use the COSTARS Brand to represent or imply any Commonwealth endorsement or approval of its products or services.

c. The Contractor is permitted to use the COSTARS Brand in broadcast, or Internet media solely in connection with this Contract and any other Contract with the Commonwealth under which it has agreed to make sales to COSTARS Purchasers. The Contractor may use the COSTARS Brand on business cards, brochures, and other print publications so long as the purpose is to identify the Contractor as a COSTARS vendor, and only so long as the required Contract fee is kept current.

d. Should this Contract terminate for any reason, the Contractor agrees promptly to remove the COSTARS Brand from any and all print and electronic media and to refrain from using the COSTARS Brand for any purpose whatsoever from the date of Contract termination forward.

e. The Contractor agrees to defend, indemnify, and hold harmless the Commonwealth of Pennsylvania and DGS from and against all claims, demands, liabilities, obligations, costs, and expenses of any nature whatsoever arising out of or based upon the Contractor's use of the COSTARS Brand.

f. The Contractor agrees it has no property rights in the use of the COSTARS Brand by virtue of this nonexclusive license. The Contractor expressly waives any claims, including without limitation due process claims that may otherwise be available under the law in the event of any dispute involving these terms of use.

G. The Contractor shall furnish to the DGS COSTARS Program Office a quarterly electronic Contract sales report detailing the previous quarter's Contract purchasing activity, using the form and in the format prescribed by DGS. The Contractor shall submit its completed quarterly report no later than the fifteenth calendar day of the succeeding Contract quarter.

1. The Contractor shall submit the reports via the web-based COSTARS Suppliers' Gateway at [www.dgs.state.pa.us/costars](http://www.dgs.state.pa.us/costars). If a Contractor does not have access to the Internet, the Contractor shall send the reports, using the form and in the format prescribed by DGS, on compact disc via US Postal Service to the DGS COSTARS Program Office, Bureau of Procurement, 6th Floor Forum Place, 555 Walnut Street, Harrisburg, PA 17101-1914.

2. For each PO received, the Contractor shall include on the report the name and address of each COSTARS-Registered Purchaser that has used the Contract along with the sales date, and dollar volume of sales to the specific Purchaser for the reporting period.

3. DGS may suspend the Contractor's participation in the COSTARS Program for failure to provide the Quarterly Sales Report within the specified time.

H. Additional information regarding the COSTARS Program is available on the DGS COSTARS Website at [www.dgs.state.pa.us/costars](http://www.dgs.state.pa.us/costars)

1. If the Contractor is aware of any qualified entity not currently registered and wishing to participate in the COSTARS Program, please refer the potential purchaser to the DGS COSTARS Website at [www.dgs.state.pa.us/costars](http://www.dgs.state.pa.us/costars), where it may register by completing the online registration form and receiving DGS confirmation of its registration. To view a list of currently-registered COSTARS member entities, please visit the COSTARS website.

2. Direct all questions concerning the COSTARS Program to:

Department of General Services  
COSTARS Program  
555 Walnut Street , 6th Floor  
Harrisburg , PA 17101  
Telephone: 1-866-768-7827  
E-mail [GS-PACostars@state.pa.us](mailto:GS-PACostars@state.pa.us)

#### **I.29 RFP-028.1 Participating Addendum with an External Procurement Activity (Oct 2006)**

Section 1902 of the *Commonwealth Procurement Code*, 62 Pa.C.S. Section 1902, permits external procurement activities to participate in cooperative purchasing agreements for the procurement of services, supplies or construction.

a. **Definitions.** The following words and phrases have the meanings set forth in this provision:

- (1) *External procurement activity:* The term, as defined in 62 Pa. C. S. Section 1901, means a "buying organization not located in the Commonwealth [of Pennsylvania] which if located in this Commonwealth would qualify as a public procurement unit [under 62 Pa. C.S. Section 1901]. An agency of the United States is an external procurement activity."
- (2) *Participating addendum:* A bilateral agreement executed by the Contractor and an external procurement activity that clarifies the operation of the Contract for the external procurement activity concerned. The terms and conditions in any participating addendum shall affect only the procurements of the purchasing entities under the jurisdiction of the external procurement activity signing the participating addendum.
- (3) *Public procurement unit:* The term, as defined in 62 Pa. C. S. Section 1901, means a "local public procurement unit or purchasing agency."
- (4) *Purchasing agency:* The term, as defined in 62 Pa. C. S. Section 103, means a "Commonwealth agency authorized by this part or any other law to enter into contracts for itself or as the agent of another Commonwealth agency."

b. **General.** A participating addendum shall incorporate the terms and conditions of the Contract resulting from this RFP. The Contractor shall not be required to enter into any participating addendum.

c. **Additional Terms.**

- (1) A participating addendum may include additional terms that are required by the law governing the external procurement activity.
- (2) A participating addendum may include new, mutually agreed upon terms that clarify ordering procedures specific to a participating external procurement activity.
- (3) The construction and effect of any participating addendum shall be governed by and construed in accordance with the laws governing the external procurement activity.
- (4) If an additional term requested by the external procurement activity will result in an increased cost to the Contractor, the Contractor shall adjust its pricing up or down accordingly.

d. **Prices.**

- 1) **Price adjustment.** For any costs affecting the percent markup that the Contractor will or will not incur or that differ from costs incurred or not incurred in the fulfillment of this Contract, the Contractor shall adjust its pricing up or down accordingly. These costs may include, but not be limited to:
    - (a) State and local taxes;
    - (b) Unemployment and workers compensation fees;
    - (c) E-commerce transaction fees; and
    - (d) Costs associated with additional terms, established pursuant to the Contract.
  - 2) The Contractor's pricing for an external procurement activity shall be firm and fixed for the duration of the initial term of the Contract. After the initial term of the Contract, if the Contract is renewed, the Contractor's pricing may be adjusted up or down based on market conditions only with the mutual agreement of both the Contractor and any external procurement activity.
- e. **Usage Reports on External Procurement Activities.** The Contractor shall furnish to the Contracting Officer an electronic quarterly usage report, preferably in spreadsheet format no later than the fifteenth calendar day of the succeeding calendar quarter. Reports shall be e-mailed to the Contracting Officer for the Contract. Each report shall indicate the name and address of the Contractor, contract number, period covered by the report, the name of the external procurement activity that has used the Contract and the total volume of sales to the external procurement activity for the reporting period.
- f. **Electronic Copy of Participating Addendum.** The Contractor, upon request of the Contracting Officer, shall submit **one** electronic copy of the participating addendum to the Contracting Officer within **ten** days after request.

## **PART II - PROPOSAL REQUIREMENTS**

### **PART II - PROPOSAL REQUIREMENTS**

#### **II.1 RFP-001.1a General Requirements (Oct 2006)**

Offerors must submit their proposals in the format, including heading descriptions, outlined below. To be considered, the proposal must respond to all requirements in this part of the RFP. Offerors should provide any other information thought to be relevant, but not applicable to the enumerated categories, as an appendix to the Proposal. All cost data relating to this proposal and all Disadvantaged Business cost data should be kept separate from and not included in the Technical Submittal. Each Proposal shall consist of the following three separately sealed submittals:

- a. Technical Submittal
- b. Disadvantaged Business Submittal
- c. Cost Submittal

The Issuing Office reserves the right to request additional information which, in the Issuing Office's opinion, is necessary to assure that the Offeror's competence, number of qualified employees, business organization, and financial resources are adequate to perform according to the RFP.

The Issuing Office may make investigations as deemed necessary to determine the ability of the Offeror to perform the Project, and the Offeror shall furnish to the Issuing Office all requested information and data. The Issuing Office reserves the right to reject any proposal if the evidence submitted by, or investigation of, such Offeror fails to satisfy the Issuing Office that such Offeror is properly qualified to carry out the obligations of the RFP and to complete the Project as specified.

#### **II.2 RFP-002.1 Technical Submittal Requirements - Standard (February 2012)**

Offerors must include in their Technical Submittal, their responses to the following:

- a. Statement of the Problem:** State in succinct terms your understanding of the problem presented or the service required by this RFP.
- b. Management Summary:** Include a narrative description of the proposed effort and a list of the items to be delivered or services to be provided.
- c. Work Plan:** Describe in narrative form your technical plan for accomplishing the work. Use the task descriptions in Part IV of this RFP as your reference point. Modifications of the task descriptions are permitted; however, reasons for changes should be fully explained. Indicate the number of person hours allocated to each task. Include a Program Evaluation and Review Technique (PERT) or similar type display, time related, showing each event. If more than one approach is apparent, comment on why you chose this approach.
- d. Prior Experience:** Experience shown should be work done by individuals who will be assigned to this project as well as that of your company. Studies or projects referred to must be identified and the name of the customer shown, including the name, address, and telephone number of the responsible official of the customer, company, or agency who may be contacted.

**e. Personnel:** Include the number of executive and professional personnel, analysts, auditors, researchers, programmers, consultants, etc., who will be engaged in the work. Show where these personnel will be physically located during the time they are engaged in the Project. For key personnel, include the employee's name and, through a resume or similar document, the Project personnel's education and experience. Indicate the responsibilities each individual will have in this Project and how long each has been with your company. Identify by name any subcontractors you intend to use and the services they will perform.

**f. Training:** If appropriate, indicate recommended training of agency personnel. Include the agency personnel to be trained, the number to be trained, duration of the program, place of training, curricula, training materials to be used, number and frequency of sessions, and number and level of instructors.

**g. Financial Capability:** Describe your company's financial stability and economic capability to perform the contract requirements. Provide your company's audited financial statements for the past three fiscal years. Audited financial statements must include the company's Balance Sheet and Income Statement or Profit/Loss Statements. Also include a Dun & Bradstreet comprehensive report, if available. If your company is a publicly traded company, please provide a link to your financial records on your company website in lieu of providing hardcopies. The Commonwealth reserves the right to request additional information it deems necessary to evaluate an Offeror's financial capability.

**h. Objections and Additions to Standard Contract Terms and Conditions:** The Offeror will identify which, if any, of the terms and conditions (contained in Part V) it would like to negotiate and what additional terms and conditions the Offeror would like to add to the standard contract terms and conditions. The Offeror's failure to make a submission under this paragraph will result in its waiving its right to do so later, but the Issuing Office may consider late objections and requests for additions if to do so, in the Issuing Office's sole discretion, would be in the best interest of the Commonwealth. The Issuing Office may, in its sole discretion, accept or reject any requested changes to the standard contract terms and conditions. The Offeror shall not request changes to the other provisions of the RFP, nor shall the Offeror request to completely substitute its own terms and conditions for Part V. All terms and conditions must appear in one integrated contract. The Issuing Office will not accept references to the Offeror's, or any other, online guides or online terms and conditions contained in any proposal.

Regardless of any objections set out in its proposal, the Offeror must submit its proposal, including the cost proposal, on the basis of the terms and conditions set out in Part V. The Issuing Office will reject any proposal that is conditioned on the negotiation of terms and conditions other than those set out in Part V.

### **II.3 RFP-003.1a Disadvantaged Business Submittal (Sept 2011)**

**A.** To receive credit for being a Small Disadvantaged Business or a Socially Disadvantaged Business or for entering into a joint venture agreement with a Small Disadvantaged Business or for subcontracting with a Small Disadvantaged Business (including purchasing supplies and/or services through a purchase agreement), an Offeror must include proof of Disadvantaged Business qualification in the Disadvantaged Business Submittal of the proposal, as indicated below:

1. A Small Disadvantaged Businesses certified by BMWBO as an MBE/WBE must provide a photocopy of their BMWBO certificate.

2. Businesses certified by the U.S. Small Business Administration pursuant to Section 8(a) of the Small Business Act (15 U.S.C. § 636(a)) as an 8(a) Small Disadvantaged Businesses must submit proof of U.S. Small Business Administration certification. The owners of such businesses must also submit proof of United States citizenship.

3. All businesses claiming Small Disadvantaged Business status, whether as a result of BMWBO certification, or U.S. Small Business Administration certification as an 8(a) small disadvantaged business, must attest to the fact that the business has no more than 100 full-time or full-time equivalent employees.

4. All businesses claiming Small Disadvantaged Business status, whether as a result of BMWBO certification, or U.S. Small Business Administration certification as an 8(a) small disadvantaged business, must submit proof that their gross annual revenues are less than \$20,000,000 (\$25,000,000 for those businesses in the information technology sales or service business). This can be accomplished by including a recent tax return or audited financial statement.

**B.** All businesses claiming status as a Socially Disadvantaged Business must include in the Disadvantaged Business Submittal of the proposal clear and convincing evidence to establish that the business has personally suffered racial or ethnic prejudice or cultural bias stemming from the business person's color, ethnic origin or gender. The submitted evidence of prejudice or bias must:

1. Be rooted in treatment that the business person has experienced in American society, not in other countries.
2. Show prejudice or bias that is chronic and substantial, not fleeting or insignificant.
3. Indicate that the business person's experience with the racial or ethnic prejudice or cultural bias has negatively impacted his or her entry into and/or advancement in the business world.

BMWBO shall determine whether the Offeror has established that a business is socially disadvantaged by clear and convincing evidence.

**C.** In addition to the above verifications, the Offeror must include in the Disadvantaged Business Submittal of the proposal the following information:

1. Those Small Disadvantaged Businesses submitting a proposal as the Offeror, must include a numerical percentage which represents the total percentage of the work (as a percentage of the total cost in the Cost Submittal) to be performed by the Offeror and not by subcontractors and suppliers.
2. Those Small Disadvantaged Businesses submitting a proposal as a part of a joint venture partnership, must include a numerical percentage which represents the total percentage of the work (as a percentage of the total cost in the Cost Submittal) to be performed by the Small Disadvantaged Business joint venture partner and not by subcontractors and suppliers or by joint venture partners who are not Small Disadvantaged Businesses. Offeror must also provide:
  - a) The amount of capital, if any, each Small Disadvantaged Business joint venture partner will be expected to provide.
  - b) A copy of the joint venture agreement signed by all parties.
  - c) The business name, address, name and telephone number of the primary contact person for the Small Disadvantaged Business joint venture partner.
3. *All* Offerors must include a numerical percentage which represents the total percentage of the total cost in the Cost Submittal that the Offeror commits to paying to Small Disadvantaged Businesses as subcontractors. To support its total percentage DB subcontractor commitment, Offeror must also include:

- a) The dollar amount of each subcontract commitment to a Small Disadvantaged Business;
- b) The name of each Small Disadvantaged Business. The Offeror will not receive credit for stating that after the contract is awarded it will find a Small Disadvantaged Business.
- c) The services or supplies each Small Disadvantaged Business will provide, including the timeframe for providing the services or supplies.
- d) The location where each Small Disadvantaged Business will perform services.
- e) The timeframe for each Small Disadvantaged Business to provide or deliver the goods or services.
- f) A signed subcontract or letter of intent for each Small Disadvantaged Business. The subcontract or letter of intent must identify the specific work, goods or services the Small Disadvantaged Business will perform and how the work, goods or services relates to the project.
- g) The name, address and telephone number of the primary contact person for each Small Disadvantaged Business.

4. The total percentages and each subcontractor commitment will become contractual obligations once the contract is fully executed.

5. The name and telephone number of the Offeror's project (contact) person for the Small Disadvantaged Business information.

**D.** The Offeror is required to submit **two** copies of its Disadvantaged Business Submittal. The submittal shall be clearly identified as Disadvantaged Business information and sealed in its own envelope, separate from the remainder of the proposal.

**E.** A Small Disadvantaged Business can be included as a subcontractor with as many prime contractors as it chooses in separate proposals.

**F.** An Offeror that qualifies as a Small Disadvantage Business and submits a proposal as a prime contractor is not prohibited from being included as a subcontractor in separate proposals submitted by other Offerors.

**II.4 RFP-003.1b. Enterprise Zone Small Business Participation (Sept 2010)**

a. To receive credit for being an enterprise zone small business or entering into a joint venture agreement with an enterprise zone small business or subcontracting with an enterprise zone small business, an Offeror must include the following information in the Disadvantaged Business Submittal of the proposal:

- 1. Proof of the location of the business' headquarters (such as a lease or deed or Department of State corporate registration), including a description of those activities that occur at the site to support the other businesses in the enterprise zone.
- 2. Confirmation of the enterprise zone in which it is located (obtained from the local enterprise zone office).



3. Proof of United States citizenship of the owners of the business.
  4. Certification that the business employs no more than 100 full-time or full-time equivalent employees.
  5. Proof that the business' gross annual revenues are less than \$20,000,000 (\$25,000,000 for those businesses in the information technology sales or service business). This can be accomplished by including a recent tax return or audited financial statement.
  6. Documentation of business organization, if applicable, such as articles of incorporation, partnership agreement or other documents of organization.
- b. In addition to the above verifications, the Offeror must include in the Disadvantaged Business Submittal of the proposal the following information:
1. The name and telephone number of the Offeror's project (contact) person for the Enterprise Zone Small Business.
  2. The business name, address, name and telephone number of the primary contact person for each Enterprise Zone Small Business included in the proposal. The Offeror must specify each Enterprise Zone Small Business to which it is making commitments. The Offeror will not receive credit for stating that it will find an Enterprise Zone Small Business after the contract is awarded or for listing several businesses and stating that one will be selected later.
  3. The specific work, goods or services each Enterprise Zone Small Business will perform or provide.
  4. The estimated dollar value of the contract to each Enterprise Zone Small Business.
  5. Of the estimated dollar value of the contract to each Enterprise Zone Small Business, the percent of the total value of services or products purchased or subcontracted that each Enterprise Zone Small Business will provide.
  6. The location where each Enterprise Zone Small Business will perform these services.
  7. The timeframe for each Enterprise Zone Small Business to provide or deliver the goods or services.
  8. The amount of capital, if any, each Enterprise Zone Small Business will be expected to provide.
  9. The form and amount of compensation each Enterprise Zone Small Business will receive.
  10. For a joint venture agreement, a copy of the agreement, signed by all parties.
  11. For a subcontract, a signed subcontract or letter of intent.
- c. The dollar value of the commitment to each Enterprise Zone Small Business must be included in the same sealed envelope with the Disadvantaged Business Submittal of the proposal. The following will become a contractual

obligation once the contract is fully executed:

1. The amount of the selected Offeror's Enterprise Zone Small Business commitment;
2. The name of each Enterprise Zone Small Business; and
3. The services each Enterprise Zone Small Business will provide, including the timeframe for performing the services.

#### **II.5 RFP-004.1a Cost Submittal Requirements - Paper Submission (May 2008)**

The information submitted in response to this paragraph shall constitute the Cost Submittal. The Cost Submittal shall be placed in a separate sealed envelope within the sealed proposal, separated from the technical submittal. The total proposed cost shall be broken down into the components listed in the paragraph entitled "Cost Submittal Components". Offerors should **not** include any assumptions in their cost submittals. If the Offeror includes assumptions in its cost submittal, the Issuing Office may reject the proposal. Offerors should direct in writing to the Issuing Office any questions about whether a cost or other component is included or applies. All Offerors will then have the benefit of the Issuing Office's written answer so that all proposals are submitted on the same basis.

The Issuing Office will reimburse the selected Offeror for work satisfactorily performed after execution of a written contract and the start of the contract term, in accordance with contract requirements, and only after the Issuing Office has issued a notice to proceed.

#### **II.6 RFP-004.1A1 Cost Submittal Components (Jan 2008)**

The Cost Submittal Worksheet, Appendix E, shall constitute the cost submittal. It is understood that for the purposes of this RFP, the "costs" are considered to be the fees that the Offeror will charge to buyers for sale of auction items under the conditions as described in the Cost Submittal Worksheet. The Offeror will retain all of the buyer's fees collected as profit. The cost submittal shall be placed in a separate sealed envelope within the sealed proposal, separated from the technical submittal. Offerors should not include any assumptions in their cost submittal. If the Offeror includes assumptions in its cost submittal, the Issuing Office may reject the proposal. Offerors should direct in writing to the Issuing Office pursuant to Part I, Section I-9, of this RFP any questions about whether a cost or other component is included or applies. All Offerors will then have the benefit of the Issuing Office's written answer so that all proposals are submitted on the same basis.

#### **II.7 RFP-005.1 Domestic Workforce Utilization Certification (Oct 2006)**

Offerors who seek consideration for the Domestic Workforce Utilization Certification criterion must complete, sign and submit the Domestic Workforce Utilization Certification Form, which is attached to and made a part of this RFP. The completed and signed Domestic Workforce Utilization Certification Form must be submitted in the same sealed envelope with the Technical Submittal.

#### **II.8 RFP-006.1 COSTARS Program Questionnaire and COSTARS Small Business Certification (Jan 2012)**

Offerors should complete and sign the COSTARS Program Questionnaire Form, which is attached to and made a part of this RFP. If the Offeror is asserting that it is a Qualified Small Business, also complete and sign the Department of General Services COSTARS Small Business Certification which is attached to and made a part of this RFP. Submit the signed COSTARS program documents in the same sealed envelope with the Technical Submittal.

## **PART III - CRITERIA FOR SELECTION**

### **PART III - CRITERIA FOR SELECTION**

#### **III.1 RFP-001.1a Mandatory Responsiveness Requirements (Oct 2006)**

To be eligible for selection, a proposal must be:

- a. Timely received from an Offeror;
- b. Properly signed by the Offeror.

#### **III.2 RFP-002.1 Technical Nonconforming Proposals (January 2011)**

The Mandatory Responsiveness Requirements set forth in **Section III- RFP-001.1a or Section III-RFP-001.1b** above are the only RFP requirements that the Commonwealth will consider to be *non-waivable*. The Issuing Office reserves the right, in its sole discretion, to (1) waive any other technical or immaterial nonconformities in an Offeror's proposal, (2) allow the Offeror to cure the nonconformity, or (3) consider the nonconformity in the scoring of the Offeror's proposal.

#### **III.3 RFP-003.1 Evaluation (January 2011)**

The Issuing Office has selected a committee of qualified personnel to review and evaluate timely submitted proposals. Independent of the committee, BMWBO will evaluate the Disadvantaged Business Submittal and provide the Issuing Office with a rating for this component of each proposal. The Issuing Office will notify in writing of its selection for negotiation the responsible Offeror whose proposal is determined to be the most advantageous to the Commonwealth as determined by the Issuing Office after taking into consideration all of the evaluation factors.

#### **III.4 RFP-004.1a Evaluation Criteria (January 2011)**

The following criteria will be used in evaluating each proposal:

- A. **Technical:** The Issuing Office has established the weight for the Technical criterion for this RFP as **60%** of the total points. Evaluation will be based upon the following: **Understanding the Problem, Offeror Qualification, Financial Capability, Personnel Qualifications, Soundness of Approach.**
- B. **Cost:** The Issuing Office has established the weight for the Cost criterion for this RFP as **40%** of the total points.
- C. **Disadvantaged Business Participation:** BMWBO has established the weight for the Disadvantaged Business (DB) Participation criterion for this RFP as **0%** of the total points.

#### **III.5 RFP-005.1 Domestic Workforce Utilization Criterion (Oct 2009)**

Any points received for the Domestic Workforce Utilization criterion are bonus points in addition to the total points for this RFP. The maximum bonus points for this criterion is 3% of the total points for this RFP. To the extent permitted by the laws and treaties of the United States, each proposal will be scored for its commitment to use

domestic workforce in the fulfillment of the contract. Maximum consideration will be given to those Offerors who will perform the contracted direct labor exclusively within the geographical boundaries of the United States or within the geographical boundaries of a country that is a party to the World Trade Organization Government Procurement Agreement. Those who propose to perform a portion of the direct labor outside of the United States and not within the geographical boundaries of a party to the World Trade Organization Government Procurement Agreement will receive a correspondingly smaller score for this criterion. Offerors who seek consideration for this criterion must submit in hardcopy the signed Domestic Workforce Utilization Certification Form in the same sealed envelope with the Technical Submittal. The certification will be included as a contractual obligation when the contract is executed.

### **III.6 RFP-005.2b Offeror Responsibility (Sept 2011)**

To be responsible, an Offeror must submit a responsive proposal and possess the capability to fully perform the contract requirements in all respects and the integrity and reliability to assure good faith performance of the contract.

In order for an Offeror to be considered responsible for this RFP and therefore eligible for selection for best and final offers or selection for contract negotiations:

A. The total score for the technical submittal of the Offeror's proposal must be greater than or equal to **70%** of the **available technical points**; and

B. The Offeror's financial information must demonstrate that the Offeror possesses the financial capability to assure good faith performance of the contract. The Issuing Office will review the Offeror's previous three financial statements, any additional information received from the Offeror, and any other publicly-available financial information concerning the Offeror, and assess each Offeror's financial capacity based on calculating and analyzing various financial ratios, and comparison with industry standards and trends.

An Offeror which fails to demonstrate sufficient financial capability to assure good faith performance of the contract as specified herein may be considered by the Issuing Office, in its sole discretion, for Best and Final Offers or contract negotiation contingent upon such Offeror providing contract performance security for the first contract year cost proposed by the Offeror in a form acceptable to the Issuing Office. Based on the financial condition of the Offeror, the Issuing Office may require a certified or bank (cashier's) check, letter of credit, or a performance bond conditioned upon the faithful performance of the contract by the Offeror. The required performance security must be issued or executed by a bank or surety company authorized to do business in the Commonwealth. The cost of the required performance security will be the sole responsibility of the Offeror and cannot increase the Offeror's cost proposal or the contract cost to the Commonwealth.

Further, the Issuing Office will award a contract only to an Offeror determined to be responsible in accordance with the most current version of Commonwealth Management Directive 215.9, Contractor Responsibility Program.

### **III.7 RFP-006.1a Method of Selection (Sept 2011)**

The Issuing Office will notify the selected Offeror in writing of its selection for negotiation after the Issuing Office has determined, taking into consideration all of the evaluation factors, the proposal that is the most advantageous to the Issuing Office.

**PART IV - STATEMENT OF WORK**

**PART IV - STATEMENT OF WORK**

**IV.1 WORK STATEMENT**

Part IV, Statement of Work, is attached and made part of this RFP.

**PART V - CONTRACT TERMS and CONDITIONS**

**PART V - CONTRACT TERMS and CONDITIONS**

**V.1 CONTRACT-001.1a Contract Terms and Conditions (Nov 30 2006)**

The Contract with the selected offeror (who shall become the "Contractor") shall include the following terms and conditions:

**V.2 CONTRACT-002.1d Term of Contract – Contract (May 2008)**

The initial term of the Contract shall be 3 year(s).

The term of the Contract shall commence on the Effective Date (as defined below) and shall end on the Expiration Date identified in the Contract, subject to the other provisions of the Contract.

The Effective Date shall be: a) the Effective Date printed on the Contract after the Contract has been fully executed by the Contractor and the Commonwealth (signed and approved as required by Commonwealth contracting procedures) or b) the "Valid from" date printed on the Contract, whichever is later.

**V.3 CONTRACT-002.2b Renewal of Contract Term – Mutual (Nov 30 2006)**

The Contract may be mutually renewed for a maximum of 2 additional 1 year term(s), so long as the Commonwealth provides written notice to the Contractor of its intention to extend the Contract by letter dated not less than 090 days prior to the expiration of the term of the agreement, or any extension thereof, and the Contractor consents to the renewal not less than 090 days prior to the expiration of the term of the agreement or any extension thereof. The renewal may be exercised as individual or multiple year terms(s). Any renewal will be under same terms, covenants and conditions. No further document is required to be executed to renew the term of the contract.

**V.4 CONTRACT-002.3 Extension of Contract Term (Nov 30 2006)**

The Commonwealth reserves the right, upon notice to the Contractor, to extend any single term of the Contract for up to three (3) months upon the same terms and conditions.

**V.5 CONTRACT-003.1b Signatures – Contract (March 2007)**

The fully-executed Contract may be sent to the Contractor electronically or through facsimile equipment. The electronic transmission of the Contract shall require acknowledgement of receipt of the transmission by the Contractor. Receipt of the electronic or facsimile transmission of the Contract shall constitute receipt of the fully-executed Contract.

The Commonwealth and the Contractor specifically agree as follows:

- a. No handwritten signature shall be required in order for the Contract to be legally enforceable.
- b. The parties agree that no writing shall be required in order to make the Contract legally binding, notwithstanding contrary requirements in any law. The parties hereby agree not to contest the validity or enforceability of a genuine Contract or acknowledgement issued electronically under the provisions of a statute of frauds or any other applicable law relating to whether certain agreements be in writing and signed by the party bound thereby. Any genuine Contract or acknowledgement issued electronically, if introduced as evidence on paper in any judicial, arbitration, mediation, or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither party shall contest the admissibility of copies of a genuine Contract or acknowledgements under either the business records exception to the hearsay rule or the best evidence rule on the basis that the Contract or acknowledgement were not in writing or signed by the parties. A Contract or acknowledgment shall be deemed to be genuine for all purposes if it is transmitted to the location designated for such documents.
- c. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document if necessary.

**V.6 CONTRACT-004.1a Definitions (Dec 12 2006)**

As used in this Contract, these words shall have the following meanings:

- a. Agency The department, board, commission or other agency of the Commonwealth of Pennsylvania listed as the Purchasing Agency. If a COSTARS entity or external procurement activity has issued an order against this contract, that entity shall also be identified as "Agency".
- b. Contracting Officer The person authorized to administer this Contract for the Commonwealth and to make written determinations with respect to the Contract.
- c. Days Unless specifically indicated otherwise, days mean calendar days.
- d. Developed Works or Developed Materials All documents, sketches, drawings, designs, works, papers, files, reports, computer programs, computer documentation, data, records, software, samples or any other tangible material without limitation authored or prepared by Contractor as the work product covered in the scope of work for the Project.
- e. Documentation All materials required to support and convey information about the services required by this Contract. It includes, but is not necessarily restricted to, written reports and analyses, diagrams, maps, logical and physical designs, system designs, computer programs, flow charts, disks, and/or other machine-readable storage media.
- f. Services All Contractor activity necessary to satisfy the Contract.

**V.7 CONTRACT-005.1a Purchase Orders (Feb 2007)**

Commonwealth agencies may issue Purchase Orders against the Contract. These orders constitute the Contractor's authority to make delivery. All Purchase Orders received by the Contractor up to and including the expiration date of the Contract are acceptable and must be performed in accordance with the Contract. Each Purchase Order will be deemed to incorporate the terms and conditions set forth in the Contract.

Purchase Orders will not include an "ink" signature by the Agency. The electronically-printed name of the purchaser represents the signature of that individual who has the authority, on behalf

of the Commonwealth, to authorize the Contractor to proceed.

Purchase Orders may be issued electronically or through facsimile equipment. The electronic transmission of a purchase order shall require acknowledgement of receipt of the transmission by the Contractor. Receipt of the electronic or facsimile transmission of the Purchase Order shall constitute receipt of an order. Orders received by the Contractor after 4:00 p.m. will be considered received the following business day.

a. No handwritten signature shall be required in order for the Contract or Purchase Order to be legally enforceable.

b. The parties agree that no writing shall be required in order to make the order legally binding. The parties hereby agree not to contest the validity or enforceability of a Purchase Order or acknowledgement issued electronically under the provisions of a statute of frauds or any other applicable law relating to whether certain agreements be in writing and signed by the party bound thereby. Any Purchase Order or acknowledgement issued electronically, if introduced as evidence on paper in any judicial, arbitration, mediation, or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither party shall contest the admissibility of copies of Purchase Orders or acknowledgements under either the business records exception to the hearsay rule or the best evidence rule on the basis that the order or acknowledgement were not in writing or signed by the parties. A purchase order or acknowledgment shall be deemed to be genuine for all purposes if it is transmitted to the location designated for such documents.

c. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document if necessary.

Purchase Orders under five thousand dollars (\$5,000) in total amount may also be made in person or by telephone using a Commonwealth Purchasing Card. When an order is placed by telephone, the Commonwealth agency shall provide the agency name, employee name, credit card number, and expiration date of the card. Contractors agree to accept payment through the use of the Commonwealth Purchasing Card.

**V.8 CONTRACT-006.1 Independent Prime Contractor (Oct 2006)**

In performing its obligations under the Contract, the Contractor will act as an independent contractor and not as an employee or agent of the Commonwealth. The Contractor will be responsible for all services in this Contract whether or not Contractor provides them directly. Further, the Contractor is the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.

**V.9 CONTRACT-007.01b Delivery of Services (Nov 30 2006)**

The Contractor shall proceed with all due diligence in the performance of the services with qualified personnel, in accordance with the completion criteria set forth in the Contract.

**V.10 CONTRACT-007.02 Estimated Quantities (Nov 30 2006)**



It shall be understood and agreed that any quantities listed in the Contract are estimated only and may be increased or decreased in accordance with the actual requirements of the Commonwealth and that the Commonwealth in accepting any bid or portion thereof, contracts only and agrees to purchase only the materials and services in such quantities as represent the actual requirements of the Commonwealth. The Commonwealth reserves the right to purchase materials and services covered under the Contract through a separate competitive procurement procedure, whenever Commonwealth deems it to be in its best interest.

#### **V.11 CONTRACT-008.1a Warranty (Oct 2006)**

The Contractor warrants that all items furnished and all services performed by the Contractor, its agents and subcontractors shall be free and clear of any defects in workmanship or materials. Unless otherwise stated in the Contract, all items are warranted for a period of one year following delivery by the Contractor and acceptance by the Commonwealth. The Contractor shall repair, replace or otherwise correct any problem with the delivered item. When an item is replaced, it shall be replaced with an item of equivalent or superior quality without any additional cost to the Commonwealth.

#### **V.12 CONTRACT-009.1c Patent, Copyright, and Trademark Indemnity (Oct 2006)**

The Contractor warrants that it is the sole owner or author of, or has entered into a suitable legal agreement concerning either: a) the design of any product or process provided or used in the performance of the Contract which is covered by a patent, copyright, or trademark registration or other right duly authorized by state or federal law or b) any copyrighted matter in any report document or other material provided to the Commonwealth under the contract.

The Contractor shall defend any suit or proceeding brought against the Commonwealth on account of any alleged patent, copyright or trademark infringement in the United States of any of the products provided or used in the performance of the Contract.

This is upon condition that the Commonwealth shall provide prompt notification in writing of such suit or proceeding; full right, authorization and opportunity to conduct the defense thereof; and full information and all reasonable cooperation for the defense of same.

As principles of governmental or public law are involved, the Commonwealth may participate in or choose to conduct, in its sole discretion, the defense of any such action.

If information and assistance are furnished by the Commonwealth at the Contractor's written request, it shall be at the Contractor's expense, but the responsibility for such expense shall be only that within the Contractor's written authorization.

The Contractor shall indemnify and hold the Commonwealth harmless from all damages, costs, and expenses, including attorney's fees that the Contractor or the Commonwealth may pay or incur by reason of any infringement or violation of the rights occurring to any holder of copyright, trademark, or patent interests and rights in any products provided or used in the performance of the Contract.

If any of the products provided by the Contractor in such suit or proceeding are held to constitute infringement and the use is enjoined, the Contractor shall, at its own expense and at its option, either procure the right to continue use of such infringement products, replace them with non-infringement equal performance products or modify them so that they are no longer infringing.

If the Contractor is unable to do any of the preceding, the Contractor agrees to remove all the equipment or software which are obtained contemporaneously with the infringing product, or, at the option of the Commonwealth, only those items of equipment or software which are held to be infringing, and to pay the Commonwealth: 1) any amounts paid by the Commonwealth towards the purchase of the product, less straight line depreciation; 2) any license fee paid by the Commonwealth for the use of any software, less an amount for the period of usage; and 3) the pro rata portion of any maintenance fee representing the time remaining in any period of maintenance paid for. The obligations of the Contractor under this paragraph continue without time limit. No costs or expenses shall be incurred for the account of the Contractor without its written consent.

#### **V.13 CONTRACT-009.1d Ownership Rights (Oct 2006)**

The Commonwealth shall have unrestricted authority to reproduce, distribute, and use any submitted report, data, or material, and any software or modifications and any associated documentation that is designed or developed and delivered to the Commonwealth as part of the performance of the Contract.

#### **V.14 CONTRACT-010.1a Acceptance (Oct 2006)**

No item(s) received by the Commonwealth shall be deemed accepted until the Commonwealth has had a reasonable opportunity to inspect the item(s). Any item(s) which is discovered to be defective or fails to conform to the specifications may be rejected upon initial inspection or at any later time if the defects contained in the item(s) or the noncompliance with the specifications were not reasonably ascertainable upon the initial inspection. It shall thereupon become the duty of the Contractor to remove rejected item(s) from the premises without expense to the Commonwealth within fifteen (15) days after notification. Rejected item(s) left longer than fifteen (15) days will be regarded as abandoned, and the Commonwealth shall have the right to dispose of them as its own property and shall retain that portion of the proceeds of any sale which represents the Commonwealth's costs and expenses in regard to the storage and sale of the item(s). Upon notice of rejection, the Contractor shall immediately replace all such rejected item(s) with others conforming to the specifications and which are not defective. If the Contractor fails, neglects or refuses to do so, the Commonwealth shall then have the right to procure a corresponding quantity of such item(s), and deduct from any monies due or that may thereafter become due to the Contractor, the difference between the price stated in the Contract and the cost thereof to the Commonwealth.

#### **V.15 CONTRACT-011.1a Compliance With Law (Oct 2006)**

The Contractor shall comply with all applicable federal and state laws and regulations and local ordinances in the performance of the Contract.

#### **V.16 CONTRACT-013.1 Environmental Provisions (Oct 2006)**

In the performance of the Contract, the Contractor shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations, including, but not limited to: the Clean Streams Law Act of June 22, 1937 (P.L. 1987, No. 394), as amended 35 P.S. Section 691.601 et seq.; the Pennsylvania Solid Waste Management Act, Act of July 7, 1980 (P.L. 380, No. 97), as amended, 35 P.S. Section 6018.101 et seq.; and the Dam Safety and Encroachment Act, Act of November 26, 1978 (P.L. 1375, No. 325), as amended, 32 P.S. Section 693.1.

#### **V.17 CONTRACT-014.1 Post-Consumer Recycled Content (Dec 5 2006)**

Except as specifically waived by the Department of General Services in writing, any products which are provided to the Commonwealth as a part of the performance of the Contract must meet the minimum percentage levels for total recycled content as specified on the Department of General Services website at [www.dgs.state.pa.us](http://www.dgs.state.pa.us) on the date of submission of the bid, proposal or contract offer.

**V.18 CONTRACT-014.3 Recycled Content Enforcement (Feb 2009)**

The Contractor may be required, after delivery of the Contract item(s), to provide the Commonwealth with documentary evidence that the item(s) was in fact produced with the required minimum percentage of post-consumer and recovered material content.

**V.19 CONTRACT-015.1A Compensation/Expenses (May 2008)**

The Contractor shall be required to perform the specified services at the price(s) quoted in the Contract. All services shall be performed within the time period(s) specified in the Contract. The Contractor shall be compensated only for work performed to the satisfaction of the Commonwealth. The Contractor shall not be allowed or paid travel or per diem expenses except as specifically set forth in the Contract.

**V.20 CONTRACT-015.2 Billing Requirements (February 2012)**

Unless the Contractor has been authorized by the Commonwealth for Evaluated Receipt Settlement or Vendor Self-Invoicing, the Contractor shall include in all of its invoices the following minimum information:

- Vendor name and "Remit to" address, including SAP Vendor number;
- Bank routing information, if ACH;
- SAP Purchase Order number;
- Delivery Address, including name of Commonwealth agency;
- Description of the supplies/services delivered in accordance with SAP Purchase Order (include purchase order line number if possible);
- Quantity provided;
- Unit price;
- Price extension;
- Total price; and
- Delivery date of supplies or services.

If an invoice does not contain the minimum information set forth in this paragraph, the Commonwealth may return the invoice as improper. If the Commonwealth returns an invoice as improper, the time for processing a payment will be suspended until the Commonwealth receives a correct invoice. The Contractor may not receive payment until the Commonwealth has received a correct invoice.

Contractors are required to establish separate billing accounts with each using agency and invoice them directly. Each invoice shall be itemized with adequate detail and match the line item on the Purchase Order. In no instance shall any payment be made for services to the Contractor that are not in accordance with the prices on the Purchase Order, the Contract, updated price lists or any discounts negotiated by the purchasing agency.

**V.21 CONTRACT-016.1 Payment (Oct 2006)**

- a. The Commonwealth shall put forth reasonable efforts to make payment by the required payment date. The required payment date is: (a) the date on which payment is due under the terms of the Contract; (b) thirty (30) days after a proper invoice actually is received at the "Bill To" address if a date on which payment is due is not specified in the Contract (a "proper" invoice is not received until the Commonwealth accepts the service as satisfactorily performed); or (c) the payment date specified on the invoice if later than the dates established by (a) and (b) above. Payment may be delayed if the payment amount on an invoice is not based upon the price(s) as stated in the Contract. If any payment is not made within fifteen (15) days after the required payment date, the Commonwealth may pay interest as determined by the Secretary of Budget in accordance with Act No. 266 of 1982 and regulations promulgated pursuant thereto. Payment should not be construed by the Contractor as acceptance of the service performed by the Contractor. The Commonwealth reserves the right to conduct further testing and inspection after payment, but within a reasonable time after performance, and to reject the service if such post payment testing or inspection discloses a defect or a failure to meet specifications. The Contractor agrees that the Commonwealth may set off the amount of any state tax liability or other obligation of the Contractor or its subsidiaries to the Commonwealth against any payments due the Contractor under any contract with the Commonwealth.
- b. The Commonwealth shall have the option of using the Commonwealth purchasing card to make purchases under the Contract or Purchase Order. The Commonwealth's purchasing card is similar to a credit card in that there will be a small fee which the Contractor will be required to pay and the Contractor will receive payment directly from the card issuer rather than the Commonwealth. Any and all fees related to this type of payment are the responsibility of the Contractor. In no case will the Commonwealth allow increases in prices to offset credit card fees paid by the Contractor or any other charges incurred by the Contractor, unless specifically stated in the terms of the Contract or Purchase Order.

#### **V.22 CONTRACT-017.1 Taxes (Dec 5 2006)**

The Commonwealth is exempt from all excise taxes imposed by the Internal Revenue Service and has accordingly registered with the Internal Revenue Service to make tax free purchases under Registration No. 23-23740001-K. With the exception of purchases of the following items, no exemption certificates are required and none will be issued: undyed diesel fuel, tires, trucks, gas guzzler emergency vehicles, and sports fishing equipment. The Commonwealth is also exempt from Pennsylvania state sales tax, local sales tax, public transportation assistance taxes and fees and vehicle rental tax. The Department of Revenue regulations provide that exemption certificates are not required for sales made to governmental entities and none will be issued. Nothing in this paragraph is meant to exempt a construction contractor from the payment of any of these taxes or fees which are required to be paid with respect to the purchase, use, rental, or lease of tangible personal property or taxable services used or transferred in connection with the performance of a construction contract.

#### **V.23 CONTRACT-018.1 Assignment of Antitrust Claims (Oct 2006)**

The Contractor and the Commonwealth recognize that in actual economic practice, overcharges by the Contractor's suppliers resulting from violations of state or federal antitrust laws are in fact borne by the Commonwealth. As part of the consideration for the award of the Contract, and intending to be legally bound, the Contractor assigns to the Commonwealth all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products and services which are the subject of this Contract.

#### **V.24 CONTRACT-019.1 Hold Harmless Provision (Nov 30 2006)**

- a. The Contractor shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all third party claims, demands and actions based upon or arising out of any activities performed by the Contractor and its employees and agents under this Contract, provided the Commonwealth gives Contractor prompt notice of any such claim of which it learns. Pursuant to the Commonwealth Attorneys Act (71 P.S.

Section 732-101, et seq., the Office of Attorney General (OAG) has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG may, however, in its sole discretion and under such terms as it deems appropriate, delegate its right of defense. If OAG delegates the defense to the Contractor, the Commonwealth will cooperate with all reasonable requests of Contractor made in the defense of such suits.

- b. Notwithstanding the above, neither party shall enter into any settlement without the other party's written consent, which shall not be unreasonably withheld. The Commonwealth may, in its sole discretion, allow the Contractor to control the defense and any related settlement negotiations.

#### **V.25 CONTRACT-020.1 Audit Provisions (Oct 2006)**

The Commonwealth shall have the right, at reasonable times and at a site designated by the Commonwealth, to audit the books, documents and records of the Contractor to the extent that the books, documents and records relate to costs or pricing data for the Contract. The Contractor agrees to maintain records which will support the prices charged and costs incurred for the Contract. The Contractor shall preserve books, documents, and records that relate to costs or pricing data for the Contract for a period of three (3) years from date of final payment. The Contractor shall give full and free access to all records to the Commonwealth and/or their authorized representatives.

#### **V.26 CONTRACT-021.1 Default (Dec 12 2006)**

- a. The Commonwealth may, subject to the Force Majeure provisions of this Contract, and in addition to its other rights under the Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in the Termination Provisions of this Contract) the whole or any part of this Contract or any Purchase Order for any of the following reasons:
  - 1) Failure to begin work within the time specified in the Contract or Purchase Order or as otherwise specified;
  - 2) Failure to perform the work with sufficient labor, equipment, or material to insure the completion of the specified work in accordance with the Contract or Purchase Order terms;
  - 3) Unsatisfactory performance of the work;
  - 4) Failure to deliver the awarded item(s) within the time specified in the Contract or Purchase Order or as otherwise specified;
  - 5) Improper delivery;
  - 6) Failure to provide an item(s) which is in conformance with the specifications referenced in the Contract or Purchase Order;
  - 7) Delivery of a defective item;
  - 8) Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;
  - 9) Discontinuance of work without approval;

- 10) Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;
  - 11) Insolvency or bankruptcy;
  - 12) Assignment made for the benefit of creditors;
  - 13) Failure or refusal within 10 days after written notice by the Contracting Officer, to make payment or show cause why payment should not be made, of any amounts due for materials furnished, labor supplied or performed, for equipment rentals, or for utility services rendered;
  - 14) Failure to protect, to repair, or to make good any damage or injury to property;
  - 15) Breach of any provision of the Contract;
  - 16) Failure to comply with representations made in the Contractor's bid/proposal; or
  - 17) Failure to comply with applicable industry standards, customs, and practice.
- b. In the event that the Commonwealth terminates this Contract or any Purchase Order in whole or in part as provided in Subparagraph a. above, the Commonwealth may procure, upon such terms and in such manner as it determines, items similar or identical to those so terminated, and the Contractor shall be liable to the Commonwealth for any reasonable excess costs for such similar or identical items included within the terminated part of the Contract or Purchase Order.
- c. If the Contract or a Purchase Order is terminated as provided in Subparagraph a. above, the Commonwealth, in addition to any other rights provided in this paragraph, may require the Contractor to transfer title and deliver immediately to the Commonwealth in the manner and to the extent directed by the Contracting Officer, such partially completed items, including, where applicable, reports, working papers and other documentation, as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract or Purchase Order as has been terminated. Except as provided below, payment for completed work accepted by the Commonwealth shall be at the Contract price. Except as provided below, payment for partially completed items including, where applicable, reports and working papers, delivered to and accepted by the Commonwealth shall be in an amount agreed upon by the Contractor and Contracting Officer. The Commonwealth may withhold from amounts otherwise due the Contractor for such completed or partially completed works, such sum as the Contracting Officer determines to be necessary to protect the Commonwealth against loss.
- d. The rights and remedies of the Commonwealth provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- e. The Commonwealth's failure to exercise any rights or remedies provided in this paragraph shall not be construed to be a waiver by the Commonwealth of its rights and remedies in regard to the event of default or any succeeding event of default.
- f. Following exhaustion of the Contractor's administrative remedies as set forth in the Contract Controversies Provision of the Contract, the Contractor's exclusive remedy shall be to seek damages in the Board of Claims.

**V.27 CONTRACT-022.1 Force Majeure (Oct 2006)**

Neither party will incur any liability to the other if its performance of any obligation under this Contract is prevented or delayed by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control may include, but aren't limited to, acts of God or war, changes in controlling law, regulations, orders or the requirements of any governmental entity, severe weather conditions, civil disorders, natural disasters, fire, epidemics and quarantines, general strikes throughout the trade, and freight embargoes.

The Contractor shall notify the Commonwealth orally within five (5) days and in writing within ten (10) days of the date on which the Contractor becomes aware, or should have reasonably become aware, that such cause would prevent or delay its performance. Such notification shall (i) describe fully such cause(s) and its effect on performance, (ii) state whether performance under the contract is prevented or delayed and (iii) if performance is delayed, state a reasonable estimate of the duration of the delay. The Contractor shall have the burden of proving that such cause(s) delayed or prevented its performance despite its diligent efforts to perform and shall produce such supporting documentation as the Commonwealth may reasonably request. After receipt of such notification, the Commonwealth may elect to cancel the Contract, cancel the Purchase Order, or to extend the time for performance as reasonably necessary to compensate for the Contractor's delay.

In the event of a declared emergency by competent governmental authorities, the Commonwealth by notice to the Contractor, may suspend all or a portion of the Contract or Purchase Order.

#### **V.28 CONTRACT-023.1a Termination Provisions (Oct 2006)**

The Commonwealth has the right to terminate this Contract or any Purchase Order for any of the following reasons. Termination shall be effective upon written notice to the Contractor.

- a. **TERMINATION FOR CONVENIENCE:** The Commonwealth shall have the right to terminate the Contract or a Purchase Order for its convenience if the Commonwealth determines termination to be in its best interest. The Contractor shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Contractor be entitled to recover loss of profits.
- b. **NON-APPROPRIATION:** The Commonwealth's obligation to make payments during any Commonwealth fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commonwealth shall have the right to terminate the Contract or a Purchase Order. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under the Contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid for any appropriations available for that purpose.
- c. **TERMINATION FOR CAUSE:** The Commonwealth shall have the right to terminate the Contract or a Purchase Order for Contractor default under Default Clause upon written notice to the Contractor. The Commonwealth shall also have the right, upon written notice to the Contractor, to terminate the Contract or a Purchase Order for other cause as specified in the Contract or by law. If it is later determined that the Commonwealth erred in terminating the Contract or a Purchase Order for cause, then, at the Commonwealth's discretion, the Contract or Purchase Order shall be deemed to have been terminated for convenience under the Subparagraph a.

#### **V.29 CONTRACT-024.1 Contract Controversies (Oct 2011)**

- a. In the event of a controversy or claim arising from the Contract, the Contractor must, within six months after the cause of action accrues, file a written claim with the contracting officer for a determination. The claim shall state all grounds upon which the Contractor asserts a controversy exists. If the Contractor fails to file a claim or

files an untimely claim, the Contractor is deemed to have waived its right to assert a claim in any forum. At the time the claim is filed, or within sixty (60) days thereafter, either party may request mediation through the Commonwealth Office of General Counsel Dispute Resolution Program.

b. If the Contractor or the contracting officer requests mediation and the other party agrees, the contracting officer shall promptly make arrangements for mediation. Mediation shall be scheduled so as to not delay the issuance of the final determination beyond the required 120 days after receipt of the claim if mediation is unsuccessful. If mediation is not agreed to or if resolution is not reached through mediation, the contracting officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by consent of the contracting officer and the Contractor. The contracting officer shall send his/her written determination to the Contractor. If the contracting officer fails to issue a final determination within the 120 days (unless extended by consent of the parties), the claim shall be deemed denied. The contracting officer's determination shall be the final order of the purchasing agency.

c. Within fifteen (15) days of the mailing date of the determination denying a claim or within 135 days of filing a claim if, no extension is agreed to by the parties, whichever occurs first, the Contractor may file a statement of claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the Contractor shall proceed diligently with the performance of the Contract in a manner consistent with the determination of the contracting officer and the Commonwealth shall compensate the Contractor pursuant to the terms of the Contract.

#### **V.30 CONTRACT-025.1 Assignability and Subcontracting (Oct 2006)**

- a. Subject to the terms and conditions of this paragraph, this Contract shall be binding upon the parties and their respective successors and assigns.
- b. The Contractor shall not subcontract with any person or entity to perform all or any part of the work to be performed under this Contract without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.
- c. The Contractor may not assign, in whole or in part, this Contract or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.
- d. Notwithstanding the foregoing, the Contractor may, without the consent of the Contracting Officer, assign its rights to payment to be received under the Contract, provided that the Contractor provides written notice of such assignment to the Contracting Officer together with a written acknowledgement from the assignee that any such payments are subject to all of the terms and conditions of this Contract.
- e. For the purposes of this Contract, the term "assign" shall include, but shall not be limited to, the sale, gift, assignment, pledge, or other transfer of any ownership interest in the Contractor provided, however, that the term shall not apply to the sale or other transfer of stock of a publicly traded company.
- f. Any assignment consented to by the Contracting Officer shall be evidenced by a written assignment agreement executed by the Contractor and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the Contract and to assume the duties, obligations, and responsibilities being assigned.
- g. A change of name by the Contractor, following which the Contractor's federal identification number remains unchanged, shall not be considered to be an assignment hereunder. The Contractor shall give the Contracting



Officer written notice of any such change of name.

### **V.31 CONTRACT-026.1 Other Contractors (Oct 2006)**

The Commonwealth may undertake or award other contracts for additional or related work, and the Contractor shall fully cooperate with other contractors and Commonwealth employees, and coordinate its work with such additional work as may be required. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Commonwealth employees. This paragraph shall be included in the Contracts of all contractors with which this Contractor will be required to cooperate. The Commonwealth shall equitably enforce this paragraph as to all contractors to prevent the imposition of unreasonable burdens on any contractor.

### **V.32 CONTRACT-027.1 Nondiscrimination/Sexual Harassment Clause (Aug 2010)**

The Contractor agrees:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not, by reason of gender, race, creed, or color, discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
2. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract on account of gender, race, creed, or color.
3. The Contractor and each subcontractor shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
4. The Contractor and each subcontractor shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
5. The Contractor and each subcontractor shall, within the time periods requested by the Commonwealth, furnish all necessary employment documents and records and permit access to their books, records, and accounts by the contracting agency and the Bureau of Minority and Women Business Opportunities (BMWBO), for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause. Within fifteen (15) days after award of any contract, the Contractor shall be required to complete, sign and submit Form STD -21, the "Initial Contract Compliance Data" form. If the contract is a construction contract, then the Contractor shall be required to complete, sign and submit Form STD -28, the "Monthly Contract Compliance Report for Construction Contractors", each month no later than the 15th of the month following the reporting period beginning with the initial job conference and continuing through the completion of the project. Those contractors who have fewer than five employees or whose employees are all from the same family or who have completed the Form STD -21 within the past 12 months may, within the 15 days, request an exemption from the Form STD -21 submission requirement from the contracting agency.
6. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.
7. The Commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment

Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

### V.33 CONTRACT-028.1 Contractor Integrity Provisions (March 2011)

It is essential that those who seek to contract with the Commonwealth of Pennsylvania ("Commonwealth") observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the Commonwealth procurement process.

In furtherance of this policy, Contractor agrees to the following:

1. Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting with the Commonwealth.
2. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to Contractor employee activity with the Commonwealth and Commonwealth employees, and which is distributed and made known to all Contractor employees.
3. Contractor, its affiliates, agents and employees shall not influence, or attempt to influence, any Commonwealth employee to breach the standards of ethical conduct for Commonwealth employees set forth in the *Public Official and Employees Ethics Act, 65 Pa.C.S. §§1101 et seq.*; the *State Adverse Interest Act, 71 P.S. §776.1 et seq.*; and the *Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq.*, or to breach any other state or federal law or regulation.
4. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person at the direction or request of any Commonwealth official or employee.
5. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person, the acceptance of which would violate the *Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq.* or any statute, regulation, statement of policy, management directive or any other published standard of the Commonwealth.
6. Contractor, its affiliates, agents and employees shall not, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any Commonwealth official or employee.
7. Contractor, its affiliates, agents, employees, or anyone in privity with him or her shall not accept or agree to accept from any person, any gratuity in connection with the performance of work under the contract, except as provided in the contract.
8. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the

Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor's submission of the contract signed by Contractor.

9. Contractor, its affiliates, agents and employees shall not disclose to others any information, documents, reports, data, or records provided to, or prepared by, Contractor under this contract without the prior written approval of the Commonwealth, except as required by the *Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104*, or other applicable law or as otherwise provided in this contract. Any information, documents, reports, data, or records secured by Contractor from the Commonwealth or a third party in connection with the performance of this contract shall be kept confidential unless disclosure of such information is:

- a. Approved in writing by the Commonwealth prior to its disclosure; or
- b. Directed by a court or other tribunal of competent jurisdiction unless the contract requires prior Commonwealth approval; or
- c. Required for compliance with federal or state securities laws or the requirements of national securities exchanges; or
- d. Necessary for purposes of Contractor's internal assessment and review; or
- e. Deemed necessary by Contractor in any action to enforce the provisions of this contract or to defend or prosecute claims by or against parties other than the Commonwealth; or
- f. Permitted by the valid authorization of a third party to whom the information, documents, reports, data, or records pertain; or
- g. Otherwise required by law.

10. Contractor certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has been officially notified of, charged with, or convicted of any of the following and agrees to immediately notify the Commonwealth agency contracting officer in writing if and when it or any officer, director, associate, partner, limited partner or individual owner has been officially notified of, charged with, convicted of, or officially notified of a governmental determination of any of the following:

- a. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.
- b. Commission of fraud or a criminal offense or other improper conduct or knowledge of, approval of or acquiescence in such activities by Contractor or any affiliate, officer, director, associate, partner, limited partner, individual owner, or employee or other individual or entity associated with:
  - (1) obtaining;
  - (2) attempting to obtain; or

- (3) performing a public contract or subcontract.

Contractor's acceptance of the benefits derived from the conduct shall be deemed evidence of such knowledge, approval or acquiescence.

- c. Violation of federal or state antitrust statutes.
- d. Violation of any federal or state law regulating campaign contributions.
- e. Violation of any federal or state environmental law.
- f. Violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wages; or child labor violations.
- g. Violation of the *Act of June 2, 1915 (P.L. 736, No. 338)*, known as the *Workers' Compensation Act, 77 P.S. 1 et seq.*
- h. Violation of any federal or state law prohibiting discrimination in employment.
- i. Debarment by any agency or department of the federal government or by any other state.
- j. Any other crime involving moral turpitude or business honesty or integrity.

Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause upon such notification or when the Commonwealth otherwise learns that Contractor has been officially notified, charged, or convicted.

11. If this contract was awarded to Contractor on a non-bid basis, Contractor must, (as required by *Section 1641 of the Pennsylvania Election Code*) file a report of political contributions with the Secretary of the Commonwealth on or before February 15 of the next calendar year. The report must include an itemized list of all political contributions known to Contractor by virtue of the knowledge possessed by every officer, director, associate, partner, limited partner, or individual owner that has been made by:

- a. Any officer, director, associate, partner, limited partner, individual owner or members of the immediate family when the contributions exceed an aggregate of one thousand dollars (\$1,000) by any individual during the preceding year; or
- b. Any employee or members of his immediate family whose political contribution exceeded one thousand dollars (\$1,000) during the preceding year.

To obtain a copy of the reporting form, Contractor shall contact the Bureau of Commissions, Elections and Legislation, Division of Campaign Finance and Lobbying Disclosure, Room 210, North Office Building, Harrisburg, PA 17120.

12. Contractor shall comply with requirements of the *Lobbying Disclosure Act, 65 Pa.C.S. § 13A01 et seq.*, and the regulations promulgated pursuant to that law. Contractor employee activities prior to or outside of formal Commonwealth procurement communication protocol are considered lobbying and

subjects the Contractor employees to the registration and reporting requirements of the law. Actions by outside lobbyists on Contractor's behalf, no matter the procurement stage, are not exempt and must be reported.

13. When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or in these provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or Commonwealth Inspector General in writing.

14. Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these contractor integrity provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract.

15. Contractor shall cooperate with the Office of Inspector General in its investigation of any alleged Commonwealth employee breach of ethical standards and any alleged Contractor non-compliance with these provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of the Office of Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refers to or concern this contract.

16. For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

17. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Paragraph 17.

a. "Confidential information" means information that a) is not already in the public domain; b) is not available to the public upon request; c) is not or does not become generally known to Contractor from a third party without an obligation to maintain its confidentiality; d) has not become generally known to the public through a act or omission of Contractor; or e) has not been independently developed by Contractor without the use of confidential information of the Commonwealth.

b. "Consent" means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by pre-qualification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this contract.

c. "Contractor" means the individual or entity that has entered into this contract with the Commonwealth, including those directors, officers, partners, managers, and owners having more than a five percent interest in Contractor.

d. "Financial interest" means:

- (1) Ownership of more than a five percent interest in any business; or
- (2) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.

e. "Gratuity" means tendering, giving or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the *Governor's Code of Conduct, Executive Order 1980-18*, the *4 Pa. Code §7.153(b)*, shall apply.

f. "Immediate family" means a spouse and any unemancipated child.

g. "Non-bid basis" means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.

h. "Political contribution" means any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing, to a candidate for public office or to a political committee, including but not limited to a political action committee, made for the purpose of influencing any election in the Commonwealth of Pennsylvania or for paying debts incurred by or for a candidate or committee before or after any election.

#### **V.34 CONTRACT-029.1 Contractor Responsibility Provisions (Nov 2010)**

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the Commonwealth of Pennsylvania (Commonwealth). The term contractor includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.

1. The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.

2. The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.

3. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.

4. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.

5. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

6. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the Internet at <http://www.dgs.state.pa.us/> or contacting the:

Department of General Services  
Office of Chief Counsel  
603 North Office Building  
Harrisburg, PA 17125  
Telephone No: (717) 783-6472  
FAX No: (717) 787-9138

**V.35 CONTRACT-030.1 Americans with Disabilities Act (Oct 2006)**

- a. Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. Section 35.101 et seq., the Contractor understands and agrees that it shall not cause any individual with a disability to be excluded from participation in this Contract or from activities provided for under this Contract on the basis of the disability. As a condition of accepting this contract, the Contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. Section 35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to all benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.
- b. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of Subparagraph a. above.

**V.36 CONTRACT-032.1 Covenant Against Contingent Fees (Oct 2006)**

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Commonwealth shall have the right to terminate the Contract without liability or in its discretion to deduct from the Contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

**V.37 CONTRACT-033.1 Applicable Law (Oct 2006)**

This Contract shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania

(without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Contractor consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The Contractor agrees that any such court shall have in personam jurisdiction over it, and consents to service of process in any manner authorized by Pennsylvania law.

**V.38 CONTRACT-034.1a Integration – RFP (Dec 12 2006)**

This Contract, including the Request for Proposals, Contractor's Proposal, Contractor's Best and Final Offer, if any, all referenced documents, and any Purchase Order constitutes the entire agreement between the parties. No agent, representative, employee or officer of either the Commonwealth or the Contractor has authority to make, or has made, any statement, agreement or representation, oral or written, in connection with the Contract, which in any way can be deemed to modify, add to or detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of the Contract. No modifications, alterations, changes, or waiver to the Contract or any of its terms shall be valid or binding unless accomplished by a written amendment signed by both parties.

**V.39 CONTRACT-034.2a Order of Precedence - RFP (Dec 12 2006)**

In the event there is a conflict among the documents comprising this Contract, the Commonwealth and the Contractor agree on the following order of precedence: the Contract; the RFP, the Best and Final Offer, if any; the Contractor's Proposal in Response to the RFP.

**V.40 CONTRACT-034.3 Controlling Terms and Conditions (Aug 2011)**

The terms and conditions of this Contract shall be the exclusive terms of agreement between the Contractor and the Commonwealth. All quotations requested and received from the Contractor are for obtaining firm pricing only. Other terms and conditions or additional terms and conditions included or referenced in the Contractor's quotations, invoices, business forms, or other documentation shall not become part of the parties' agreement and shall be disregarded by the parties, unenforceable by the Contractor and not binding on the Commonwealth.

**V.41 CONTRACT-035.1a Changes (Oct 2006)**

The Commonwealth reserves the right to make changes at any time during the term of the Contract or any renewals or extensions thereof: 1) to increase or decrease the quantities resulting from variations between any estimated quantities in the Contract and actual quantities; 2) to make changes to the services within the scope of the Contract; 3) to notify the Contractor that the Commonwealth is exercising any Contract renewal or extension option; or 4) to modify the time of performance that does not alter the scope of the Contract to extend the completion date beyond the Expiration Date of the Contract or any renewals or extensions thereof. Any such change shall be made by the Contracting Officer by notifying the Contractor in writing. The change shall be effective as of the date of the change, unless the notification of change specifies a later effective date. Such increases, decreases, changes, or modifications will not invalidate the Contract, nor, if performance security is being furnished in conjunction with the Contract, release the security obligation. The Contractor agrees to provide the service in accordance with the change order. Any dispute by the Contractor in regard to the performance required by any notification of change shall be handled through Contract Controversies Provision.

**V.42 CONTRACT-036.1 Background Checks (Feb 2008)**

a. The Contractor must, at its expense, arrange for a background check for each of its employees, as well as the



employees of any of its subcontractors, who will have access to Commonwealth facilities, either through on-site access or through remote access. Background checks are to be conducted via the Request for Criminal Record Check form and procedure found at <http://www.psp.state.pa.us/psp/lib/psp/sp4-164.pdf>. The background check must be conducted prior to initial access and on an annual basis thereafter.

b. Before the Commonwealth will permit access to the Contractor, the Contractor must provide written confirmation that the background checks have been conducted. If, at any time, it is discovered that a Contractor employee has a criminal record that includes a felony or misdemeanor involving terroristic behavior, violence, use of a lethal weapon, or breach of trust/fiduciary responsibility or which raises concerns about building, system or personal security or is otherwise job-related, the Contractor shall not assign that employee to any Commonwealth facilities, shall remove any access privileges already given to the employee and shall not permit that employee remote access unless the Commonwealth consents to the access, in writing, prior to the access. The Commonwealth may withhold its consent in its sole discretion. Failure of the Contractor to comply with the terms of this Section on more than one occasion or Contractor's failure to appropriately address any single failure to the satisfaction of the Commonwealth may result in the Contractor being deemed in default of its Contract.

c. The Commonwealth specifically reserves the right of the Commonwealth to conduct background checks over and above that described herein.

d. Access to certain Capitol Complex buildings and other state office buildings is controlled by means of card readers and secured visitors' entrances. Commonwealth contracted personnel who have regular and routine business in Commonwealth worksites may be issued a photo identification or access badge subject to the requirements of the contracting agency and DGS set forth in Enclosure 3 of Commonwealth Management Directive 625.10 Amended (January 30, 2008) Card Reader and Emergency Response Access to Certain Capitol Complex Buildings and Other State Office Buildings. The requirements, policy and procedures include a processing fee payable by the Contractor for contracted personnel photo identification or access badges.

#### **V.43 CONTRACT-037.1a Confidentiality (February 2012)**

a. The Contractor agrees to guard the confidentiality of the Commonwealth's confidential information with the same diligence with which it guards its own proprietary information. If the Contractor needs to disclose all or part of project materials to third parties to assist in the work or service performed for the Commonwealth, it may do so only if such third parties sign agreements containing substantially the same provisions as contained in this Section. The Commonwealth agrees to protect the confidentiality of Contractor's confidential information. In order for information to be deemed to be confidential, the party claiming confidentiality must designate the information as "confidential" in such a way as to give notice to the other party. The parties agree that such confidential information shall not be copied, in whole or in part, except when essential for authorized use under this Contract. Each copy of such confidential information shall be marked by the party making the copy with all confidentiality notices appearing in the original. Upon termination or cancellation of this Contract or any license granted hereunder, the receiving party will return to the disclosing party all copies of the confidential information in the receiving party's possession, other than one copy, which may be maintained for archival purposes only. Both parties agree that a material breach of these requirements may, after failure to cure within the time frame specified in this Contract, and at the discretion of the non-breaching party, result in termination for default.

b. The obligations stated in this Section do not apply to information:

- (1) already known to the recipient at the time of disclosure other than through the contractual relationship;
- (2) independently generated by the recipient and not derived from the information supplied by the disclosing party;
- (3) known or available to the public, except where such knowledge or availability is the result of unauthorized disclosure by the recipient of the proprietary information;
- (4) disclosed to the recipient without a similar restriction by a third party who has the right to make such disclosure; or

(5) required to be disclosed by the recipient by law, regulation, court order, or other legal process.

c. There shall be no restriction with respect to the use or disclosure of any ideas, concepts, know-how, or data processing techniques developed alone or jointly with the Commonwealth in connection with services provided to the Commonwealth under this Contract.

#### **V.44 CONTRACT-041.1 Disadvantaged Business Participation and Enterprise Zone Small Business Participation (Feb 2009)**

The selected Contractor's commitments to Disadvantaged Businesses and/or Enterprise Zone Small Businesses made at the time of proposal submittal or contract negotiation shall be maintained throughout the term of the contract and through any renewal or extension of the contract. Any proposed change must be submitted to BMWBO, which will make a recommendation to the Contracting Officer regarding a course of action.

Small Disadvantaged Business subcontractors, Enterprise Zone Small Business subcontractors and Small Disadvantaged Businesses or Enterprise Zone Small Businesses in a joint venture must perform at least 50% of the subcontract or Small Disadvantaged Business/Enterprise Zone Small Business participation portion of the joint venture.

If a contract is assigned to another contractor, the new contractor must maintain the Disadvantaged Business participation and/or Enterprise Zone Small Business participation of the original contract.

The Contractor shall complete the Prime Contractor's Quarterly Utilization Report (or similar type document containing the same information) and submit it to the contracting officer of the Issuing Office and BMWBO within 10 workdays at the end of each quarter the contract is in force. This information will be used to determine the actual dollar amount paid to Small Disadvantaged Business and/or Enterprise Zone Small Business subcontractors and suppliers, and Small Disadvantaged Business and/or Enterprise Zone Small Business participants involved in joint ventures. Also, this information will serve as a record of fulfillment of the commitment the selected contractor made and for which it received Disadvantaged Business and Enterprise Zone Small Business points. If there was no activity during the quarter then the form must be completed by stating "No activity in this quarter."

NOTE: EQUAL EMPLOYMENT OPPORTUNITY AND CONTRACT COMPLIANCE STATEMENTS REFERRING TO COMPANY EQUAL EMPLOYMENT OPPORTUNITY POLICIES OR PAST CONTRACT COMPLIANCE PRACTICES DO NOT CONSTITUTE PROOF OF DISADVANTAGED BUSINESSES STATUS OR ENTITLE AN OFFEROR TO RECEIVE CREDIT FOR DISADVANTAGED BUSINESSES UTILIZATION.

#### **V.45 CONTRACT-045.1 Insurance - General (Dec 12 2006)**

The Contractor is required to have in place during the term of the Contract and any renewals or extensions thereof, the following types of insurance, issued by companies acceptable to the Commonwealth and authorized to conduct such business under the laws of the Commonwealth of Pennsylvania:

A. **Worker's Compensation Insurance** for all of the Contractor's employees and those of any subcontractor, engaged in work at the site of the project as required by law.

B. **Public Liability and Property Damage Insurance** to protect the Commonwealth, the Contractor, and any

and all subcontractors from claims for damages for personal injury (including bodily injury), sickness or disease, accidental death and damage to property including the loss of use resulting from any property damage, which may arise from the activities performed under the Contract or the failure to perform under the Contract, whether such performance or non-performance be by the Contractor, by any subcontractor, or by anyone directly or indirectly employed by either. The minimum amounts of coverage shall be \$250,000 per person and \$1,000,000 per occurrence for bodily injury, including death, and \$250,000 per person and \$1,000,000 per occurrence for property damage. Such policies shall be occurrence rather than claims-made policies and shall not contain any endorsements or any other form designated to limit and restrict any action by the Commonwealth, as an additional insured, against the insurance coverage in regard to work performed for the Commonwealth.

Prior to commencement of the work under the Contract and at each insurance renewal date during the term of the Contract, the Contractor shall provide the Commonwealth with current certificates of insurance. These certificates or policies shall name the Commonwealth as an additional insured and shall contain a provision that the coverage's afforded under the policies will not be cancelled or changed until at least thirty (30) days written notice has been given to the Commonwealth.

The Commonwealth shall be under no obligation to obtain such certificates from the Contractor(s). Failure by the Commonwealth to obtain the certificates shall not be deemed a waiver of the Contractor's obligation to obtain and furnish certificates. The Commonwealth shall have the right to inspect the original insurance policies.

**V.46 CONTRACT-049.4 Type (Dec 6 2006)**

The Contractor shall hold all type at no extra cost to the Commonwealth for a period of 120 days after the contractor completes and delivers the job. When the Commonwealth purchasing agency may direct, the contractor shall hold all type for a longer period, not to exceed one year after completion, at a reasonable price established by agreement of the Contractor and the purchasing agency.

**V.47 CONTRACT-049.11 Overruns (Oct 2006)**

The Commonwealth purchasing agency reserves the right to refuse to pay for any overruns.

**V.48 CONTRACT-051.1 Notice (Dec 2006)**

Any written notice to any party under this Contract shall be deemed sufficient if delivered personally, or by facsimile, telecopy, electronic or digital transmission (provided such delivery is confirmed), or by a recognized overnight courier service (e.g., DHL, Federal Express, etc.) with confirmed receipt, or by certified or registered United States mail, postage prepaid, return receipt requested, and sent to following:

- a. If to the Contractor: the Contractor's address as recorded in the Commonwealth's Supplier Registration system.
- b. If to the Commonwealth: the address of the Issuing Office as set forth on the Contract.

**V.49 CONTRACT-052.1 Right to Know Law (Feb 2010)**

a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this Contract. For the purpose of these provisions, the term "the Commonwealth" shall refer to the contracting Commonwealth agency.

b. If the Commonwealth needs the Contractor's assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.

c. Upon written notification from the Commonwealth that it requires the Contractor's assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), the Contractor shall:

1. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor's possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.

d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.

e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.

f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.

g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.

h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.

i. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

## PART IV WORK STATEMENT

### IV-1. Objectives.

#### A. General.

The Department of General Services (DGS), Bureau of Supplies and Surplus Operations (BSSO) is responsible for facilitating the sale of state surplus property by public auction, in particular the sale of used heavy equipment and general merchandise for the Commonwealth of Pennsylvania (Commonwealth). The BSSO is seeking a single, experienced online auction services company to execute online/internet surplus property auctions for and at no cost to the Commonwealth of Pennsylvania.

**B. Specific.** The BSSO has the following specific objectives for issuing this RFP:

1. Maximize the net proceeds to the Commonwealth for the sale of its surplus property.
2. Maintain low buyer's fees.
3. Make effective use of advance and targeted advertising of sales.
4. Provide a no cost (to the Commonwealth) contract to provide online private municipal and online public auctions.
5. Determine the best auction format for generating maximum sale proceeds and minimizing internal costs.
6. To provide on-site assistance and sufficient staffing as needed.

### IV-2. Nature and Scope of the Project.

The BSSO's core strategy is to market and auction heavy equipment and general merchandise at no cost to the Commonwealth. Over the past few years, the BSSO has conducted the following online auctions with indicated results:

- Average of nine (9) Reoccurring Online Auctions per year (average of \$38,150 per sale)
- Average of two (2) Municipal Heavy Equipment Auctions per year (average of \$200,000 per sale)
- Average of two (2) Public Heavy Equipment Auctions per year (average of \$1.5M per sale)
- Average of ten (10) Right of Way Sales per year (average of \$22,000 per sale)
- Average of six (6) Special Sales per year (average of \$35,000 per sale)

Items to be sold during online auctions include, but are not limited to: Heavy equipment, construction equipment, trucks, office equipment, furniture, electronic equipment, tools, miscellaneous property and items obtained as a result of right of way acquisitions, seized property obtained through law enforcement proceedings, used and no longer needed property resulting from the closure of state facilities; specialty items such as snow plow blades, tires, etc., and other general surplus property as determined by BSSO.

Surplus Heavy Equipment from the Pennsylvania Department of Transportation (PennDOT) and other Commonwealth agencies must be made available to municipalities first through an online private auction. Any un-sold and/or remaining Surplus Heavy Equipment is then offered to the general public via an online public auction.

NOTE: The Commonwealth reserves the right to utilize a separate, live auction services contract when deemed appropriate.

#### **IV-3. Requirements.**

- A. Each of the Offeror's individuals who will conduct the sale of personal property on behalf of the Commonwealth through an online internet bidding platform must be registered as a Trading Assistant with the PA State Board of Auctioneers. Registrations will be verified by the Department of General Services prior to contract award and must be maintained during the contract period.
- B. The selected Offeror must provide a secure, state-of-the-art online bidding system that has a unique URL in which prospective bidders can register, be pre-approved, place multiple bids and receive electronic communications quickly and efficiently. The online bidding system must also provide seamless functionality to conduct all aspects of online sales, including the adding and removal of lots.
- C. The selected Offeror must provide a single, dedicated project manager to work on-site as needed with the BSSO to execute online auctions for the sale of state surplus property items and travel as needed to any location within the Commonwealth of Pennsylvania within two business days of request by the BSSO. The project manager will be required to provide sufficient on-site staff to inventory and tag items to be sold and will be responsible for ensuring all items are recorded with a digital image and that the proper descriptions are attached to each image. The Project Manager is also responsible for accurate record keeping and reporting and will serve as the primary point of contact and liaison with the Commonwealth. If the dedicated project manager is not available for any reason, the selected Offeror may recommend a substitute project manager for the approval of the BSSO.

#### **D. Auction Personnel.**

- 1. The selected Offeror must ensure adequate staffing and appropriate administrative support at heavy equipment and right of way sale locations or if otherwise deemed necessary by the BSSO.
- 2. The selected Offeror must provide adequate staffing for removal of items on mutually agreed upon dates at the discretion of the BSSO. The selected Offeror will be responsible to verify payment by customers via copy of paid invoice, care for property not yet picked up, and coordinate customer pickups if necessary. The selected Offeror is not responsible to help or assist customers in removing their property due to potential liability, but shall

require a buyer to show proof of insurance prior to removing a particular piece of property in accordance with normal industry practice. The BSSO reserves the right to waive this requirement if other Commonwealth staff is available at the pickup location or if the value of the sale does not warrant staffing.

3. The selected Offeror shall notify the Commonwealth if any auction or other significant personnel are investigated for, or charged with, committing fraud or any similar economic crime. This obligation shall not require the disclosure of material, non-public information in violation of federal law.

**E. Types of Online Auctions.** All types of online auctions must start and end on a Tuesday through Thursday with the exception of State Holidays and be open for bidding for a minimum of fourteen (14) consecutive days or at the discretion of the BSSO.

1. **Online Private Heavy Equipment Auction for Municipalities.** The selected Offeror shall conduct private online heavy equipment auctions for Pennsylvania Counties, Cities, Boroughs, Incorporated Towns, Townships and Municipalities prior to public online heavy equipment auctions or upon request of the BSSO. The selected Offeror will generally receive at least eight (8) weeks advance notification prior to the date of any sale. It will be the responsibility of the selected Offeror to ensure interested municipalities and their authorized bidding representatives are qualified to participate in the private online auction. Any questions regarding final determination of eligibility will be made by the BSSO. **All auctions for motor vehicles, construction vehicles and equipment, agricultural vehicles and equipment, busses, trucks, aircraft, watercraft, bridges and semi-trailers shall be defined as Online Private Heavy Equipment for purposes of assessing a buyer's fee.**
2. **Online Public Heavy Equipment Auctions.** The selected Offeror shall conduct at least two (2) online heavy equipment auctions annually from April to November at the discretion of the BSSO. Additional auctions may be held based on requirements from the BSSO. For each auction, the selected Offeror may be required to provide title and registration processing services as necessary. The Commonwealth will provide space for the selected Offeror to set up a temporary work area for conducting post auction activities. Administrative costs may not be deducted from gross or net sales proceeds. **All auctions for motor vehicles, construction vehicles and equipment, agricultural vehicles and equipment, busses, trucks, aircraft, watercraft, bridges and semi-trailers shall be defined as Online Public Heavy Equipment for purposes of assessing a buyer's fee.**
3. **Online Reoccurring General Merchandise Auction.** The selected Offeror shall conduct multiple online general merchandise auctions throughout the year at the discretion of the BSSO on behalf of various state agencies.

4. **Right of Way Sales.** The selected Offeror shall conduct multiple online right of way sales obtained as a result of right of way acquisitions.
  5. **Special Sales or any Other General Merchandise Auction.** The BSSO reserves the right to hold any other sales as needed.
- F. Payment and Invoicing.** The Offeror must be capable of transacting business in a variety of ways. The selected Offeror must be able to accept and process credit card transactions; electronic funds transfers; personal and company checks (with appropriate bank letter of guarantee); cashier and certified checks; money orders; and electronic and direct billing. **No additional transaction and/or processing fees may be charged to the Commonwealth or the buyer.** The BSSO reserves the right to specify/restrict certain types of payment for particular auction events.
1. The selected Offeror must provide the BSSO within thirty (30) days of each auction a remittance check made payable to the Commonwealth of Pennsylvania for the proceeds of the sales, a copy of the final auction results and documentation that all collected sales tax in accordance with the Department of Revenue have been paid. Only one check per auction will be permitted.
  2. The selected Offeror must submit copies of all sales receipts no later than seven days after close of the auction and prior to pick-up of the merchandise.
  3. The selected Offeror must place all sales proceeds in an FDIC insured bank located within the Commonwealth of Pennsylvania and such funds must be placed in a separate interest bearing account until paid to the Commonwealth by the Offeror. These funds may not be co-mingled with Offerors' funds under any circumstances and any interest earned must also be forwarded with the sales proceeds.
- G. Advertising of Auctions.** The selected Offeror will be required to advertise all sales prior to the start date/time of all online auctions. The selected Offeror is responsible for all advertising costs as well as providing cut sheet and/or proofs of advertising with adequate time for review to the BSSO prior to booking advertising. Marketing costs including but not limited to advertising costs may not be deducted from gross or net sales proceeds.

Minimum advertising requirements for each type of auction are as follows. Once approved, any changes to a Marketing Plan for a particular sale must be submitted to the BSSO in writing for approval. The selected Offeror shall provide the BSSO access to mailing lists annually or as requested.



**1. Online Private Heavy Equipment Auction for Municipalities.**

- Direct mail to potential bidders, by traditional paper mail (via US Postal Service) to all Pennsylvania municipalities at least 45 days prior to the sale.
- Use electronic promotion via auction and/or other websites.
- Advertise quarterly in Pennsylvania municipality specific publication.
- Advertisement via e-mail to all registered municipalities.

**2. Online Public Heavy Equipment Auctions.**

- Use electronic promotion via auction and/or other websites.
- Advertising in at least one major, metropolitan newspaper publication with regional distribution one week prior to the sale and advertising in one local newspaper that is in close proximity to the auction site, or where equipment is being held for public view, the week of the sale.
- Direct Mail to potential bidders (minimum 2,000 bidders), to include traditional paper mail (via US Postal Service) and e-mail at least 45 days prior to the sale.
- Advertisement in at least two trade magazines approved by the BSSO at least 45 days prior to the sale.
- Advertise in trade publications a general awareness of recurring Commonwealth auctions. Advertising to be published a minimum of 4 times per year.

**3. Online Reoccurring General Merchandise Auctions.**

- Use electronic promotion via auction and/or other websites.
- Advertising in at least one major, metropolitan newspaper publication with regional distribution one week prior to the sale and advertising in one local newspaper that is in close proximity to the auction site, or where merchandise is being held for public view, the week of the sale.
- Direct Mail to potential bidders (minimum 2,000 bidders), to include traditional paper mail (via US Postal Service) and e-mail.
- Advertise in trade publications a general awareness of recurring Commonwealth auctions. Advertising to be published a minimum of 6 times per year.

**4. Online Right-of-Way Auctions.**

- Use electronic promotion via auction and/or other websites.
- Advertising in at least one major, metropolitan newspaper publication with regional distribution one week prior to the sale and advertising in one local newspaper that is in close proximity to the auction site, or where merchandise is being held for public view, the week of the sale.
- Direct Mail to potential bidders (minimum 2,000 bidders), to include traditional paper mail (via US Postal Service) and e-mail.

**5. Special Sales or any other General Merchandise Auction.**

- Use electronic promotion via auction and/or other websites.
- Advertising in at least one major, metropolitan newspaper publication with regional distribution one week prior to the sale and advertising in one local newspaper that is in close proximity to the auction site, or where merchandise is being held for public view, the week of the sale.
- Direct Mail to potential bidders (minimum 2,000 bidders), to include traditional paper mail (via US Postal Service) and e-mail.
- The BSSO reserves the right to request advertisement in specialty publications appropriate for the nature of the merchandise being sold.

**IV-4. Tasks. Offerors must describe in narrative form in their Technical Submittal their work plan for accomplishing the following task descriptions:**

- A. Online Bidding System.** Provide a detailed description of your online bidding system, as per section IV-3, Requirements, B. (You may include screenshots if necessary).
- B. Marketing Plan.** Provide a detailed description of your marketing plan to promote awareness and interest for all online auctions based on advertising requirements for each type of auction listed under part IV-3, Requirements, G. Advertising of Auctions. The Marketing Plan must address how it will accommodate each of these types of auctions. Marketing Plans must include, at a minimum, a list of names or descriptions of the types of media to be used. Offerors may also provide additional suggestions or modifications that would enhance or improve the basic plan.

The Marketing Plan should include, but not be limited to, the following:

- A profile and count of your current, registered bidders by industry
- Circulation numbers of current email lists available
- Recommended outlets for each auction type in order to reach the targeted audience
- Examples of auction reports

All Marketing Plans for any online sale auctions must be approved by the BSSO and implemented prior to the start of sale. The successful Offeror must submit plans for review on a timely basis to allow for adequate review by the BSSO. In addition, the selected Offeror will work with the Commonwealth to ensure accurate language is provided for the agency press release in order to ensure consistency in the message.

- C. Implementation Plan.** Offerors must provide a detailed Implementation Plan which includes the following:

1. Describe how you will register bidders and track results of multiple auction bidding events that end simultaneously or separately.

2. Describe how you will provide online security and identity protection.
3. Describe how you will ensure that high bidders pay for and remove the items on a timely basis.
4. Describe your normal terms and conditions of sale to buyers. Describe how you will remedy and discourage delinquent buyers.
5. Describe the size and demographics of your buyers list and why you feel it would benefit the Commonwealth if you were the selected Offeror.
6. Describe how you will recruit and register new buyers for online auction of Commonwealth property.
7. Describe how you will ensure accurate information on sales receipts.
8. Describe how you will generate highest available sale prices for items.
9. Describe how you will maintain low, reasonable buyer's fees (in consideration that the selected Offerors profit margin may only be obtained as a percentage of the buyer's fee).
10. Describe how you will tag, digitally photograph and identify items online for sale.
11. Describe how you will monitor the removal of assets purchased at bidding events.
12. Describe how you will collect payment and ensure against fraudulent transactions on the part of the bidders.

**D. Quality Control Plan.** Offerors must provide details on their procedures to monitor the quality of services. The procedures are to include a method for monitoring, identifying and correcting deficiencies in the quality of service provided and its impact on the overall project and on each affected task.

Describe how you will ensure a secure and reliable online presence during an auction, and what contingencies you have in place should a major technical problem disrupt an auction. Describe how you will ensure that you will not have server failures occur in the course of an online auction. Include contingencies and redundancies in your plan.

**E. Auction Personnel.** Please describe how you will ensure compliance with section IV-3, Requirements, D, Auction Personnel.

**F. Employee Participation in Bidding.** DGS has a policy in place restricting purchase of state surplus property by Commonwealth employees. The current policy is stated as follows:

When state surplus property is made available for sale to the public through auction, the Internet or Department of General Services' warehouse, the following prohibitions and limitations apply:

- Employees of the Department of General Services' Bureau of Supplies and Surplus may not purchase the property.
- Property Control Officer(s) and their supervisor(s) of the Commonwealth agency which declares the property "surplus" may not purchase the property.
- State employees may not purchase any item with a price greater than \$500.
- State employees are also subject to any specific guidelines of their respective agencies in regard to purchases of items with a price of \$500 or less. Employees should check agency policy on purchasing of state property to identify any additional restrictions."

Please describe your company policy, if any, regarding the potential participation of employees or subcontractors of your company in any online auctions conducted by your company for your clients. Also, in the case where your company's policy does allow participation, please explain whether you would be willing to make adjustments to your policy restricting your employee participation if requested by the Commonwealth.

**G. Default by High Bidders.** Please describe your company's policies and procedures in the case of defaults by the highest successful bidder after close of sale. Include:

1. Techniques that your company employs to discourage highest successful bidders from defaulting on commitment to buy an item after close of sale.
2. In the case of default by the highest bidder, do you promptly sell items to the next highest bidder? If so explain your procedure or any alternative procedures.
3. In the case of default by the highest successful bidder, do you attempt to make collection of monies due from the highest successful bidder or make attempts to recoup the difference in lost sale revenue from the defaulting highest bidder to the next highest bidder?
4. Curative measures that you take against defaulting bidders.

**H. Appraisal Services.** Please describe any appraisal services your company offers (if any):

1. Please describe any basic appraisal services that your company offers at no additional cost to the client.
2. Please describe any additional, optional appraisal services that your company offers, even if those additional, optional appraisal services come with a fee. If your company has an established fee schedule for any additional, optional ancillary services (such as Appraisal Services) please include a copy of your fee schedule with your separately sealed Cost Submittal. Please note that any additional optional fee schedules included with your Cost Submittal will have no bearing on your score for your Cost Submittal. However, the Commonwealth reserves the right to include or negotiate all or part of your ancillary services fee schedule in the final agreement.

**I. Additional Concepts.** Please describe any additional innovative concepts that may be offered to the Commonwealth that would provide the Commonwealth with a state-of-the-art, online bidding tool and/or enhance return on investment at sale.

**IV-4. Reports and Project Control.** The selected Offeror shall provide management reports electronically in Microsoft Excel to DGS as outlined below. Please note that the BSSO may require additional electronic reports as necessary.

**A. Annual Sales Report.** The selected Offeror shall provide annual sales reports. Additionally, the selected Offeror will meet with DGS annually to assess progress of the auction service program.

**B. Marketing Reports.** The selected Offeror shall submit to the BSSO an advertising breakdown illustrating the cost of marketing each auction. This shall include publication circulation, mail date and cost. Included in the advertising breakdown must also be direct mail and electronic mail advertising. The report must be submitted no later than fifteen days after the end of the quarter.

**C. Auction Reports.** The selected Offeror shall provide marketing reports to effectively and efficiently monitor the sale of state surplus property as well as auction reports electronically as described below.

1. The selected Offeror shall make available a complete computerized listing of the sale results within one (1) hour from the close of each sale.
2. The selected Offeror shall provide auction sales reports within 24 hours.

3. The selected Offeror shall submit electronic auction reports within two (2) weeks from the close of each sale. Each auction report as requested by the BSSO shall include but not be limited to:

- Number of lots sold
- List of selling prices by lot number and lot description
- Total Sales
- Bidder List
- Bidder Totals
- Buyer Premium Breakdown & Receipt Date
- Any technical or other problems that may have interfered with the conduct of the auction
- Other information that may be requested by the BSSO

4. The selected Offeror shall provide quarterly bank statements for the interest bearing account set up for this contract, no later than fifteen days after the end of each quarter.

**D. Participating Municipalities Usage Reports.** The selected Offeror shall furnish to the BSSO an electronic quarterly usage report, in a Microsoft Excel spreadsheet format no later than two (2) weeks from the close of each sale. The following information shall be listed on the report:

- Municipality
- Number of lots sold
- List of selling prices by lot number
- Total Sales
- Buyer Premium Breakdown & Receipt Date

**APPENDIX A - PROPOSAL COVER SHEET  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF GENERAL SERVICES  
RFP# \_\_\_\_\_**

Enclosed in three separately sealed submittals is the proposal of the Offeror identified below for the above-referenced RFP:

<b>Offeror Information:</b>	
Offeror Name	
Offeror Mailing Address	
Offeror Website	
Offeror Contact Person	
Contact Person's Phone Number	
Contact Person's Facsimile Number	
Contact Person's E-Mail Address	
Offeror Federal ID Number	
Offeror SAP/SRM Vendor Number	

<b>Submittals Enclosed and Separately Sealed:</b>	
<input type="checkbox"/>	Technical Submittal
<input type="checkbox"/>	Disadvantaged Business Submittal
<input type="checkbox"/>	Cost Submittal

<i>Signature</i>	
Signature of an official authorized to bind the Offeror to the provisions contained in the Offeror's proposal:	
Printed Name	
Title	

**FAILURE TO COMPLETE, SIGN AND RETURN THIS FORM WITH THE OFFEROR'S PROPOSAL MAY RESULT IN THE REJECTION OF THE OFFEROR'S PROPOSAL**

**APPENDIX B**  
**DOMESTIC WORKFORCE UTILIZATION CERTIFICATION (07/24/09)**

To the extent permitted by the laws and treaties of the United States, each proposal will be scored for its commitment to use the domestic workforce in the fulfillment of the contract. Maximum consideration will be given to those offerors who will perform the contracted direct labor exclusively within the geographical boundaries of the United States or within the geographical boundaries of a country that is a party to the World Trade Organization Government Procurement Agreement. Those who propose to perform a portion of the direct labor outside of the United States and not within the geographical boundaries of a party to the World Trade Organization Government Procurement Agreement will receive a correspondingly smaller score for this criterion. In order to be eligible for any consideration for this criterion, offerors must complete and sign the following certification. This certification will be included as a contractual obligation when the contract is executed. Failure to complete and sign this certification will result in no consideration being given to the offeror for this criterion.

I, \_\_\_\_\_ [title] of \_\_\_\_\_ [name of Contractor] a \_\_\_\_\_ [place of incorporation] corporation or other legal entity, ("Contractor") located at \_\_\_\_\_ [address], having a Social Security or Federal Identification Number of \_\_\_\_\_, do hereby certify and represent to the Commonwealth of Pennsylvania ("Commonwealth") (Check **one** of the boxes below):

All of the direct labor performed within the scope of services under the contract will be performed exclusively within the geographical boundaries of the United States or one of the following countries that is a party to the World Trade Organization Government Procurement Agreement: Aruba, Austria, Belgium, Bulgaria, Canada, Chinese Taipei, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Liechtenstein, Lithuania, Luxemburg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom

OR

\_\_\_\_\_ percent (\_\_\_\_%) [Contractor must specify the percentage] of the direct labor performed within the scope of services under the contract will be performed within the geographical boundaries of the United States or within the geographical boundaries of one of the countries listed above that is a party to the World Trade Organization Government Procurement Agreement. Please identify the direct labor performed under the contract that will be performed outside the United States and not within the geographical boundaries of a party to the World Trade Organization Government Procurement Agreement and identify the country where the direct labor will be performed: \_\_\_\_\_

\_\_\_\_\_  
[Use additional sheets if necessary]

The Department of General Services [or other purchasing agency] shall treat any misstatement as fraudulent concealment of the true facts punishable under Section 4904 of the *Pennsylvania Crimes Code*, Title 18, of Pa. Consolidated Statutes.

Attest or Witness:

\_\_\_\_\_  
Corporate or Legal Entity's Name

\_\_\_\_\_  
Signature/Date

\_\_\_\_\_  
Signature/Date

\_\_\_\_\_  
Printed Name/Title

\_\_\_\_\_  
Printed Name/Title



APPENDIX C

COSTARS PROGRAM QUESTIONNAIRE

If your firm is awarded a Contract, does it agree to sell the awarded items/services at the same prices and/or discounts, and in accordance with the contractual terms and conditions, to registered COSTARS Members who elect to participate in the contract? If your answer is "YES", your firm agrees to pay the applicable Administrative Fee (\$1500 or \$500 for Qualified Small Businesses) at the beginning of each contract year and upon each contract renewal date.

Please Answer:        YES \_\_\_\_\_ NO \_\_\_\_\_

If you are asserting that your firm is a Qualified Small Business, have you completed, signed and included with your bid the required Department of General Services COSTARS Small Business Certification form?

Please Answer:        YES \_\_\_\_\_ NO \_\_\_\_\_

\_\_\_\_\_  
Corporate or Legal Entity Name

\_\_\_\_\_  
Signature/Date

\_\_\_\_\_  
Printed Name/Title

APPENDIX D

DEPARTMENT OF GENERAL SERVICES  
COSTARS SMALL BUSINESS CERTIFICATION

*If the Bidder/Offeror is a Qualified Small Business, the Bidder/Offeror must complete, sign and submit the following certification with its Bid/Proposal.*

I, \_\_\_\_\_, being the \_\_\_\_\_ [title]  
of \_\_\_\_\_ [Contractor], ("Contractor") do hereby certify and  
represent to the Commonwealth of Pennsylvania ("Commonwealth") that:

1. Contractor is not a subsidiary of another firm.
2. Contractor employs no more than 100 full-time or full-time equivalent employees.

Total Number of Full-time or Full-time Equivalent Employees on Payroll \_\_\_\_\_

3. Contractor earned less than \$20,000,000 in gross annual revenues (\$25,000,000 in gross annual revenues for those businesses in the information technology sales or service business) in each of its last two fiscal years.

Gross Annual Revenues in its Last Fiscal Year \$ \_\_\_\_\_  
Gross Annual Revenues in its Preceding Fiscal Year \$ \_\_\_\_\_

4. The information and certifications provided by Contractor are material and important and will be relied upon by the Commonwealth in awarding the contract. The Department shall treat any misstatement as fraudulent concealment of the true facts punishable under Section 4904 of the Pennsylvania Crimes Code, Title 18, of Pa. Consolidated Statutes.

Attest or Witness:

\_\_\_\_\_  
Corporate or Legal Entity's Name

\_\_\_\_\_  
Signature/Date

\_\_\_\_\_  
Signature/Date

\_\_\_\_\_  
Printed Name/Title

\_\_\_\_\_  
Printed Name/Title

## Use This Sheet for Information on Proper Completion of this Cost Submittal Worksheet.

**GENERAL INSTRUCTIONS FOR COMPLETING THIS WORKBOOK** - This Cost Submittal (Appendix E), must be completed and returned in a separately sealed envelope as the Offeror's Cost Submittal. Failure to return the Cost Submittal Worksheet will result in rejection of your proposal.

The total proposed cost is broken down into four major types of online auctions/online sales, as specified on the Cost Submittal. Please reference Part IV, Statement of Work for full descriptions of what types of items may be included in each category. It is understood that for the purposes of this proposal, the "costs" are considered to be the fees that the Offeror will charge to buyers for sale of auction items under the conditions as described in the Cost Submittal Spreadsheet. **Offerors must enter a fee for each of the four major types of online auctions/online sales.**

### **COMPLETION OF THE COST SUBMITTAL TAB:**

1. Click on the "Cost Submittal" Tab at the bottom of this workbook. Note: Offeror will complete only the "yellow" cells.
2. Complete the top portion of the form to include all contact information.
3. Enter buyer premium fees (percentage) in yellow blocks in Column D (Rows 10-11, 13-14, 16-17 and 19-20). Fees must include all costs incurred by the offeror in performing the work; no other fees may be charged. If the Offeror does not wish to charge a fee for any particular type of auction and/or payment type, \$0.00 must be entered in that particular cell(s). Fees must include taxes, fringe benefits, overhead and profit. **Cost Submittal Total will automatically calculate in cell E-22.**

CONTACT INFORMATION

OFFEROR NAME AND SIX-DIGIT VENDOR NUMBER:

OFFEROR ADDRESS:

OFFEROR PHONE AND EMAIL:

ESTIMATED ANNUAL SALES	UNIT OF MEASURE	UNIT COST/BUYER PREMIUM FEE (PERCENTAGE)	TOTAL
------------------------	-----------------	--	-------

**NOTE:** All auctions for motor vehicles, construction vehicles and equipment, agricultural vehicles and equipment, busses, trucks, aircraft, watercraft, bridges and semi-trailers shall be defined as Online Private Municipal and Online Public Heavy Equipment for purposes of assessing a buyer's fee.

ONLINE PRIVATE MUNICIPAL AND ONLINE PUBLIC HEAVY EQUIPMENT AUCTIONS

Credit Card Payment	\$1,700,000.00	EACH	\$0.00
Non-Credit Card Payment	\$1,700,000.00	EACH	\$0.00

ONLINE REOCCURRING GENERAL MERCHANDISE AUCTIONS

Credit Card Payment	\$171,675.00	EACH	\$0.00
Non-Credit Card Payment	\$171,675.00	EACH	\$0.00

Credit Card Payment	\$110,000.00	EACH	\$0.00
Non-Credit Card Payment	\$110,000.00	EACH	\$0.00

SPECIAL SALES

Credit Card Payment	\$105,000.00	EACH	\$0.00
Non-Credit Card Payment	\$105,000.00	EACH	\$0.00

**COST SUBMITTAL TOTAL**

**\$0.00**



# Commonwealth of Pennsylvania

Date: **April 25, 2012**  
Subject: **Online Auction Services RFP**  
Solicitation Number: **6100020923**  
Opening Date/Time: **May 18, 2012, 4:00 PM**  
Addendum Number: **1**

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To All Suppliers:

The Commonwealth of Pennsylvania defines a solicitation "Addendum" as an addition to or amendment of the original terms, conditions, specifications, or instructions of a procurement solicitation (e.g., Invitation for Bids or Request for Proposals).

*List any and all changes:*

**In addition to Part III.2, RFP-002 Technical Nonconforming Proposals (January 2011) of the Request For Proposals, Offerors shall limit their Technical Submittal to no more than 75 pages, double-sided (minus financials, sample reports, and resume or similar documents), with 1" margins and in 12 point font.**

**For solicitations where a "hard copy" (vs. electronic) response is requested:**

- Attach this Addendum to your solicitation response. Failure to do so may result in disqualification.
- If you have already submitted a response to the original solicitation, you may either submit a new response, or return this Addendum with a statement that your original response remains firm, by the due date to the following address:

Except as clarified and amended by this Addendum, the terms, conditions, specifications, and instructions of the solicitation and any previous solicitation addenda, remain as originally written.

Sincerely,

Name: Brandi Yagle  
Title: Issuing Officer  
Phone: 717-703-2940  
Email: byagle@pa.gov



# Commonwealth of Pennsylvania

Date: **May 8, 2012**  
Subject: **Online Auction Services RFP**  
Solicitation Number: **6100020923**  
Opening Date/Time: **May 18, 2012, 4:00 PM**  
Addendum Number: **2**

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To All Suppliers:

The Commonwealth of Pennsylvania defines a solicitation "Addendum" as an addition to or amendment of the original terms, conditions, specifications, or instructions of a procurement solicitation (e.g., Invitation for Bids or Request for Proposals).

*List any and all changes:*

- 1. Part II, Technical Submittal Requirements, g. Financial Capability has been update to read as follows (the word "audited" has been removed from the original language): "Describe your company's financial stability and economic capability to perform the contract requirements. Provide your company's financial statements for the past three fiscal years. Financial statements must include the company's Balance Sheet and Income Statement or Profit/Loss Statements. Also include a Dun & Bradstreet comprehensive report, if available. If your company is a publicly traded company, please provide a link to your financial records on your company website in lieu of providing hardcopies. The Commonwealth reserves the right to request additional information it deems necessary to evaluate an Offeror's financial capability."**
- 2. Part IV-3, Requirements, E, Types of Auctions, 2. states: "For each auction, the selected Offeror may be required to provide title and registration processing services as necessary". The Department of General Services has changed this requirement as follows: The selected Offeror will NOT be required to provide title and registration processing services as necessary. This will be handled by the Commonwealth or a third-party if necessary.**
- 3. Official answers to questions along with the Pre-Proposal Conference sign-in sheet are attached to this Addendum #2 to the RFP.**
- 4. The attachment "Current Contract Historical Data" is also included as a result of one of the initial questions submitted by potential Offerors:**



# Commonwealth of Pennsylvania

**For solicitations where a “hard copy” (vs. electronic) response is requested:**

- Attach this Addendum to your solicitation response. Failure to do so may result in disqualification.
- If you have already submitted a response to the original solicitation, you may either submit a new response, or return this Addendum with a statement that your original response remains firm, by the due date to the following address:

Except as clarified and amended by this Addendum, the terms, conditions, specifications, and instructions of the solicitation and any previous solicitation addenda, remain as originally written.

Sincerely,

Name: Brandi Yagle  
Title: Issuing Officer  
Phone: 717-703-2940  
Email: [byagle@pa.gov](mailto:byagle@pa.gov)

**QUESTIONS AND ANSWERS**  
**ONLINE AUCTION SERVICES RFP #6100020923**  
**\*\*NOTE: OFFICIAL RESPONSES TO QUESTIONS BELOW SUPERCEDE LANGUAGE**  
**PREVIOUSLY PROVIDED IN THE STATEMENT OF WORK**

Question Number	RFP Page Number (If Known)	RFP Section Reference (If Known)	Question (Required)	Answer (Required)
1.			Is this opportunity open to all businesses, and not only available to Small Business entities?	This opportunity is open to all businesses.
2.	1	IV-1, Objectives, B	<p>On page 1 of 10, under IV-1, B.1 and B.5 several specific objectives for issuing the RFP were stated.</p> <ul style="list-style-type: none"> <li>• Maximize the net proceeds to the Commonwealth for the sale of its surplus property</li> <li>• Determine the best auction format for generating maximum sale proceeds and minimizing internal costs.</li> </ul> <p><b>Question:</b> Since this solicitation does not outline the process the Commonwealth will use to measure these important criteria, please explain exactly how you plan to measure these important criteria in each respondent's proposals and to grade each based on their historical and therefore provable net auction results?</p>	Please reference section III.4, Evaluation Criteria for details regarding the criteria that the Commonwealth will use to evaluate each proposal.



3.	1	IV-1, Objectives, B	<p>On page 1 of 10 under IV-1, B.6 it states that a specific objective for issuing this RFP is to "Provide on-site assistance and sufficient staffing as needed".</p> <p><b>Question:</b> Could the Commonwealth provide an estimated number of man hours they anticipate the vendor will be required to provide during a calendar year?</p>	No.
4.	2	IV-3, Requirements, A.	<p>On page 2 of 10, under IV-3, A is a requirement that an individual who will conduct the sale of personal property on behalf of the Commonwealth through an online internet bidding platform be registered as a Trading Assistant with the PA State Board of Auctioneers. Based on the information found in the Auctioneer's Act for the Commonwealth of Pennsylvania and explained below we feel it is unnecessary that an individual employed by the Vendor obtain a Trading Assistant license and therefore this requirement should be waived.</p> <p><b>Comment and Observations concerning the Auctioneers Act:</b> In reading through the regulations and licensing requirements on auctioneers.... Trading Assistants, etc. it states under the definition of a Trading assistant the following: "Trading Assistant" - An individual who, for a commission or fee, conducts or intends to conduct a business within this Commonwealth of accepting personal property to sell on behalf of another through an online internet bidding platform. Also under the Act section 3-2, (h), Sales exempt from License requirements it states: The requirement to obtain a license under this act does not apply to sales at auction in the following circumstances: (5) To a sale conducted by or under the direction of any</p>	

			<p>public authority.</p> <p><b>Question:</b> Since the online vendor will never takes possession of or title to any property owned by the Commonwealth and is always selling under the control and direction of the Commonwealth, this requirement does not appear necessary. Are you willing to waive the requirement that Vendors secure a bonded Trading Assistant license?</p>	No.
5.	3	IV-3, Requirements, E, Types of Auctions, 2.	<p>On page 3 of 10, under E.2, it states that, "For each auction, the selected Offeror may be required to provide title and registration processing services as necessary".</p> <p><b>Question:</b> Our online auction company, like most other online auction companies, is not a licensed vehicle dealer. Will the Commonwealth consider waiving this requirement if we can satisfactorily explain how the title and registration process is easily and successfully handled by other governments who utilize online auctions for their rolling stock?</p>	<p>The selected Offeror will <b><u>NOT</u></b> be required to provide title and registration processing services as necessary. This will be handled by the Commonwealth or a third-party if necessary.</p>
6.	4	IV-3, Requirements, F, Payment and Invoicing	<p>On page 4 of 10 under section IV-3 Paragraph F, it states that the selected Offeror must be able to accept and process personal and company checks, cashier's checks, certified checks and money orders. We have found electronic payment to be preferred by buyers as they like the convenience of paying using the same methods they use when shopping using other Internet-based resources. Also, these methods are much more transparent, auditable and secure. We would like to propose that winning bidders pay electronically via PayPal, Credit Card (Visa, MC, American Express and Discover) and by</p>	

			<p>wire transfer. And, that we will assume the liability related to these payment methods to include risk of credit card charge-backs.</p> <p><b>Question:</b> Will the Commonwealth consider waiving the requirement to collect auction proceeds via personal and company checks; cashier's checks; certified checks and money orders and allow proceeds to be instead collected via electronic payments?</p>	No.
7.	4	IV-3, Requirements, F, Payment and Invoicing, 3.	<p>On page 4 of 10, under section IV-3, F.3. it states, "All sales proceeds must be placed in an FDIC insured bank located within the Commonwealth of Pennsylvania and such funds must be placed in a separate interest bearing account until paid to the Commonwealth by the Offeror".</p> <p><b>Question:</b> Based on the method in which we currently remit auction proceeds to our clients, will the Commonwealth consider waiving the requirement to deposit funds in a separate bank account?</p>	No.
8.			<p>Will the Commonwealth permit the required electronic copies of the response to be in PDF format instead of Microsoft -Office compatible format? By submitting PDF format, it is readable, but protected against inadvertent editing or changing when opened.</p>	No.
9.			<p>Does the RFP include the following items:</p> <p>PennDOT Surplus Vehicles</p>	<p>Yes.</p> <p>At times, the Commonwealth sells seized specialty vehicles for the Attorney General's office and other law enforcement, as well as</p>

			<p>vehicles obtained through PennDOT Right of Way transactions. However, the vast majority of surplus vehicles are sold through another contract, and that will continue to be the case in the future. Also, state fleet vehicles and police vehicles will not be sold through any resulting contract.</p> <p>Yes.</p> <p>Yes.</p> <p>Yes.</p> <p>No.</p> <p>No.</p> <p>Auction items may be sold from any location throughout the Commonwealth regardless of size.</p> <p>BSSO sets the length of the auctions.</p>
<b>10.</b>			<p>Dump Trucks</p> <p>Heavy Equipment</p> <p>Right away surplus by imminent domain for state purchase?</p> <p>Police cars?</p> <p>Federal Surplus?</p> <p>Small surplus maintained at the warehouses?</p> <p>Could you describe the procedure used in the past for how many days surplus is placed online for each category above?</p> <p>Were pre-inspections allowed in the past?</p> <p>If so how many?</p> <p>Preview days are conducted while the auction is running.</p> <p>Amount of preview days are dependent upon individual auctions.</p>
<b>11.</b>			<p>Did the previous/current auctioneer charge for setup?</p> <p>If so what were the fees for the categories above?</p> <p>No.</p> <p>None.</p>

12.		<p>Who has paid and will pay for future advertising?</p> <p>At what cost?</p>	<p>Please see IV-4, Tasks, B. Marketing Plan for further details.</p> <p>Costs shall be dictated by the preferred marketing plan.</p>
13.		<p>Could we have the gross sales for each category above that have taken place over the last 3 years? Dollar amount per auction would be great.</p>	<p>This information will be attached with the addendum that is posted for official answers to questions, no later than May 8, 2012.</p>
14.		<p>Where were these auctions conducted?</p> <p>Where will they be conducted in the future and how many times per year?</p>	<p>Auctions may be conducted from any location throughout the Commonwealth.</p> <p>Auctions will continue to be conducted this will not change, there is no specified number, and auctions are based on the amount of Surplus Dispositioned.</p>
15.		<p>What are the commissions the current auction charges per category above?</p>	<p>Please see Exhibit B, Buyer's Fee Schedule that is attached to the current contract (#4400004506), which is available on the PA eMarketplace website at:  <a href="http://www.emarketplace.state.pa.us/FileDownload.aspx?file=4400004506\ContractFile.pdf">http://www.emarketplace.state.pa.us/FileDownload.aspx?file=4400004506\ContractFile.pdf</a>.</p>
16.		<p>Could we be provided with copies of the contracts for each category above?</p>	<p>The current contract (#4400004506) can be viewed through the PA eMarketplace website at:  <a href="http://www.emarketplace.state.pa.us/FileDownload.aspx?file=4400004506\ContractFile.pdf">http://www.emarketplace.state.pa.us/FileDownload.aspx?file=4400004506\ContractFile.pdf</a>.</p>

17.		Will the Commonwealth handle all title work at all sales, or would the Commonwealth want the auction company to provide assistance with a private title company when necessary?	Please see response to question #5.
18.	IV-3, Requirements, F. Payment and Invoicing	The Statement of Work requires that the auction company take personal checks as a form of payment. Is the auction company required to take personal checks without verification or letter of credit?	As per Part IV-3, Requirements, F. Payment and Invoicing, the selected Offeror must accept personal and company checks (with appropriate bank letter of guarantee).
19.		Can more than one signatory be provided on the proposal?	No, only one authorized signature for one prime Offeror must be provided on Appendix A, Proposal Cover Sheet.
20.		How is the collection of PA State Sales Tax to be handled?	As per Part IV-3, Requirements, F. Payment and Invoicing, 1. "The selected Offeror must provide the BSSO within thirty (30) days of each auction a remittance check made payable to the Commonwealth of Pennsylvania for the proceeds of the sales, a copy of the final auction results and documentation that all collected sales tax in accordance with the Department of Revenue have been paid. Only one check per auction will be permitted."
21.		Will the condition of items to be sold be supplied with the condition of those items?	The condition of items will vary. The information available on condition will only be as good as supplied by the disposing agency. However, in most cases the Auction Company would be viewing the property first hand in order to take pictures, write

22.		II-2, Technical Submittal Requirements, g. Financial Capability		descriptions and post online for sale, so, they will have as much information as BSSO has available.
23.		IV-3, Requirements, A.	<p>The proposal requires a 3 year audited financial statement. Being a small family owned business we have no need for ever having our financials audited. Can this requirement be removed?</p> <p>Why is there a requirement for someone to be a Trading Assistant? It would be in the best interest of the state to use a PA licensed auctioneer.</p>	Yes; please see #2 on Addendum 2.
				The Commonwealth requires Trading Assistant registrations, as this is a Department of State requirement for online auctions; an auctioneer's license is not required for the services to be provided from this RFP.

**Exhibit C**



**TECHNICAL SUBMITTAL**

**Submitted in connection with the Commonwealth of Pennsylvania solicitation for Heavy  
Equipment and General Merchandise Auction Services  
(RFP # 6100020923)**

**MAY 18, 2012**



## Exhibit C

### Technical Submittal Requirements

#### 1. Statement of Problem:

The BSSO is seeking a single, experienced online auction services company to execute online/internet surplus property auctions for and at no cost to the Commonwealth of Pennsylvania for an initial term of 3 years. BSSO's six objectives for this submittal is to maximize net proceeds, maintain low buyer fees, effective advertising, offer a no cost contract that delivers a private and public auction venue, assist in determining the best auction format and provide world-class field services.

#### 2. Management Summary:

AssetNation, a Ritchie Brothers Company, is proud to have provided similar services to the Commonwealth of Pennsylvania for over nine (9) years. In general, the services proposed in the submittal are the same as those that we have successfully delivered to the Commonwealth. During that time of services AssetNation and the Commonwealth have continually refined and improved our processes. The design and compliment of services described in this response reflects those continuous improvement efforts. As requested via the solicitation, our services will include:

- a. Provide a Private Auction Venue with the same functionality of our Public Venues for the Heavy Equipment Auctions.
- b. The provision of a state of the art online system with a unique URL to which a prospective bidder can register, be pre-approved, and receive electronic communication quickly and efficiently.
- c. Professional Full Management Services, including a Program Manager, Market Manager, on staff Marketing Team, Auction Content Management Team, Customer Care, Collections and Settlement, Information Technology Team, Operations, Systems and Quality Control Team, and World Class Shared Field Services.
- d. Delivery of Auction Sales Reports, Annual Sales Reports, Marketing Reports and Bank Reports.

#### 3. Work Plan:

**Overview:** AssetNation, a Ritchie Brothers Company, proposes to continue to employ the strategies and tactics developed between the Bureau of Supplies and Surplus Operations (BSSO) and AssetNation over the past nine (9) years for the sale of surplus property. AssetNation will plan and execute at least two PennDot heavy equipment auctions annually (additional auctions may be held based on actual requirements from the Department of General Services (DGS)). Prior to offering the surplus heavy equipment for public sale, AssetNation will leverage its auction technology to facilitate a private sale exclusively for Pennsylvania municipalities. The surplus equipment that is not claimed by a participating municipality will then be offered for sale via an online public auction. For General Merchandise, Right of Way Sales, Special Sales and Other General Merchandise, AssetNation will plan and execute required online public auctions.

## Exhibit C

**Marketing Plan:** AssetNation is able to exceed the marketing requirements indentified in the “Marketing Plan” section of the RFP (Part IV-3, Section G). AssetNation has the ability to draw from the following types of advertising mediums to promote auctions.

Direct Mail Brochures, Postcards & Letters	Social Networks
National Publications	E-mail
Specialty, Trade Publications	Web site
Newspapers	Google Adwords
Industry Networks	Banner Ads
Penton Media Partnership	Broadcast Media

The table below illustrates the breadth and thoroughness of the print marketing campaigns that we have executed in support of past auctions for the Commonwealth.

Example of Publications Used to Promote General Merchandise Auctions:

Altoona Mirror	Johnstown Tribune Democrat	Pittsburgh Post Gazette
Butler Eagle	Kittanning Leader Times	Pittsburgh Tribune Review
Centre Daily Times	Latrobe Bulletin	Punxsutawney Spirit
Clearfield Tri-County Sunday	New Castle News	Scranton Times & Tribune
Connellsville Daily Courier	Oil City The Derrick	Uniontown Herald Standard
Erie Times & News	Philadelphia Daily News	Washington Observer Reporter
Harrisburg Patriot News	Philadelphia Inquirer	York Dispatch

Print Advertising Campaign in Sept/Oct 2011:

Contractors Hotline	1/2Page
Allied Paving Equipment	1/4Page
Hard Hat News	1/4Page
Rock & Dirt	1/4Page
My Little Salesman	1/4Page

In addition to the traditional means of advertising such as direct mailings and advertisements in trade publications and newspapers, AssetNation is continually searching for and developing new ways to reach potential buyers. One of the most productive vehicles for attracting buyers is the strategic use of internet based search engines. AssetNation has Search Engine Optimization (SEO) and Google Adwords professionals on staff. These individuals study search patterns and develop keywords and ad placement strategies that result in the greatest number of search engine matches possible for a specific asset offered for sale. This dramatically increases the exposure of the Commonwealth’s surplus assets to individuals that are using search engines, such as Google, to find information related to the type of equipment offered for sale - which ultimately results in increased competition for your assets.

AssetNation also has an exclusive relationship with the Surplus Record (a well known and established directory of surplus machinery and equipment in the US) and Utilaje (a similar, Mexico-based publication) and draws from their databases of potential buyers. AssetNation also has the ability to cross-promote auctions on PentonEquipmentAuctions.com as well as other Penton Media websites and publications. Many Penton’s brands focus on government entities

## Exhibit C

and cater to buyers of government surplus. Some examples of these Penton Brands include: American City & County; Government Product News; Fire Chief; American School & University; and Fleet Owner.

Cut sheet proofs will be provided to the Division Chief of State Surplus prior to booking the advertising. We intend to continue to use similar advertising pieces and techniques to promote auctions in the future.

Advertising Example:  
Heavy Equipment Auction

Example of Global Reach

**UPCOMING ONLINE AUCTIONS**  
[www.Asset-Auctions.com](http://www.Asset-Auctions.com)

**Summer PennDOT Heavy Equipment Online Auction**  
*All Equipment is offered by the Pennsylvania Department of Transportation under management by Pennsylvania Department of General Services*

**HIGHLIGHTS INCLUDE:**

- Tandem Axle Dump Trucks
- Single Axle Dump Trucks
- Loaders & Graders
- Backhoes
- Asphalt Equipment
- and Much More!



**FIRST LOT SCHEDULED TO CLOSE:** Tuesday, June 12, 8:00am  
**AUCTION LOCATION:** Punxsutawney, PA and other originating yards






Check Online For More Details!

**RECURRING MONTHLY SALES**

Surplus Assets from the Commonwealth of Pennsylvania  
 Dump Trucks & Surplus Equipment from the Ohio DOT  
 Surplus & Seized Goods from the State of Tennessee



**Asset Auctions**<sup>®</sup>  
 An **AssetNation** Marketplace  
[www.Asset-Auctions.com](http://www.Asset-Auctions.com)



DICIEMBRE, 2008

# Utilaje

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Ahora totalmente en español, compra desde su localidad, en tiempo real.

Más fácil que nunca, las pequeñas para que sólo compre lo que necesita.  
Encuentra en estos momentos oportunidades en:

- Maquinaria para construcción
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- Maquinaria textil
- Equipo para impresión
- Equipo para almacenamiento y empaque
- Maquinaria para plásticos
- Equipo eléctrico






También la mejor solución para la venta de sus activos.  
Desde una cuenta máquina hasta pronta entrega. Garantía.

Asset Auctions le agradece su preferencia este año y le desea una Feliz Navidad y un 2009 lleno de éxito y satisfacciones para usted y los suyos.

Javier Domínguez • Paula Ramírez  
 México: (52) 904 4470 • 01 800 536 1878  
[jdominguez@asset-auctions.com](mailto:jdominguez@asset-auctions.com)  
 Asset Auctions de México, S. de R.L. de C.V. México, D.F.

Asset Auctions

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## Exhibit C

**Implementation Plan:** AssetNation has delivered, and proposes to continue delivering, private and public online auctions in an integrated fashion. Heavy equipment will first be offered to municipalities in the spring of each calendar year via private online auctions. The equipment that is not claimed will be offered to the public in two online public auctions. The planning of those activities is a collaborative effort between BSSO and AssetNation and results in an annual schedule of activities such as the one below.

**2011 Heavy Equipment Auction Schedule (Example)**

Action Item	Site #1	Site #2
<b>PAPERWORK &amp; PICTURES DEADLINE TO EQUIPMENT DIVISION FROM FIELD</b>	<b>Noon Wednesday, April 13, 2011</b>	<b>Noon Wednesday, August 31, 2011</b>
<b>List and Pictures to DGS</b>	Monday, April 25, 2011	Monday, September 12, 2011
<b>State Agencies START</b>	Monday, May 2, 2011	Monday, September 19, 2011
<b>State Agencies END</b>	Monday, May 16, 2011	Monday, October 3, 2011
<b>Municipal Auction Online-Start-Noon</b>	Wednesday, May 18, 2011	Wednesday, October 5, 2011
<b>Municipal Auction Online-Finish-10:00 Am</b>	Wednesday, June 1, 2011	Wednesday, October 19, 2011
<b>Municipal Payment Due</b>	Friday, June 10, 2011	Friday, October 28, 2011
<b>Municipal Removal Deadline</b>	Friday, June 17, 2011	Friday, November 4, 2011
<b>Delivery of Equipment</b>	<b>Monday, June 6, 2011</b>	<b>Monday, October 24, 2011</b>
	<b>Tuesday, June 7, 2011</b>	<b>Tuesday, October 25, 2011</b>
	<b>Wednesday, June 8, 2011</b>	<b>Wednesday, October 26, 2011</b>
<b>Data Verification</b>	Tuesday, June 7, 2011	Tuesday, October 25, 2011
	Wednesday, June 8, 2011	Wednesday, October 26, 2011
	Thursday, June 9, 2011	Thursday, October 27, 2011
<b>Public Auction Starts-Noon</b>	Monday, June 13, 2011	Monday, October 31, 2011
<b>Public Preview Day</b>	Monday, June 20, 2011	Monday, November 7, 2011
	Tuesday, June 21, 2011	Tuesday, November 8, 2011
<b>Public Auction Ends-10:00 AM</b>	Wednesday, June 22, 2011	Thursday, November 10, 2011
<b>Payment Deadline for Equipment</b>	Monday, June 27, 2011	Monday, November 14, 2011
<b>Removal of Equipment-8:00-2:00</b>	<b>Monday, June 27, 2011</b>	<b>Monday, November 14, 2011</b>
	<b>Tuesday June 28, 2011</b>	<b>Tuesday, November 15, 2011</b>
	<b>Wednesday, June 29, 2011</b>	<b>Wednesday, November 16, 2011</b>

General Merchandise, Right of Way, Special Sale and Other General Merchandise will be offered via online public auctions— auctions will be open for bidding for 14 days standard or other strategic schedule as agreed upon. The remainder of this section details the technical plan to deliver these services.

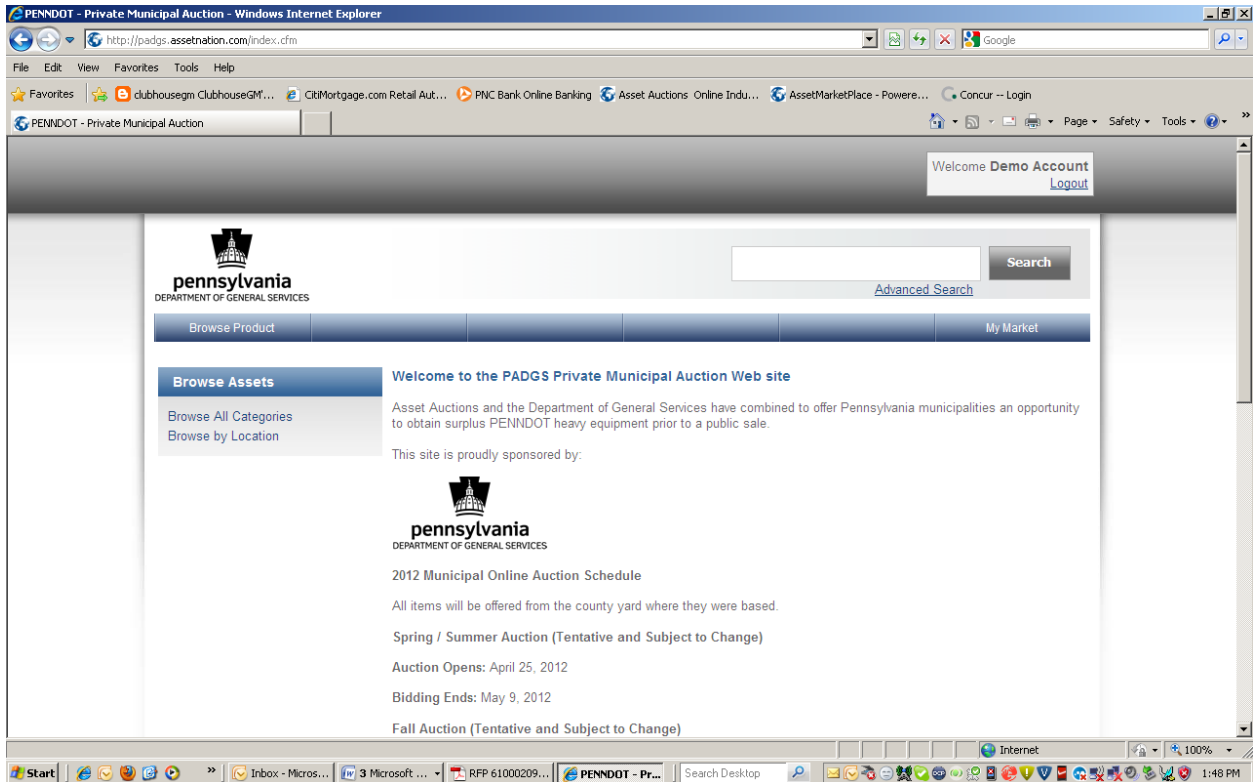
**Online Private Municipal Auctions:** Heavy equipment will first be offered to municipalities via private online auction. Photographs and descriptions of surplus equipment will be provided by field activities to the Equipment Division. The Equipment Division will then provide a list of equipment and the relevant photographs to DGS. For approximately two weeks, the available equipment will be exposed to state agencies to affect internal transfers without the involvement of AssetNation. Photographs and descriptions of the equipment that will be offered to municipalities via private auction will then be loaded into the AssetNation system. AssetNation will provide the following, established, unique URL for the exclusive use of the Commonwealth.

<http://padgs.assetnation.com>

Participating municipalities will be alerted to the impending private auction through promotion on the DGS website, DGS-based outreach and AssetNation promotion to previously registered

## Exhibit C

entities. Each municipality that intends to bid on equipment is required to register as a bidder. A large number of municipalities are already registered to participate in this process because they have participated in previous private auctions conducted by AssetNation. New bidders will complete a registration request on the website that is accessed through the URL above. To ensure the integrity of the process, each new registrant is verified manually by AssetNation. Verification is accomplished using a variety of methodologies including direct contact with the registrant. Once the identity of the registrant is confirmed, AssetNation will activate the restricted bidding rights for the registrant.



The bidding period will be open for approximately 14 days. During that time, municipalities will submit competing bids for the available equipment. AssetNation “overtime” technology feature will ensure that each municipality has the opportunity to respond to market leading bids by extending the close time of the auction when new leading bids are placed within the last few minutes of the scheduled close of the auction.

At the conclusion of the auction, AssetNation will:

1. Deliver an auction summary report detailing the results of the event within one (1) hour of the close of the auction
2. Deliver electronic invoices to the winning bidders

## **Exhibit C**

3. Collect funds including; Municipal checks, certified checks, credit card transactions, electronic funds transfers and on-line settlement
4. Issue Presentation of Buyer (POB) to the winning bidder and notification of payment to DGS and PennDOT
5. Place proceeds in a FDIC insured bank within the Commonwealth of Pennsylvania. The funds will be placed into a separate interest bearing account until paid to the Commonwealth and will not be co-mingled with other funds.
6. Deliver net proceeds check to BSSO (made payable to the Commonwealth) within 30 days, as well as, documentation detailing any taxes or fees collected in accordance with the Department of Revenue.

The winning bidder will be required to remove the equipment by the date stipulated in the terms and conditions of the sale, which the bidder is required to acknowledge and accept prior to placing a bid.

**Online Public Heavy Equipment Auction:** The following describes the process that AssetNation will engage following the private municipal sale; it is representative of our approach to public online sales in general. Equipment that is not transferred through the private online auction will be offered for sale to the public via a public online auction. Shortly after the close of the private municipal auction, the remaining equipment will be consolidated in a single location. AssetNation will visit the central location to verify the equipment information and augment that information as appropriate. The updated information will be loaded into the AssetNation system. Adding or removing lots is accomplished quickly and efficiently through the AssetNation system. As a quality control point, a BSSO representative will review and approve the information and parameters of the auction before it is made available to the public. Once approved, the auction will be accessible through a public, unique URL. The AssetNation website has a built-in following of more than 100,000 registered Bidders. The marketing and advertising that is described in the section “Marketing Plan” will drive additional bidders to the website, where approved bidders can be quickly and efficiently registered. Bidders will be required to agree to the specific terms and conditions established for the item(s) for sale, and will have the opportunity to bid on the surplus equipment for approximately 10-14 days. AssetNation bid collection technology includes “overtime” bidding functionality which automatically extends the scheduled close of the auction when a market leading bid is placed within the last two minutes of an event. Extensions will continue to occur until no further bids are placed. This ensures that the final offer made is the best possible offer, not just the last one made in a finite period of time. This is the only way to ensure that the full market value has been extracted for each asset. For two days prior to the close of the auction, bidders will have the opportunity to inspect the equipment. AssetNation will provide onsite representation for the inspection days.

## Exhibit C

At the conclusion of the auction, AssetNation will:

1. Deliver an auction summary report detailing the results of the event within one (1) hour of the close of the auction
2. Deliver electronic invoices to the winning bidders
3. Collect funds including; Municipal checks, certified checks, credit card transactions, electronic funds transfers and on-line settlement
4. Issue Presentation of Buyer (POB) to the winning bidder and notification of payment to DGS and PennDOT
5. Place proceeds in a FDIC insured bank within the Commonwealth of Pennsylvania. The funds will be placed into a separate interest bearing account until paid to the Commonwealth and will not be co-mingled with other funds.
6. Deliver net proceeds check to BSSO (made payable to the Commonwealth) within 30 days, as well as, documentation detailing any taxes or fees collected in accordance with the Department of Revenue.
7. Provide onsite representation for the removal of the equipment by the winning bidders. Equipment will be removed by the date stipulated in the terms and conditions of the sale, which the bidder is required to acknowledge and accept prior to placing a bid.

**Online Reoccurring General Merchandise Auction:** In addition to the public online auctions for heavy equipment described above, AssetNation will plan, create, and execute public online auctions for the sale of general merchandise on behalf of the Commonwealth. These auctions will be conducted monthly or as agreed upon, with the close date set according to a predictable schedule, such as the first Tuesday of each month. The planning process for each auction begins with the collection of a list of items available for sale. The information provided in the list is reviewed, verified and augmented by AssetNation as appropriate. Using information from this list, AssetNation will prepare items included in the sale, and load information describing the items into the online bidding system. The bidding period will be opened 14 days prior to the scheduled close date. New bidders can register online, quickly and easily, using the AssetNation unique URL. Assetnation will pre-approve each registrant to in an effort to ensure the integrity of the process. Once registered, the bidders will be required to agree to the specific terms and conditions established by the Commonwealth for the item(s) for sale. The technology used to collect bids from registered bidders will be the same as that discussed earlier in this section, including state of the art functionality such as “overtime” bidding. AssetNation also has the ability to send and receive electronic communications to and from bidders. Bidders will have the option of inspecting the items by appointment only or according to schedule set forth by DGS.

## Exhibit C

At the conclusion of the auction, AssetNation will:

1. Deliver an auction summary report detailing the results of the event within one (1) hour of the close of the auction
2. Deliver electronic invoices to the winning bidders
3. Collect funds including; Municipal checks, certified checks, credit card transactions, electronic funds transfers and on-line settlement
4. Issue Presentation of Buyer (POB) to the winning bidder and notification of payment to DGS and PennDOT
5. Place proceeds in a FDIC insured bank within the Commonwealth of Pennsylvania. The funds will be placed into a separate interest bearing account until paid to the Commonwealth and will not be co-mingled with other funds.
6. Deliver net proceeds check to BSSO (made payable to the Commonwealth) within 30 days, as well as, documentation detailing any taxes or fees collected in accordance with the Department of Revenue.

**Right of Way Auction:** AssetNation will plan, create, and execute public online auctions for the sale of right of way merchandise on behalf of the Commonwealth. These auctions will be conducted on an as needed basis. The planning process for each auction begins with the collection of a list of items available for sale. The information provided in the list is reviewed, verified and augmented by AssetNation as appropriate. Using information from this list, AssetNation will prepare items included in the sale, and load information describing the items into the online bidding system. The bidding period will be opened 14 days or an agreed upon number, prior to the scheduled close date. New bidders can register online, quickly and easily, using the AssetNation unique URL. Assetnation will pre-approve each registrant to in an effort to ensure the integrity of the process. Once registered, the bidders will be required to agree to the specific terms and conditions established by the Commonwealth for the item(s) for sale. The technology used to collect bids from registered bidders will be the same as that discussed earlier in this section, including state of the art functionality such as “overtime” bidding. AssetNation also has the ability to send and receive electronic communications to and from bidders. Bidders will have the option of inspecting the items on a specific predetermined date as agreed upon by DGS. AssetNation will provide representation as requested for the inspection date.

At the conclusion of the auction, AssetNation will:

1. Deliver an auction summary report detailing the results of the event within one (1) hour of the close of the auction
2. Deliver electronic invoices to the winning bidders



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3. Collect funds including; Municipal checks, certified checks, credit card transactions, electronic funds transfers and on-line settlement
4. Issue Presentation of Buyer (POB) to the winning bidder and notification of payment to DGS and PennDOT
5. Place proceeds in a FDIC insured bank within the Commonwealth of Pennsylvania. The funds will be placed into a separate interest bearing account until paid to the Commonwealth and will not be co-mingled with other funds.
6. Deliver net proceeds check to BSSO (made payable to the Commonwealth) within 30 days, as well as, documentation detailing any taxes or fees collected in accordance with the Department of Revenue.

### Implementation Plan Specific Question Answers:

1. *Describe how you will register bidders and track results of multiple auction bidding events that end simultaneously or separately.*
  - a. We utilize an intuitive registration process for online registrations
    - Registrant fills out the online registration form and submits it
      - If the phone or email matches a record in the system, the form will tell them that information already exists, so they need to re-enter or call Customer Service
      - Status is “Pending”/”Inactive”
    - Registrant is taken to the phone verification – Status is still “Pending”/”Inactive”
    - Registrant is sent an email verification – Status is still “Pending”/”Inactive”
    - NOTE: Status of registrants that complete the phone/email verification will be placed in “Pending”/”Active” status. Registrant is now on the “Buyers Pending Approval” or the “Sellers Pending Approval” report
    - The website says:”Thank You, it may take 1-2 business days to activate your account. You can also fax a legible copy of your driver’s license or passport to 713-286-4714, which may speed up your registration. If you have an urgent need to bid, please contact Customer Care at (800) 856-7445.” (See Urgent Bidder section below for exception procedure)
    - As registrations come in to a Pending/Active status and appear on the Buyers Pending Approval report or the Sellers Pending Approval report, the AssetNation Houston Office Manager will:
      - Click on the Approve/Deny, then go to the View Buyers Details
      - Run the Telesign check
      - Check the other information (e.g., no initials for first/last name)
      - Sellers that are approved, will also auto- approve as a Buyer.
      - NOTE: Buyers that want to sell will either call or use the Consignment tool. If using the Consignment tool, the buyer is asked if they want to become a Seller. If the Buyer answers “Yes”, then the buyer will appear on the Seller Pending Approval report. After the buyer submits a consignment, their consignment will appear in the Self-Service tab. The MM or CM will approve by going to the Sellers Pending Approval report after reviewing the consignment and prior to taking the listing live.
    - If a registrant has incomplete or inaccurate information (e.g., initials in both first/last name), the AssetNation Office Manager will email or call the registrant to get the information corrected before proceeding.

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- If a registrant has duplicate information or is tied to another User that is currently in Default, then the AssetNation Office Manager will deny the registrant.
- The AssetNation Office Manager will run an OFAC check on the registrant. If a registrant is from a country listed on the US Office of Foreign Assets Control List, has a confidence score above 80, or has a registration address listed in the OFAC Check results, then the AssetNation Office Manager will deny the registrant.
- Acceptable Phone numbers: The AssetNation Office Manager will “Approve” registrants that have acceptable phone types marked as “AssetNation Recommendation – Allow” on the Telesign pop-up. AMP will send an email to the registrant. a. “Thank you for registering with AssetNation. You have been approved, and can now enter your bids.”
- Unacceptable Phone numbers:
  - The following phone numbers are unacceptable:
    - Non-Fixed VOIP
    - Pre-Paid Cellular
    - Undetermined
    - Toll Free
    - Pager
    - Payphone
    - Blocked/Restricted
    - Invalid
    - Voicemail
  - On the Telesign pop-up, if any of the phone types above are the result, the AssetNation Recommendation will say “Deny” and will have a button to click that says “Deny”.
  - If the Telesign verification returns an unacceptable phone number, AMP will send an email when the AssetNation Office Manager clicks “Deny” on the Telesign pop-up.
    - “Thank you for registering with AssetNation. We were not able to verify your phone number because it is an untraceable number. To complete your registration, you will need to call Customer Care to provide an acceptable phone number or further credentials, such as a driver’s license, passport, or bank letter of guarantee.”

### **Urgent Bidding Registrants that Call Customer Care:**

- CSC will look up the user record, run the Telesign check and check the other information (e.g., no initials for first/last name).
- If the registrant information is acceptable, the CSC will “Approve” the user
- If the registrant information is not acceptable, the CSC will require the user to fax a copy of their driver’s license, passport or bank letter of guarantee to 713-286-4714.
  - Once the registrant faxes the appropriate credentials in a legible form, the CSC will attach a copy of the fax to the user record, then “Approve” the user.
  - If the registrant refuses to fax the requested credentials, the CSC will “Deny” the registrant and enter a note explaining why.

### **Denied Registrants that Call Customer Care:**

- CSC will look up the user record to verify all information is recorded
- If the provided phone number is Non-fixed VOIP, Pre-paid Mobile or Undetermined, the CSC will require the user to fax a copy of their driver’s license, passport or bank letter of guarantee to 713-286-4714.
  - Once the registrant faxes the appropriate credentials in a legible form, the CSC will attach a copy of the fax to the user record, then “Approve” the user.

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- If the registrant refuses to fax the requested credentials, the CSC will inform the registrant their registration is denied.
  - If the provided phone number is blocked for all other unacceptable phone types, the CSC will request the user to provide a different phone number and to fax a copy of their driver's license, passport or bank letter of guarantee to 713-286-4714.
    - If the user refuses to provide a different phone number that is acceptable or a phone number that is Non-fixed VOIP, Pre-paid Mobile or Undetermined with the faxed credentials, the CSC will inform the registrant their registration is denied.
- b. We utilize an event based auction format when possible which allows any number of lots to be managed collectively as a project. Our recommendation is to plan and close events on different days or at different times but our platform could handle any number of events or lots as needed. Once the event or lot has closed our platform allows us to manage the auction results reporting as needed and submit one payment for the event with supporting detail. All auctions are presented to DGS in a preview format to allow the opportunity for changes or approval as appropriate
2. *Describe how you will provide online security and identity protection.*
    - a. Please refer to pages 28 and 29 of the submittal under Quality Control Plan.
  3. *Describe how you will ensure that high bidders pay for and remove the items on a timely basis.*
    - a. Our system emails automatic payment reminders and we also have a full customer care team that will follow up on open payments as needed. On the removal side we also have automated removal reminders and standard terms and conditions and web site rules that explain consequences for default bidders.
  4. *Describe your normal terms and conditions of sale to buyers. Describe how you will remedy and discourage delinquent buyers.*
    - a. Each bidder must complete registration terms when registering and additionally agree to our standard web site rules and agree to specific lot terms when placing a bid. These documents are included below as follows: User Agreement; Website Rules; Sample Lot Terms. Section 2.2.3. Buyer Default Penalty specifically answers how delinquent buyers are handled. It is also best practice to group low value like items into larger lots to create value so that bidders are more likely to pay and remove. This highest percentage of default transactions are related to low value items.

## ASSETNATION AFFILIATED WEBSITES

### User Agreement

AssetNation, Inc. and its affiliated companies (collectively, the "Company" or "we") operates this website and operates or hosts other auction websites accessible through its central website, [www.assetnation.com](http://www.assetnation.com) (individually, an "AssetNation Website" and collectively, "AssetNation Websites"). Each AssetNation

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Website is listed in the Affiliated Websites section at the bottom of this website and of every other AssetNation Website.

Unless otherwise modified by the terms of a separate user agreement applicable specifically to the use of one or more AssetNation Websites, and only as to the use of the particular AssetNation Website to which the separate user agreement applies, this User Agreement ("Agreement"), including the Privacy Policy and any terms linked to this Agreement, governs and applies to each AssetNation Website, whether presently in existence or established in the future. Before you may become a registered user on any AssetNation Website, you must read and accept all of the terms in, and linked to, this Agreement. If you do not agree to this Agreement, you may not use any of the AssetNation Websites to buy, sell or bid for goods, or use any other services offered by the Company on any AssetNation Website. This Agreement is effective on June 25, 2011 for current users, and upon acceptance for new users. By accepting this Agreement, you also agree that your use of a particular AssetNation Website may be governed by a separate user agreement, website rules and privacy policy. The user agreement, website rules and privacy policy that applies to each particular AssetNation Website always appears in the footer of each website.

Each AssetNation Website has specific Website Rules (accessible from the footer of each website) that apply to that specific AssetNation Website, and are incorporated herein by reference. By agreeing to this Agreement, and then subsequently using an AssetNation Website, you are agreeing to comply with the specific Website Rules for such AssetNation Website.

We may amend this Agreement at any time by posting the amended Agreement on our AssetNation Websites. An amended Agreement shall automatically be effective 15 days after it is initially posted on our AssetNation Websites. Your continued use of any AssetNation Website after our posting of any changes will constitute your acceptance of such changes. This Agreement may not be otherwise amended except in a writing hand signed by you and the Company. Notwithstanding any other provision of this Agreement, for purposes of this provision, a "writing" does not include an e-mail message and a signature does not include an electronic signature.

### **1. EACH ASSETNATION WEBSITE IS ONLY A VENUE OR MARKETPLACE**

Each AssetNation website is only a venue or marketplace for our users to offer, sell and buy many different items. Our role is only to provide a venue for listings, bids and acceptances, and facilitate the exchange of information between buyers and sellers. We are not involved in forming the actual transaction between buyers and sellers, we are not an agent of buyer or seller, and we do not take title to the items at any point in the sales process. Any agreement reached by a buyer and seller with respect to the terms of sale for an item is solely between such buyer and seller. As a result, we have no control over and do not guarantee the quality, safety, or legality of items listed for sale, the truth or accuracy of seller's listings, the ability of sellers to sell items, the ability of buyers to pay for items, or that a buyer or seller will actually complete a transaction.

### **2. DISPUTES BETWEEN USERS; RELEASE OF THE COMPANY**

You will not hold the Company responsible for any user's actions or inactions relating to the purchase and sale of items listed on any of the AssetNation Websites. If you have a dispute with one or more users, you release the Company, its subsidiaries and affiliates, and their respective officers, directors, agents, employees and third party suppliers, from claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, including without limitation those claims, demands and damages based in whole or in part upon the Company's negligence, gross negligence, statutory liability or strict liability, arising out of or in any way

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connected with such dispute. If you are a California resident, you waive California Civil Code 1542, which says: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

### 3. LIMITATION OF LIABILITY BETWEEN BUYER AND SELLER

FOR ANY TRANSACTION BETWEEN BUYER AND SELLER ON ANY ASSETNATION WEBSITE, BUYER AND SELLER AGREE AS FOLLOWS:

(a) ALL ITEMS LISTED ON THE ASSETNATION WEBSITES ARE SOLD "**AS IS, WHERE IS**" WITH NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, UNLESS OTHERWISE EXPRESSLY SET FORTH IN THE TERMS OF SALE FOR SUCH ITEM AND LABELED AS A "WARRANTY".

(b) IN NO EVENT SHALL BUYER OR SELLER BE LIABLE TO EACH OTHER FOR SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND, OR ANY LOST REVENUE OR ANTICIPATED PROFITS, ARISING OUT OF OR IN CONNECTION WITH SUCH TRANSACTION.

(c) IN NO EVENT SHALL THE LIABILITY OF SELLER TO BUYER, OR BUYER TO SELLER, FOR ANY SUCH TRANSACTION EXCEED THE PURCHASE PRICE OF THE PURCHASED ITEMS AND, IF THE PURCHASED ITEMS HAVE ALREADY BEEN RELEASED TO BUYER, THE REASONABLE LOGISTICS COSTS INCURRED BY BUYER FOR THE TRANSPORTATION AND STORAGE OF THE PURCHASED ITEMS.

A PARTY TO A TRANSACTION THROUGH ANY OF THE ASSETNATION WEBSITES MAY ENFORCE THIS SECTION 3 AGAINST THE OTHER PARTY AS IF IT HAD BEEN AGREED DIRECTLY BETWEEN THE PARTIES THEMSELVES.

### 4. ESCROW AGENT

After selection of the winning bid on certain AssetNation Websites, the winning bidder is required to pay the agreed purchase price and other fees to the Company. In this case, the Company will act as Escrow Agent to hold such funds in escrow (the "Escrow Funds") in a separate and segregated bank account used for the Escrow Funds.

With respect to the Escrow Funds and the Company's duties as Escrow Agent to buyer and seller, you agree as follows:

(a) The Company is not a principal or participant of the underlying transaction between buyer and seller. The Company may rely on any written instrument or e-mail reasonably believed by it to be genuine and to have been signed or sent by the proper party or parties, their officers, representatives or agents.

(b) Should any dispute arise between the buyer and seller with respect to the Escrow Funds, the Company shall have the right to (i) refrain from taking any action other than to retain custody of the Escrow Funds until it shall have received joint written instructions signed by each of buyer and seller, or a final order, judgment or decree from a court of competent jurisdiction, or (ii) institute a bill of interpleader in any court of competent jurisdiction to determine the rights of the parties. If buyer and seller agree to resolve

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their dispute over the Escrow Funds through binding arbitration, the Company shall have the additional right to act on the instructions of the appointed arbitrator(s). Should such actions be necessary, or should the Company become involved in litigation or other proceedings of any nature on account of the Escrow Funds solely because it holds the Escrow Funds as Escrow Agent, you agree to pay the Company, in addition to any commissions hereunder, the reasonable attorney's fees incurred by the Company and any other costs and expenses resulting from such actions, all of which may be deducted from the Escrow Funds prior to their disbursement by the Company.

### **5. LISTING REQUIREMENTS; LICENSE; EXCLUSIVITY**

When you list goods for sale on an AssetNation Website, you represent and warrant that you have the authority to sell such goods, free and clear of any liens, claims or other encumbrances. You further agree to use commercially reasonable efforts to supply accurate information for each listing, and will be solely responsible for the listing information you provide. When you give us content for a listing of goods, you grant us a non-exclusive, worldwide, perpetual, irrevocable, royalty-free, sublicensable (through multiple tiers) right to exercise any and all copyright, trademark, publicity, and database rights (but no other rights) you have in the content, in any media known now or in the future.

When you list an item for sale on any AssetNation Website, you agree that during the period in which the item is posted in an online auction on the AssetNation Website (the "Exclusivity Period"), the Company shall have the exclusive right to sell such item. You further agree that during the Exclusivity Period you will solicit and accept offers on the item only through the AssetNation Website on which the item was posted for sale. If you solicit or accept, through any means other than the AssetNation Website on which the item was posted for sale, any offer on any such item during the Exclusivity Period you agree to pay the Company the Seller Commission Fee set forth in the applicable AssetNation Website's Website Rules, as if such item had been sold through a completed online auction.

### **6. ELIGIBILITY AND REGISTRATION**

The AssetNation Websites are available only to individuals and entities that can form legally binding contracts under applicable law, and are not available to minors. You represent and warrant that (i) all user information provided during registration is accurate and complete, and (ii) you will update such user information from time to time so that it is kept current, accurate and complete at all times. If you are registering with the Company as a business entity, you represent that you have the authority to legally bind that entity. You are solely responsible for all conduct and transmissions that take place under your user name and password. The Company may ask for additional information at any time to verify your registration information. The Company may, in its sole and absolute discretion, refuse to accept a party's registration.

### **7. USER RESPONSIBILITIES**

When using any of the AssetNation Websites, you agree that you will not do any of the following:

- Violate any laws or the specific Rules or Policies for any AssetNation Website
- Violate or infringe, or cause the Company to violate or infringe, the intellectual property or other rights of any third party, including copyright, trademark, trade secret, privacy or other proprietary rights
- Fail to deliver payment for items purchased by you
- Fail to deliver goods purchased from you

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- Manipulate the price of any posted item, whether by bidding through a secondary account or other party, by communicating with other buyers, by shill bidding or by any other means
- Copy, reproduce, modify, create derivative works from, distribute, or publicly display any content (except for your information) from any AssetNation Website without the prior express written permission of the Company

Without limiting other remedies, we may limit, suspend or terminate a user's registration and access to the AssetNation Websites at any time if we believe, in our sole discretion, that you have breached this User Agreement or otherwise engaged in any inappropriate behavior on any of the AssetNation Websites.

### **8. DISCLAIMERS**

THE ASSETNATION WEBSITES ARE PROVIDED BY THE COMPANY ON AN "AS IS", "AS AVAILABLE" BASIS.

TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, THE COMPANY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE OPERATION, ACCESSIBILITY OR SECURITY OF THE ASSETNATION WEBSITES, AND THE ACCURACY, COMPLETENESS, CURRENCY OR RELIABILITY OF ANY OF THE CONTENT OR DATA FOUND ON THE ASSETNATION WEBSITES INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. SOME STATES DO NOT ALLOW THE DISCLAIMER OF IMPLIED WARRANTIES, SO THE FOREGOING DISCLAIMER MAY NOT APPLY TO YOU.

THE COMPANY DOES NOT WARRANT THAT THE ASSETNATION WEBSITES OR THE FUNCTIONS, FEATURES OR CONTENT ON THE ASSETNATION WEBSITES WILL ALWAYS BE AVAILABLE, ACCESSIBLE, UNINTERRUPTED, AND SECURE OR OPERATE WITHOUT ERROR.

THE COMPANY EXPRESSLY DISCLAIMS ANY RESPONSIBILITY FOR ANY MISREPRESENTATIONS OR BREACHES COMMITTED BY ANY BUYER OR SELLER.

### **9. LIMITATION OF LIABILITY OF COMPANY**

IN NO EVENT SHALL THE COMPANY BE LIABLE FOR ANY LOSS, CLAIM, DAMAGE OR EXPENSE, OR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND, INCLUDING LOST REVENUES OR PROFITS, DIRECTLY OR INDIRECTLY ARISING OUT OF YOUR USE OF OR INABILITY TO USE ANY OF THE ASSETNATION WEBSITES. SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE EXCLUSIONS SHALL ONLY APPLY TO THE EXTENT PERMISSIBLE UNDER APPLICABLE LAW.

IF, NOTWITHSTANDING THE FOREGOING, THE COMPANY SHOULD BE FOUND LIABLE FOR ANY LOSS OR DAMAGE (WHETHER IN CONTRACT OR TORT) WHICH ARISES OUT OF OR IS IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE USE OF ANY OF THE ASSETNATION WEBSITES, THE LIABILITY OF THE COMPANY TO YOU OR ANY THIRD PARTY SHALL IN NO EVENT EXCEED, IN THE AGGREGATE, THE GREATER OF (A) THE

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FEES PAID TO THE COMPANY WITH RESPECT TO THE PARTICULAR TRANSACTION GIVING RISE TO SUCH LIABILITY, OR (B) US\$1,000.

### 10. INDEMNIFICATION

You shall indemnify, defend and hold harmless the Company, its subsidiaries and affiliates, and their respective officers, directors, employees, agents and third party suppliers (collectively, the "Company Group"), from and against any and all claims, losses, damages, liabilities, judgments and fees and expenses related thereto (including, without limitation, reasonable attorneys' fees), brought by or on behalf of any third party against any of the Company Group that arises out of:

- (i) Any breach or violation by you of this Agreement, including, without limitation, any breach of your representations, warranties or covenants contained herein,
- (ii) Any dispute with another user relating to your purchase or sale of items on an AssetNation Website, or
- (iii) Any personal injury, death or property damage caused by or arising out of the subsequent use of the goods sold or purchased by you on any AssetNation Website.

### 11. TERMINATION OF USAGE

This Agreement is in force until terminated by either you or Company. If you disagree with this Agreement, your sole remedy is to terminate your use of the AssetNation Websites. Upon any termination of this Agreement, all obligations of either party set forth herein which relate to transactions by such party prior to such termination shall survive such termination and continue in effect, including, without limitation, the provisions of Sections 2, 3, 4, 8, 9 and 10.

### 12. PRIVACY POLICY

We do not sell or rent your personal information to third parties for their marketing purposes without your explicit consent. We use your information only as described in our Privacy Policy, which is incorporated herein by reference and made a part of this Agreement. We view protection of users' privacy as a very important community principle. You can access and modify the information you provide us and choose not to receive certain communications by signing in to your account.

### 13. APPLICABLE LAW AND VENUE; WAIVER OF JURY TRIAL

This Site is controlled by the Company from its offices within the State of Texas, United States of America. The laws applicable to the interpretation of this Agreement shall be the laws of the State of Texas, without regard to any conflict of law provisions.

You agree that any action at law or in equity arising out of or relating to this Agreement shall be filed only in the state or federal courts of Harris County, Texas, U.S.A., and that you hereby consent and submit to the exclusive jurisdiction and venue of such courts. No action arising under or relating to this Agreement may be brought by either party more than two years after the cause of action has occurred.

**YOU KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT TO A TRIAL BY JURY IN ANY LITIGATION ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS AGREEMENT, YOUR USE OF ANY ASSETNATION WEBSITE OR ANY**



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**COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PERSON. THIS PARAGRAPH IS A MATERIAL INDUCEMENT FOR YOU AND THE COMPANY TO ENTER INTO THIS AGREEMENT.** The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this Agreement, including without limitation, contract claims, tort claims (including fraud in the inducement), breach of duty claims and all other common law and statutory claims. THIS WAIVER OF JURY TRIAL IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS OF THIS AGREEMENT. In the event of litigation, this provision may be filed as a written consent to a trial by the court.

### 14. COMPANY COPYRIGHT AND TRADEMARKS

The trademarks, tradenames and all other material contained on the AssetNation Websites, including all portions of the websites, site design, text, graphics, and all intellectual property rights thereto are the sole and exclusive property of the Company or its licensors. Except as expressly permitted hereby, the use of any such intellectual property for any other purpose, or the modification, distribution or republication of such material without the prior written permission from the Company, is strictly prohibited.

Copyright 2000-2011, AssetNation, Inc. Any rights not expressly granted herein are reserved.

### 15. ELECTRONIC COMMUNICATIONS AND AGREEMENTS

You consent to receive communications from us electronically. We will communicate with you by e-mail or by posting notices on the AssetNation Websites. You also consent to the electronic formation of contracts and agreements between you and us and between you and any seller. You agree that all contracts, agreements, notices, disclosures and other communications that we or any seller provides to or forms with you electronically satisfy any legal requirement that such contracts, agreements, notices, disclosures, and communications be in writing, or that any signature to any contract or agreement be in writing. IF AT ANY TIME YOU NOTIFY US THAT YOU REVOKE THE CONSENTS CONTAINED IN THIS PARAGRAPH, YOUR REGISTRATION ON AND ACCESS TO THE ASSETNATION WEBSITES WILL BE IMMEDIATELY TERMINATED.

### 16. NOTICES

Notices shall be given to the Company by e-mail to [customercare@assetnation.com](mailto:customercare@assetnation.com) and by certified mail, return receipt requested, to AssetNation, Inc., Attention: President, 1001 McKinney, Suite 1700, Houston, Texas 77002, or to such other address as may be designated from time to time. Notices to the Company shall be deemed to have been given five days after the date of mailing by certified mail, return receipt requested.

Notices to you will be sent by e-mail to the e-mail address given to the Company when you registered with the Company, or such other e-mail address as you may provide by e-mail to the Company from time to time. Notices to you shall be deemed to have been received 24 hours after the e-mail is sent.

### 17. MISCELLANEOUS

(a) **Entire Agreement.** This Agreement (including any specific AssetNation Website Rules that apply to a specific AssetNation Website) constitutes the entire agreement and understanding of the parties in

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respect of its subject matter and supersedes all prior understandings, agreements, or representations by or among the parties, written or oral, to the extent they relate in any way to the subject matter hereof or the transactions contemplated hereby; provided, however, that if a user has a pre-existing written contract with the Company that may not be amended without the written consent of both parties, then such pre-existing contract shall remain in effect and, to the extent of any conflict with this Agreement, the terms of the pre-existing contract shall control.

**(b) No Agency or Other Relationship** This Agreement does not create, and shall not be construed by the parties or any third person as creating, any agency, partnership, joint venture, or employment relationship between you and the Company. Instead, the relationship of the parties under this Agreement shall be solely that of independent contractors.

**(c) Force Majeure** Neither party hereto shall be liable to the other for any delay in or failure to perform any of its obligations hereunder to the extent performance is prevented or delayed due to causes beyond its control, including, but not limited to, failures of electronic or mechanical equipment or of the Internet or other telecommunications, computer viruses, unauthorized access, acts of God, war, terrorism, fire, severe weather or other natural disasters, or interference or hindrance by any governmental authority.

**(d) Waiver** Our failure to exercise or enforce any right or provision of this Agreement, or any delay on our part in doing so, will not constitute our waiver of such right or provision.

**(e) Assignment** This Agreement may not be assigned by you without the prior written consent of Company.

**(f) Successors** All of the terms, agreements, covenants, representations, warranties, and conditions of this Agreement are binding upon, and inure to the benefit of and are enforceable by, the parties and their respective successors and permitted assigns.

**(g) Severability** If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be enforceable.

**(h) Headings** Headings are for reference purposes only and do not limit the scope or extent of such section.

**(i) Attorney's Fees.** In the event that the Company has to file suit against you or otherwise participate in any judicial or other legal proceeding to enforce its rights and your obligations under this Agreement, the Company shall be entitled to recover, and you shall be obligated to pay, in addition to all damages and other forms of relief or recovery awarded to the Company, the Company's reasonable attorney's fee, expenses (including without limitation the expense associated with retaining and employing expert witnesses) and all costs of court. v.2011

## Website Rules

This website is affiliated with AssetNation, Inc. ([www.assetnation.com](http://www.assetnation.com)) and its affiliated companies (individually or collectively, the "Company" or "we"), and subject in all respects to the User Agreement (the "User Agreement") which must be accepted to be a registered user of this website. By agreeing to the User Agreement, and then subsequently using this website, you are agreeing to comply with these Website Rules. We may amend these Website Rules at any time by posting the amended Website Rules on our website. Your continued use of this website after our posting of any changes will constitute your acceptance of such changes.

## **Exhibit C**

### **1. LISTING REQUIREMENTS**

When you list goods for sale on this website, you represent and warrant that you have the authority to sell such goods, free and clear of any liens, claims or other encumbrances. You further agree to use commercially reasonable efforts to supply accurate information for each listing, and will be solely responsible for the listing information you provide. From the information you provide regarding your goods, we will prepare and send you the listing for your review prior to posting on this website, and if no response is received from you, the listing will be deemed to be approved by you twenty-four (24) hours after being sent.

### **2. FEES**

When you either sell or purchase goods on our website, you have an opportunity to review and accept the fees that you will be charged, which we may change from time to time. Certain of our Sellers have written contracts with us which set forth the fees they will be charged. The Company may change its fees and penalties at any time; provided that no such change will affect any current listings on this website. Unless otherwise stated, all fees are quoted in U.S. dollars. You are responsible for paying all fees and penalties associated with using our service and our website as well as all applicable taxes.

#### **2.1. Sellers:**

##### **2.1.1. Seller Commission Fee**

For goods sold by a Seller on the website, the Company will be paid a commission (deducted from the escrowed purchase price) as agreed to by the Seller.

#### **2.2. Buyers:**

##### **2.2.1. Buyer's Premium Fee**

For goods purchased by a Buyer on our website, Buyer agrees to pay the Company a Buyer's premium that is either (1) a percentage of the final purchase price for such goods or (2) a flat premium fee. The Buyer's premium for each auction is disclosed either in the listing terms for the auction or in the Bidder's box when the Bidder enters a bid for the auction.

##### **2.2.2. Buyer Late Fee**

If the winning Bidder does not pay the agreed purchase price and other fees to the Company by the specified deadline, then, in addition to any other remedies available to the Company or to the Seller, the winning Bidder must pay to the Company a late fee equal to 2% of the purchase price.

##### **2.2.3. Buyer Default Penalty**

A winning Bidder will be placed in Default for failing to comply with the terms of the listing, the User Agreement and these Website Rules, and must pay the Company a Buyer Default Penalty. Specifically, but without limitation, a winning Bidder will be placed in Default for (i) failure to make full payment of the purchase price and the Buyer's Premium fee, and the Buyer Late Fee if applicable, and any other related fees if applicable, within five (5) business days after selection of the winning bid, or (ii) failure to either pick up the goods or assume control of the goods by the Pick Up Date stated in the listing. Pending payment of the Buyer Default Penalty, the defaulting Bidder will be barred from bidding on any other

## **Exhibit C**

listings on this and any other affiliated website operated by the Company. The defaulting Bidder may be subject to other claims, damages or liabilities to the Seller and/or the Company. The Company reserves the right to withhold any default penalties and other applicable charges from monies previously paid by the Buyer, at Company's sole discretion. The Company reserves the right to use a collection agency to collect any outstanding fees and penalties, and to report any unpaid payments to credit reporting agencies. Bidders that are placed in Default on three (3) separate occasions in a twelve (12) month period may be subject to at least a one (1) year ban from bidding on any auction on this and any other affiliated website operated by the Company. Notwithstanding the foregoing, the Company, at its sole discretion, may permanently ban any Bidder for any reason.

The Buyer Default Penalty will be 10% of the purchase price of the listing, with a minimum of \$100 per defaulted listing and a maximum of \$2,000 per defaulted listing.

### **3. PAYMENT AND ESCROW PROCESS; PICK UP DATE**

#### **3.1. Invoice and Payment**

At the conclusion of a listing and upon the selection of the winning bid by the Seller, the Company will promptly e-mail the winning Bidder an Invoice to the winning Bidder's registered e-mail address. The winning Bidder is required to pay the agreed purchase price and other fees to the Company prior to the deadline specified in the invoice (generally within three (3) business days of the bid selection). The Company will act as Escrow Agent to hold such funds in escrow (the "Escrow Funds") in a separate and segregated bank account used for the Escrow Funds. The Company shall be entitled to hold the Escrow Funds in an interest-bearing bank account and shall be entitled to the interest accruing thereon.

#### **3.2. Pick Up Date**

Each listing will have a scheduled Pick Up Date or Removal Deadline (the "Pick Up Date"), which is the date by which Buyers are required either to pick up the goods or to assume control of the goods (such as when the goods are in a third party storage facility or when pickup has been commenced but not yet completed). By using this website you acknowledge and agree that the Pick Up Date is a material term of your agreement concerning the use of this website and any transaction in which you bid. You further agree that your failure to either pick up the goods or assume control of the goods by the stated Pick Up Date will be a material breach of your agreement with both the Company and the Seller.

#### **3.3. Escrow Process**

The Company is authorized to distribute to Seller, or Seller's designee, the Escrow Funds (less our agreed commission, any agreed fees for other services and any applicable taxes payable on our services) upon the earlier of (i) pick up of the goods or (ii) the second business day after the scheduled Pick Up Date, regardless of whether the goods have been picked up by such date. Pick up of the goods will normally be evidenced by our receipt of: (i) notice from the Buyer stating that the Buyer has commenced pick up of the goods, or if otherwise agreed, assumed control of the goods from the Seller; (ii) notice from the Seller stating that the goods have been picked up by the Buyer; or (iii) documentation (such as a bill of lading) executed by Buyer or Buyer's agent or other reasonable verification that the goods have been released or shipped to the Buyer. Once the Company disburses the Escrow Funds in conformity with the requirements of these rules, the Company shall be relieved of all further liability with respect to the Escrow Funds, and the Buyer and Seller must deal directly with each other concerning the Escrow Funds.

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### **3.4. Seller Making Goods Available**

If the Buyer notifies the Company that the Seller does not make the goods available by the scheduled Pick Up Date, we will notify both parties and refund the Escrow Funds to Buyer within ten (10) days after we send the notice, if the parties cannot agree to a pick up schedule.

### **3.5. Title Transfer Process**

When requested to do so by the Seller, AssetNation will facilitate the transfer of titles for assets from the Seller to the Buyer. Not all transactions will result in a title transfer, and Buyers must review the marketplace listing to determine whether a title transfer is applicable. For assets that will result a title conveyance, the transfer may occur as follows:

**3.5.1.** Company will send the title to the Buyer. Titles will not be sent to the Buyer unless and until Company has received a Presentation of Buyer, executed by the Buyer and Seller, which serves as evidence that Pick Up of the asset has occurred. The Buyer must also provide any other documentation required in the listing, including but not limited to a fully executed Equipment Sales Agreement, export documentation, etc. Titles will not be conveyed until all required documentation is received from the Buyer. Buyers are required to send all necessary documentation to Company to the attention of the Title Clerk in a timely manner to receive the title. If the Buyer fails to return all completed documentation within 30 days of the Pick Up Date, Company may dispose of the title, after which time the title will no longer be available to the Buyer.

**3.5.2.** The Seller will convey title to the Buyer at the time of Pick Up. Please note that requirements vary between Sellers. As such, Buyers must refer to the listing to determine what documentation the Seller will require to convey the title at time of Pick Up.

As noted above, not all transactions will result in a title transfer. In lieu of titles, certain transactions may result in the Seller providing a Bill of Sale to the Buyer. The Buyer is responsible for providing an executed Presentation of Buyer, along with any other additional documentation which might be required, including, but not limited to, a fully executed Equipment Sales Agreement and export documentation in order to obtain the Bill of Sale. Buyers are encouraged to review the listing details to understand the necessary requirements which must be met before a Bill of Sale would be provided.

### **3.6. Failure to Pick Up**

If the Seller notifies the Company that the Buyer has failed to pick up the goods or assume control by the Pick Up Date, the Buyer will be placed in Default, and will be subject to the Buyer Default Penalty and rules outlined above. In addition to the Buyer Default Penalty, the defaulting Buyer will forfeit all rights to the goods (which may be resold to a third party by the Seller) and may be subject to other claims, damages or liabilities to the Seller and/or the Company; such as storage fees, administrative fees, the amount of any reduction in sales price upon resale of the goods by the Seller, and any applicable fines. Pending payment of the Buyer Default Penalty and any other assessed claims, damages, liabilities, and fees, the defaulting Buyer will be barred from bidding on any other listings on this and any other affiliated website operated by the Company. The Company reserves the right to withhold any default penalties and other applicable charges from monies previously paid by the Buyer, at Company's sole discretion. The Company reserves the right to use a collection agency to collect any outstanding fees and penalties, and to report any unpaid payments to credit reporting agencies.

### **3.7. Buyer's Claims of Material Discrepancies**

Any claims of material shortages in quantity or other material discrepancies of the goods from their

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posted description must be communicated in writing to the Company by contacting Customer Care from the Contact Us page prior to 5:00 p.m. (Central time) on the second business day after the scheduled Pickup Date. After such time, Buyer will have no rights to make any claims regarding material shortages in quantity or other material discrepancies of the goods from their posted description. Claims not submitted in the manner referenced above will not be considered. If a claim is submitted per the required process, the Company will investigate the claim and advise the Buyer of the findings. Filing of a claim does not necessarily result in a credit or refund to the Buyer.

### 4. TAXES

In any transaction on this website, Buyer and Seller are responsible for determining whether sales, use, VAT, GST, transfer, ad valorem or other similar taxes of any taxing authority apply to the transaction and to collect, report and remit the correct tax to the appropriate tax authority. Unless otherwise agreed with the Seller, the Company is not obligated to determine whether any such taxes apply and is not responsible for collecting, remitting or reporting any such taxes arising from any transaction. Invoices to Buyers may contain tax. When tax is due, Buyer is required to remit the stated tax. Failure to pay tax will result in Buyer being placed in default.

### 5. BIDDING PROCEDURES FOR AUCTIONS ON OUR WEBSITE

The bidding procedures set forth below are the rules that govern this website. In addition, you are subject to the listing terms for any specific auction items or lots on this website for which you submit bids. In case of any conflict between the listing terms of any specific items or lots and these Website Rules, the specific listing terms shall control.

We have four auction formats on our website which are explained below:

**5.1. Open Auction Format:** In the Open Auction Format, Bidders are invited to submit bids for listed items prior to the set ending time for the sale. Bidders can only submit market leading bids and they may not submit bids that include changes to the terms of sale. The leading bid amount, next bid required and a detailed bid history for the lot is displayed to the public. For any completed auction, the winning bid is displayed, but the winning Bidder's identity is not publicly disclosed on our website.

**5.2. Sealed Bid Auction Format:** In the Sealed Bid Auction Format, Bidders are invited to submit bids for listed items prior to the set ending time for the sale. Bidders are provided their rank position for the auction and may enter subsequent bids that are higher than their current high bid. Bid amounts are not disclosed to other Bidders. For any completed auction, the final purchase price and winning Bidder are confidential and will not be publicly released on our website.

**5.3. Best Offer Bidding Format:** In the Best Offer Bidding Format, Bidders are invited to submit offers which can be accepted or rejected by the Seller. There is no definitive closing time for the sale unless such a time is specified in the listing terms for the sale. For any completed sale, the final purchase price and winning Bidder are confidential and will not be released to other parties.

**5.4. Fixed Price Listing Format:** In the Fixed Price Listing Format, Buyers may purchase an item at a fixed price that is published with the listing. For any completed sale, the fixed price is disclosed, but the winning Bidder is confidential and will not be publicly released on our website.

**5.5. How Auction Extension Works:** Every listing that uses an auction format (Open Auction Format or Rank Only Auction Format) will have a bid extension interval. This interval will vary from auction to auction and will be published in the listing terms. Any market leading bid placed within the bid extension

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interval just before an auction's scheduled ending time will cause the auction's ending time to be extended. The new closing time will be established by adding the bid extension interval to the time of the market leading bid. There is no limit to the number of times an auction may be extended in this situation. This feature is also known as "extended bidding", "dynamic close" and "overtime".

**5.6. How Bid Selection Works:** Every auction uses one of three possible bid selection methods. The bid selection method and process will be described in the terms of each lot. In each method, once a winning bid is selected, that Bidder will be emailed an invoice by the Company within 24 hours, at which time the Seller and winning Bidder are obligated to complete the transaction. These methods include:

**5.6.1. Auto Bid Select:** The highest bid at the conclusion of the auction is automatically selected by the Seller.

**5.6.2. Seller Bid Select:** The Seller will select the winning bid after the conclusion of the auction, which may or may not be the highest bid, or may reject all bids. The amount of time allotted to the Seller to review and select or reject bids will usually be included in the lot terms.

**5.6.3. Seller Bid Select with Asking Price:** With an asking price auction, a price will be published to the Buyer. If a lot is listed with an asking price, the Seller is not obligated to sell for any bid received below that price. When the asking price has been met, the highest bid at close of the auction will automatically be selected by the Seller. If the asking price is not met the Seller reserves the right to select a winning bid, which may be lower than the asking price, or the Seller may reject all bids. The amount of time allotted to the Seller to review and select or reject bids will usually be included in the lot terms.

**5.7. How the Maximum Bid (or "Max Bid") Function Works:** When a Bidder enters a maximum bid, our "auction engine" will automatically place bids on behalf of the Bidder until either the Bidder is the highest Bidder (by the required published increment), or the Bidder's maximum bid has been reached, whichever comes first.

**5.8. Changes to a Listing after Auction Commences:** Once an auction has started, the Seller may not change the listing without the Company's approval. In very limited circumstances, the Company may permit Sellers to add additional non-material descriptive information, such as pictures or text, or correct inaccuracies, which do not materially change the original listing. If material changes are needed to correct inaccuracies in a listing, however, the auction will be terminated and subsequently re-listed as appropriate.

**5.9. Non-Retractable Bids:** Bids are not retractable except in extraordinary circumstances such as when a clear typographical error is made. Bidders should carefully review their bids prior to submitting them. If a clear typographical error is made, the Bidder must immediately notify the Company, via the Contact Us page or by phone. Notifications must be received no later than one hour after the erroneous bid is placed. Company reserves the right to approve or deny any bid retraction requests and retraction may result in default proceedings against the Bidder.

**5.10. Binding Bids:** Bids made by Bidders on listed items are binding. At the end of an auction, if a Bidder's bid is selected by the Seller, the winning Bidder is obligated to complete the transaction. Bidders agree that bidding for items listed for sale on this website is the legal equivalent of a firm purchase order. Bidders are obligated to complete transactions on all winning bids awarded to them. If a Seller chooses not to select a winner on any individual lot, Bidders are still obligated to complete transactions on all lots they were awarded.

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**5.11. Void Bids:** The Company reserves the rights to reject or void any bids which the Company believes have not been made in good faith, is intended to manipulate the auction process, or is prohibited either by applicable law or the listing terms for such auction.

**5.12. Technology Malfunction:** If a technology malfunction materially affects the outcome of an auction, the Company reserves the right to void the auction within 72 hours of the scheduled ending time.

**5.13. Fair Bidding and Listing Practices:** Sale price manipulation of any kind by users is strictly prohibited, including, without limitation, bidding through a secondary account or other party, by communicating with other Buyers, or by shill bidding. Buyers or Sellers who do not act in good faith or otherwise subvert the integrity of the Company's marketplace on this website are subject to suspension or termination.

**5.14. Collection of Statistics on Buyer Performance:** As part of the Company's monitoring of the marketplace, the Company collects statistics on each Buyer's bidding activities to determine such Buyer's performance history on this and other AssetNation affiliated websites. Such statistics may include the number of completed transactions by a Buyer, failures or late funding of the purchase price, and taking late delivery of purchased goods. The Company reserves the right to allow Sellers to access such statistics collected on a Buyer who bids on a specific item.

**5.15. Pre-Qualified Bidder Auctions:** Sellers may choose to limit a designated auction to pre-qualified Bidders who will be required to place a specified amount on deposit with the Company. Prior to the auction start, Bidders may be required to pay this deposit amount to the Company by credit card or other approved methods. Only pre-qualified Bidders will be allowed to place bids during the auction. At the end of the auction, if deposits were provided, the Company will promptly cancel the deposit charge on the credit cards of the Bidders who did not win the auction. If the winning Bidder for an auction defaults by failing to pay the agreed purchase price and other fees, the deposit amount of such Bidder will be forfeited and the Seller may exercise such other rights and remedies as are available under applicable law. In the event of such default, to the extent that the Default Penalty described above exceeds the deposit amount, the Company will be authorized to charge such excess amount on the defaulting Bidder's credit card.

**Effective Date: May 09, 2012**

Sample Lot Terms:

### Lot Terms

- This auction carries a 12% buyer's premium
- Payments made by certified check or wire transfer are subject to a 2% discount of the buyer's premium. Please contact customer care at 724-591-5639 regarding the discount.
- This lot is subject to all auction terms and the AssetNation member agreement.
- An invoice will be sent to the selected winning buyer via e-mail; full payment is contractually required within 3 days of the invoice date. A 2% Late Fee is added for all late payments.
- ALL bids made by bidders are contractually binding and the selected winning bidder is required to complete all transactions. Defaulting bidders will be assessed a Default Penalty, as set forth in the Standard Fee Schedule, and will be barred from bidding.
- Items in this listing are offered "AS IS WHERE IS" and the Buyer is responsible for all logistics, transportation, loading, and associated costs.



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- Must be picked up no later than 7 days after a winning bid is selected.
- Any claims of material shortages in quantity or other material discrepancies of the goods from their posted description must be communicated in writing by submitting an online *Claim Dispute* form to AssetNation via the Customer Care Contact Us page prior to 5:00 p.m. (Central time) on the second business day after the scheduled Pickup Date.
- As of the second business day after the scheduled Pickup Date, the Buyer will have no rights to make any claims regarding material shortages in quantity or other material discrepancies of the goods from their posted description.
- Escrowed funds will be distributed to the seller upon the earlier of (i) pick up of the goods or (ii) the second business day after the scheduled Pick Up Date, regardless of whether the goods have been picked up by such date.
- Unclaimed items are subject to additional fees and may be disposed of. Buyers that fail to pick up items by the removal deadline will be considered in default. Items not removed on time will be subject to a \$50 per lot/per day storage fee and may be disposed of if remaining on site after the removal deadline.
- Payment by Wire Transfer (More Details)
- Payment by Visa™ or MasterCard™ on total transactions less than \$5000 USD or currency equivalent (More Details)
- Payment by eCheck on total transactions less than \$7,500 USD or currency equivalent (More Details)
- Bidders are obligated to complete transactions on all winning bids awarded to them. If a Seller chooses not to select a winner on any individual lot, bidders are still obligated to complete transactions on all lots they were awarded.

5. *Describe the size and demographics of your buyers list and why you feel it would benefit the Commonwealth if you were the selected Offeror.*

- a. Over the past nine (9) plus years AssetNation has continued to build a strong buyer following for Commonwealth assets. These buyers are very comfortable transacting on our marketplace and understand the entire transaction process. Additionally we service many other Government sellers, Fleet and Distribution sellers, Insurance and salvage industry sellers, Industrial sellers etc that collaboratively compounds the exposure of available assets on our venues. We are a Global Marketplace and often deliver exceptional results due to International, National, and Local and Regional bidder participation. AssetNation currently has over 100,000 registered bidders throughout the word and the list is growing. The number of registered bidders is expected to grow significantly with Ritchie Bros acquisition of AssetNation. Ritchie Bros had over 385,000 bidder registrations in 2011. The acquisition will bring more bidders to the AssetNation venues driving proceeds.

6. *Describe how you will recruit and register new buyers for online auction of Commonwealth property.*

- a. AssetNations Marketing plan relates additional details but in general as an online marketplace AssetNation is constantly attracting new bidders as a result of our online promotions, print ads, trade publications, etc. Not only are we targeting new buyers but because of our strength in the marketplace they are also targeting us. Since Ritchie Bros. acquisition of AssetNation we have experienced a significant increase in site visits. AssetNation has been contacted by numerous

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private and public sellers since the announcement which will bring a significant increase in equipment sales and buyers.

7. *Describe how you will ensure accurate information on sales receipts.*
  - a. All sales receipt information is fully integrated so information that is listed in the auction marketplace will be the exact same information that is recorded on all related reports, invoices, presentation of buyer documents, paid invoices, settlement reports etc.
8. *Describe how you will generate highest available sale prices for items.*
  - a. Over the last nine (9) years we have continued to build a strong buyer following for Commonwealth assets. Additionally we service many other Government sellers, Fleet and Distribution sellers, Insurance and salvage industry sellers, Industrial sellers etc that collaboratively compounds the exposure of available assets on our venues. We are a Global Marketplace and often deliver exceptional results due to International, National, and Local and Regional bidder participation. AssetNation currently has over 100,000 registered bidders throughout the world and the list is growing. The number of registered bidders is expected to grow significantly with Ritchie Bros acquisition of AssetNation. Ritchie Bros had over 385,000 bidder registrations in 2011. The acquisition will bring more bidders to the AssetNation venues driving proceeds.
9. *Describe how you will maintain low, reasonable buyer's fees (in consideration that the selected Offerors profit margin may only be obtained as a percentage of the buyer's fee).*
  - a. AssetNation is maintaining the lowest possible buyers fee by offering all of the continuous improvement technologies and efficiencies our platform has to offer. We will also be managing Commonwealth events/assets using best practice principles that are built from broad and vast online auction experience including Commonwealth specific experience. As the service provider for the Commonwealth for the past nine (9) years we understand the cost structure required to deliver the increased advertising requirements, situational service level requirements, additional assets being classified as heavy equipment, no additional fees to buyers, etc and are best suited to maintain the lowest possible buyers fee in the strategic assessment.
10. *Describe how you will tag, digitally photograph and identify items online for sale.*
  - a. Items are tagged with one of our asset tags or referencing one of the Commonwealth identification numbers when appropriate and referenced in the lot description as part of the online information. Each item or group of items will be digitally photographed in order to provide interested bidders a visual representation of the item. In situations where the Commonwealth is providing pictures a file type of .jpg is recommended for the best quality and consistency.
11. *Describe how you will monitor the removal of assets purchased at bidding events.*
  - a. When a buyer funds a purchase they are sent a Presentation of Buyer document which identifies which lots can be released. No lot will be allowed to be removed

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without the POB document that confirms payment has been made and identifies the proper lots to release. When a buyer shows up for removal the POB must be presented then when the assets are released to the buyer a signature is recorded on the POB document completing the removal transaction.

*12. Describe how you will collect payment and ensure against fraudulent transactions on the part of the bidders.*

- a. Our technology platform allows us to collect payments in many ways. We are able to collect payment by online settlement via e-check or credit card, also traditional payments by wire transfer, certified check, cashier's check, personal and company checks can be accepted but are discouraged because bank places 3 to 5 day hold on funds until actual funds clear. In any form of payment we do not release the POB document until the funds have been verified by our bank. AssetNation tries to prevent fraudulent transactions by ensuring funds are received prior to releasing the POB document and ensuring POB document exists prior to releasing any assets. These are fundamental but effective checks and balances that have allowed us to ensure no fraudulent transaction for the nine (9) years we have been servicing the Commonwealth.

**Quality Control Plan:** AssetNation is committed to providing a high level of service to all of our clients. We engage in a number of continuous improvement activities designed to incorporate feedback from all participants in the auction process, including our customers, our employees and our buyers. We encourage and solicit feedback at anytime. Specifically for the Commonwealth, we conduct annual planning meetings and hold after auction reviews to discuss the services delivered and identify opportunities for continuous improvement. We provide visibility into, and solicit input on all aspects of our process, including marketing plans, auction parameters, and auction schedules. AssetNation is committed to supplying a secure and reliable online presence during auctions through the process below:

### **Continuous Improvement**

- AssetNation releases new versions of its software platform at regular intervals. The scope of what is contained in each of these releases is a result of feedback from internal and external customers. Requests from customers get placed into a database, and are then discussed at regular roadmap meetings. Roadmaps are then set, typically at 90-120 day intervals.

### **Security Policy and management program**

- Acceptable usage – Nobody is authorized to install any applications on the Marketplace servers without approval of the VP, Technology Solutions and the Director of Technology. Only 3 employees have access to these Production servers.
- Authentication controls – Server passwords get changed periodically and when there is a change in IT personnel. Only 3 employees have these passwords.

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- Business associates – External consultants and contractors are never given access to Production servers.
- Change management – the AssetNation Change Management process ensures that all changes to a server go through full functional and load testing on our development and staging environments before getting moved to Production.

### **Hosting**

- AssetNation web sites are hosted at a Tier I data center with all applicable physical security controls in place. The data center is unmarked and located in a discreet district of Houston, TX. Biometric hand scanners and security guards who check government-issued identification control physical access to the data center. Our data center takes all necessary precautions including employing fire detection and fire suppression systems. The data center utilizes dual power feeds and backup batteries, water coolant systems, and generators in the event of power outage. The data center utilizes the same strategy in regards to climate control. Their redundant climate control efforts provide primary and backup chiller units, cooling towers, and water storage. The marketplace computers are located inside a locked cage that is only accessible inside the data center to authorized employees. Security cameras monitor all access to the cage 24 hours a day. The computers themselves are password-protected and kept locked at all times.

### **Backups and Disaster Recovery**

- Our hosting partner backs up all data on the AssetNation servers every 15 minutes. This data is sent off-site using ComVault over an encrypted connection. AssetNation has a data backup plan, which allows for a zero loss of data in most contingency situations. Again, backups are done remotely over an encrypted network connection to a regional data storage facility. AssetNation has several servers that can run the necessary software in the case of one or more servers going down. In the case of an unlikely catastrophic hardware or location failure resulting in the entire environment becoming unavailable, AssetNation maintains a contingency location with the requisite hardware to run the marketplace. This contingency location can be set up within an hour. Since the data backups are located at a remote location, access to the hosting location is not necessary to restore live data to our contingency location.

### **Documentation of Controls and Testing**

- External web consulting firm tmg-edia performed an audit of technology controls and testing within the last couple years.

### **Web Applications Vulnerability**

- To audit security aspects, the web site is tested and certified daily to pass the “McAfee Secure” Security Scan. McAfee Secure certification is achieved by passing rigorous daily network security audits. The certification process is completed in six steps. The first three steps are the vulnerability audit itself; comprised of Dynamic Port Scanning,

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Port-level Network Services Vulnerability Testing, and Web Application Vulnerability Testing. The fourth and fifth steps are alerts whenever vulnerabilities are detected and remediation management using our extensive vulnerability management portal. The result is highly effective, pro-active security.

### Security Architecture and Functionality

- Only select members of the AssetNation IT support staff have access to the raw data in the various AssetNation databases. Therefore, no unauthorized users can modify the marketplace data outside of the functions provided by the marketplace itself.
- User passwords are stored in an encrypted form according to industry standards. Sensitive areas of the site (e.g. credit card transactions) take place over SSL, preventing unauthorized interception and decoding of a users password.
- Any integrations between AssetNation and customers will be transmitted using encryption, preventing unauthorized interception and decoding of the data in transit.

### Application Development

- To audit security aspects, the web site is tested and certified daily to pass the “McAfee Secure” Security Scan. McAfee Secure certification is achieved by passing rigorous daily network security audits. The certification process is completed in six steps. The first three steps are the vulnerability audit itself; comprised of Dynamic Port Scanning, Port-level Network Services Vulnerability Testing, and Web Application Vulnerability Testing. The fourth and fifth steps are alerts whenever vulnerabilities are detected and remediation management using our extensive vulnerability management portal. The result is highly effective, pro-active security.

**Auction Personnel:** AssetNation offer is a full management solution that involves many people throughout the entire life cycle of an auction event. Our day to day execution team involves as necessary: Program Manager, Market Manager, Field Service Representative, Customer Care Team and typically an assigned Customer Care Representative per event. In addition to these direct support team members we also utilize a full staff of Content Managers, Accounting Team and many more support departments. We have successfully coordinated removals for PennDOT sales and right of way sales for the last nine (9) years. Each auction event has a potentially unique set of removal requirements that is managed by collective input and execution by DGS, PennDOT, and AssetNation team members.

**Employee Participation on Bidding:** AssetNation has a very strict policy in regards to employees bidding on AssetNation. AssetNation Employees are never allowed to participate. Every time we log into the AssetNation system we are required to agree to the terms listed below.

## Exhibit C

Use of this computer system is for the exclusive use of AssetNation, Inc. employees. Unauthorized use and or access of this computer system may subject you to possible criminal prosecution under Title 18 U.S.C Section 1030.

**We are accountable to deliver the promise of AssetNation. We believe that business must be conducted "the right way" with the highest standards for ethics and integrity. The health of our company depends upon maintaining fair and auditable interaction between marketplace participants.**

In as much, we require our employees, contractors, and partners to abide by the following:

- Employees are prohibited from placing a bid, on their own behalf, in any AssetNation marketplace.
- Employees are prohibited from placing a bid, on behalf of others, in any AssetNation marketplace unless specifically authorized by the VP of Quality, Systems, & Processes or unless executed in accordance with a published AssetNation operating procedure regarding proxy bidding. If such a bid is placed, the employee must document the circumstance by placing a note or comment in AMP with any/all associated attachments.
- Employees are prohibited from operations and communications that represent the market and/or post bid transaction in a way that intentionally deceives marketplace participants.
- Employee immediate family members may not bid on items in an AssetNation marketplace when the sale is competitive bid.
- Non AssetNation employees may not be given access to the AMP system. Employees include full time, part time and contract employed individuals where their logon is a valid @assetnation.com address. Partners and contractors are not considered employed by AssetNation and may not have AMP access.
- Partners, vendors and/or contractors who have specific knowledge of an AssetNation market which gives them an unfair advantage in that market are prohibited from bidding in that market. Examples of knowledge include but are not limited to:
  - AMP bidding activity and/or bid logs
  - Bidder registration information for those bidders in the market
  - Submitted max auto bids

By clicking "I Agree", you state that you agree to the terms listed above.

**Default by High Bidder:** AssetNations Policy and Procedures for Buyer Default are listed below.

- If payment has not been made by the Invoice Due Date, Customer Service Center (CSC) will send a warning letter to the Buyer to fund immediately to include a 2% Late Fee.
  - If Buyer indicates progress in funding and requests a payment extension:
    - The CSC will consult with the Market Manager (MM) and the Program Manager (PM), if necessary, to get approval for a payment extension.
    - If an extension is granted, the CSC places an ALERT on the Lot(s) indicating Pending Payment with a subject of "Payment Extension Granted", then update the Notes with the detailed information on approving the extension.
- If Buyer indicates they will not fund:
  - CSC calls the second place bidder to determine if they are interested in transacting at their highest bid price.

## Exhibit C

- CSC informs the MM that the winning bidder refuses to fund, and the interest level of the second place bidder. MM or PM will contact seller for approval.
  - If approved lot will be awarded to 2<sup>nd</sup> bidder.
  - If not approved lot will be marked as lost and be re-listed or moved to LOST permanently.
- If Buyer does not respond and the invoice is five (5) business days beyond the Invoice Due Date, the CSC voids the Invoice and moves the Lot(s) to LOST. MM or PM will contact seller and either award to another bidder in the same Lot(s), re-list the item, or move to LOST permanently.
- Default Bidder's account is shut off and banned from bidding on any AssetNation Venue.

AssetNation tries to ensure that all bidders are legitimate. Our user registration procedures are listed below.

- Registrant fills out the online registration form and submits it
  - If the phone or email matches a record in the system, the form will tell them that information already exists, so they need to re-enter or call Customer Service
  - Status is "Pending"/"Inactive"
- Registrant is taken to the phone verification – Status is still "Pending"/"Inactive"
- Registrant is sent an email verification – Status is still "Pending"/"Inactive"
- NOTE: Status of registrants that complete the phone/email verification will be placed in "Pending"/"Active" status. Registrant is now on the "Buyers Pending Approval" or the "Sellers Pending Approval" report
- The website says: "Thank You, it may take 1-2 business days to activate your account. You can also fax a legible copy of your driver's license or passport to 713-286-4714, which may speed up your registration. If you have an urgent need to bid, please contact Customer Care at (800) 856-7445." (See Urgent Bidder section below for exception procedure)
- As registrations come in to a Pending/Active status and appear on the Buyers Pending Approval report or the Sellers Pending Approval report, the AssetNation Houston Office Manager will:
  - Click on the Approve/Deny, then go to the View Buyers Details
  - Run the Telesign check
  - Check the other information (e.g., no initials for first/last name)
  - Sellers that are approved, will also auto-approve as a Buyer.
  - NOTE: Buyers that want to sell will either call or use the Consignment tool. If using the Consignment tool, the buyer is asked if they want to become a Seller. If the Buyer answers "Yes", then the buyer will appear on the Seller Pending Approval report. After the buyer submits a consignment, their consignment will appear in the Self-Service tab. The MM or CM will approve by going to the Sellers Pending Approval report after reviewing the consignment and prior to taking the listing live.
- If a registrant has incomplete or inaccurate information (e.g., initials in both first/last name), the AssetNation Office Manager will email or call the registrant to get the information corrected before proceeding.
- If a registrant has duplicate information or is tied to another User that is currently in Default, then the AssetNation Office Manager will deny the registrant.
- The AssetNation Office Manager will run an OFAC check on the registrant. If a registrant is from a country listed on the US Office of Foreign Assets Control List, has a confidence score above 80, or has a registration address listed in the OFAC Check results, then the AssetNation Office Manager will deny the registrant.

## Exhibit C

- Acceptable Phone numbers: The AssetNation Office Manager will “Approve” registrants that have acceptable phone types marked as “AssetNation Recommendation – Allow” on the Telesign pop-up. AMP will send an email to the registrant. a. “Thank you for registering with AssetNation. You have been approved, and can now enter your bids.”
- Unacceptable Phone numbers:
  - The following phone numbers are unacceptable:
    - Non-Fixed VOIP
    - Pre-Paid Cellular
    - Undetermined
    - Toll Free
    - Pager
    - Payphone
    - Blocked/Restricted
    - Invalid
    - Voicemail
  - On the Telesign pop-up, if any of the phone types above are the result, the AssetNation Recommendation will say “Deny” and will have a button to click that says “Deny”.
  - If the Telesign verification returns an unacceptable phone number, AMP will send an email when the AssetNation Office Manager clicks “Deny” on the Telesign pop-up.
    - “Thank you for registering with AssetNation. We were not able to verify your phone number because it is an untraceable number. To complete your registration, you will need to call Customer Care to provide an acceptable phone number or further credentials, such as a driver’s license, passport, or bank letter of guarantee.”

### **Urgent Bidding Registrants that Call Customer Care:**

- CSC will look up the user record, run the Telesign check and check the other information (e.g., no initials for first/last name).
- If the registrant information is acceptable, the CSC will “Approve” the user
- If the registrant information is not acceptable, the CSC will require the user to fax a copy of their driver’s license, passport or bank letter of guarantee to 713-286-4714.
  - Once the registrant faxes the appropriate credentials in a legible form, the CSC will attach a copy of the fax to the user record, then “Approve” the user.
  - If the registrant refuses to fax the requested credentials, the CSC will “Deny” the registrant and enter a note explaining why.

### **Denied Registrants that Call Customer Care:**

- CSC will look up the user record to verify all information is recorded
- If the provided phone number is Non-fixed VOIP, Pre-paid Mobile or Undetermined, the CSC will require the user to fax a copy of their driver’s license, passport or bank letter of guarantee to 713-286-4714.
  - Once the registrant faxes the appropriate credentials in a legible form, the CSC will attach a copy of the fax to the user record, then “Approve” the user.
  - If the registrant refuses to fax the requested credentials, the CSC will inform the registrant their registration is denied.
- If the provided phone number is blocked for all other unacceptable phone types, the CSC will request the user to provide a different phone number and to fax a copy of their driver’s license, passport or bank letter of guarantee to 713-286-4714.



## Exhibit C

- If the user refuses to provide a different phone number that is acceptable or a phone number that is Non-fixed VOIP, Pre-paid Mobile or Undetermined with the faxed credentials, the CSC will inform the registrant their registration is denied.

**Appraisal Services:** AssetNation has many services available for a fee. These include but are not limited to:

- Appraisal/Evaluation
- Limited Site Assessment
- Inventory Preparation
- Brands and Labels Protection
- Transportation & Storage of Inventory
- Site Clearing
- Disposal of Stock

If interested in utilizing any of our services the Commonwealth would contact the AssetNation Market Manager or Program Manager. The MM or PM would contact the AssetNation Services Department to obtain a quote for the services required.

**Reporting:** The following management reports will be delivered to the BSSO electronically using Microsoft Excel:

- Annual Sales Reports – Program summary metrics and qualitative program evaluations will be included in the Annual Sales Report and we will meet with DGS to assess progress of the auction service program.
- Marketing Reports –Includes the list of publications utilized dates, circulation, and mail date of advertising and cost breakdowns. Included in this quarterly report will be direct mail and electronic mail advertising.
- Auction Reports – Following each auction, the following information will be delivered to BSSO in these time frames. Within one (1) hour after auction close, twenty-four (24) hours and two (2) weeks from the close of each sale:
  - Number of lots sold
  - List of selling prices by lot number and lot description
  - Total Sales
  - Bidder Lists
  - Bidder Totals
  - Buyer Premium Breakdown & Receipt Date
  - Any technical or other problem that may have interfered with the conduct of the auction
  - Other information that may be request by the BSSO
- Quarterly Bank Statements
- Participating Municipalities Usage Reports – A report two (2) weeks form the close of each sale containing the following information will be provided to the BSSO
  - Municipality
  - Number of lots sold
  - List of selling prices by lot number
  - Total sales
  - Buyer Premium Breakdown & Receipt Date

## Exhibit C

### 4. Prior Experience:

AssetNation, Inc. was formed in 2008 by assembling some of the strongest brands in the on-line auction community, which includes SalvageSale, SalvageSale Ltd and Asset-Auctions. SalvageSale and SalvageSale LTD have been running on-line auctions for commercial property and casualty insurance companies since 1999. Asset-Auctions also began selling equipment on-line in 1999. In 2003 Asset-Auctions began selling surplus for the State of Pennsylvania through our on-line venue.

AssetNation has successfully handled the sale of hundreds of millions of dollars of surplus assets for both private and public entities. In 2011 AssetNation sold over \$100,000,000 in on-line sales. Specifically in 2011 we had 23 customers that exceeded \$1,000,000 in on-line sales. AssetNation sold government surplus on-line for 17 separate government agencies totaling \$13,033,353 in 2011. More importantly, AssetNation has direct experience delivering the exact services requested by the Commonwealth for the past nine (9) years. Our familiarity with the Commonwealth's current surplus property sales program, including the people, locations and processes involved, will enable AssetNation to seamlessly extend the track record of success that has been established. AssetNation also has experience delivering the same compliment of services sought by the Commonwealth to three (3) additional states and has sold surplus assets for seventeen (17) separate government agencies. As with all of our auctions, these results are public and can be verified online at [www.asset-auctions.com](http://www.asset-auctions.com). Please see the table below for evidence of our experience delivering the services sought by the Commonwealth.

Seller Company	2010		2011	
	Lots	Proceeds	Lots	Proceeds
Commonwealth of PA (General Merchandise)	-	\$ -	205	\$ 171,964
Commonwealth of PA (Heavy Equipment)	-	\$ -	185	\$ 1,517,802
PA Attorney General (General Merchandise)	31	\$ 207,141	47	\$ 44,043
PA Turnpike (General Merchandise)	708	\$ 1,879,742	124	\$ 535,955
State of PA (Heavy Equipment)	4,097	\$ 3,991,655	3,114	\$ 3,916,490
PADGS (Heavy Equipment)	-	\$ -	10	\$ 129,400
PADGS (General Merchandise)	-	\$ -	25	\$ 338,234
<b>Total</b>	<b>4,836</b>	<b>\$ 6,078,537</b>	<b>3,710</b>	<b>\$ 6,653,888</b>

AssetNation was recently acquired by Ritchie Brothers Auctioneers. Ritchie Brothers Auctioneers is the world's largest industrial auctioneer. They were established in 1958. The Company conducts hundreds of unreserved auctions each year. Ritchie Bros. has over 110 locations in more than 25 countries, including 44 auction sites worldwide. Ritchie Bros. intends to continue to grow AssetNation's core business as well as to leverage our e-commerce expertise and technology platform.

### 5. Personnel:

AssetNation's services will be delivered by a team of experienced and dedicated professionals. This team will be lead by Chris Sharron, Director. Chris is located in Pittsburgh, PA. Chris has worked for AssetNation for the past three (3) years and has been responsible for our government

## Exhibit C

contracts. Chris reports directly to the President of AssetNation, Chris Connell. Chris will ensure that the proper resources are allocated to service the Commonwealth. Clint Francis, Market Manager, will remain as AssetNation's dedicated single point of contact for the Commonwealth. Global Advertising for auctions will be coordinated by our marketing department headed by Brandon Gill. Administrative support, such as invoicing, funds reconciliation, and other bookkeeping activities will be managed by Joy Gates and her team of Auction Coordinators. Amy Huffman's, Customer Service Manager, Customer Service team will provide bidders with assistance for payment, removal, registration, service and general inquires. Tim Synak, Director Market Operations, team is responsible for moving product to the marketplaces and managing the various sales once they are open for bidding.

Brief biographical backgrounds are provided below.

### **Chris Sharron** – Director, Pittsburgh, PA

For the past three (3) years Chris was the Program Manager for AssetNation's largest private customer and the Government sector. Prior to Chris' work with AssetNation Chris worked for Kraft Foods, Del Monte Foods and GlaxoSmithKline in Sales and Marketing roles. Chris holds a Bachelors Degree in Economics from the University of Wisconsin.

### **Clint Francis** – Market Manager, Pittsburgh, PA

Clint has worked for AssetNation for the past seven (7) years. Clint has over 17 years experience selling into business and construction markets. This experience allows Clint to understand the buying patterns and motivations behind bidder activity in our online auctions. Such a complete understanding of the buyer behavior is critical to individual auction success.

### **Brandon Gill** – Senior Manager Venue Management, Pittsburgh PA

Brandon has worked for AssetNation for the past four (4) years. Before joining Asset Auctions, Brandon Gill organized and implemented marketing campaigns for the Doyle Center for Manufacturing Technology and the Pittsburgh Technology Council. Brandon's experience in e-mail marketing and writing for search engine optimization (SEO) is critical to promoting successful online auctions. He holds a bachelor's of science in journalism and public relations from Indiana University of Pennsylvania.

### **Joy Gates** – Senior Accounting Manager, Pittsburgh, PA

Joy has worked for AssetNation for the past four (4) years. Joy has over thirteen (13) years experience in the accounting field. She holds a Bachelors of Accounting degree from the University of Phoenix. Joy leads a team that is able to provide timely and accurate accounts of auction performances, which is critical to all parties involved.

### **Amy Huffman** – Manager, Customer Service, Pittsburgh, PA

Amy has worked for AssetNation for the past three (3) years. Prior to joining AssetNation she worked as a paralegal for Blackwell, Tarantine & Certo and has an Associate's Degree from Bradford Business. Amy heads a team of six (6) customer service coordinators who provide bidders with assistance for payment, removal, registration, service and general inquires.

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**Tim Synak** – Director, Market Operations, Houston, TX

Tim has worked for AssetNation for the past 12 years. He has held various operational and commercial roles during his time with the company. Tim has a Bachelor's with a concentration in Marketing and a minor in Russian Studies. Tim manages the market operations team for Assetnation. This team of 12 is responsible for moving product to the marketplaces and managing the various sales once they are open for bidding.

### **6. Training:**

AssetNation will provide onsite, telephonic, and web-based training for Commonwealth personnel. Trainers are available to provide support and training to groups and/or individuals using telephonic and web-based training techniques. In person sessions can also be arranged as circumstances warrant. Our Trainers can be reached through our toll-free Customer Support telephone number (800-856-7445) from 9:00 am – 5:00 pm EST Monday-Friday. Although we are fully prepared to deliver training and support as needed, we believe that the simplicity and ease of use of our systems is a significant advantage of our offering. AssetNation's processes and services are designed to be comprehensive, eliminating the need for Commonwealth personnel to learn new processes or interface with new technology platforms. Bidders will also find that our system is easy to use, which increases probability of their participation in the bidding process.

### **7. Financial Capability:**

AssetNation was recently acquired by Ritchie Brothers Auctioneers. Ritchie Brothers Auctioneers is the world's largest industrial auctioneer. Gross auction proceeds were \$3.7 billion for the year ended December 31, 2011, which was an increase of 13% from 2010. For the year end December 31, 2011, Ritchie Bros recorded auction revenues of \$396.1 million and net earnings of \$76.6 million. I have supplied the link to Ritchie Bros financial records on the Ritchie Bros company website.

<http://www.rbauction.com/web/rba/investors/securities-filings>

### **8. Objections and Additions to Standard Contract Terms and Conditions:**

**Exhibit C**

# **APPENDIX**

## Exhibit C

### A. AssetNation Technology Overview

Our marketplaces are supported by a proprietary and comprehensive technology commerce platform called AssetNation Marketplace Platform (AMP) and can be segmented into three distinct groups; **Core Venues** which are organic markets we support for key seller segments, **Private Label Venues** which are affiliate marketplaces we operate on behalf of key partners and **Redeployment Venues** which support key Sellers and provide them with an intra-enterprise solution to manage their assets. AMP powers all three marketplace segments seamlessly and allows for complete portability of sellers and buyers within the extended AssetNation Network.

#### AN Core Venues:



AssetAuctions specializes in government surplus, industrial equipment and fleet vehicle auctions. The site's most common bidding formats include no-reserve open auctions and negotiated sales.



SalvageSale is an online marketplace that primarily utilizes sealed-bid auctions for the disposition of commercial salvage and corporate assets



Specializing in energy equipment across upstream, midstream and downstream industries as well as utilities and energy-related construction, AssetNation Energy is a specialized marketplace for the energy industry.



A subsidiary of SalvageSale based in London, SalvageSale Ltd. provides disposition services for commercial salvage and corporate assets in Europe.



Specializing in retail surplus, industrial equipment and fleet vehicle auctions, AssetAuctions de Mexico caters to corporate sellers in Latin America.

#### Private Label Venues:



Penton Online Auctions represents one of the largest communities of buyers and sellers of used and surplus equipment. With over 7 million professionals across 16 distinct markets relying on Penton Media's industry specific information brands - digital, print and live events, Penton Online Auctions is your source for used and surplus equipment.



Britton Management Group is an international full service industrial asset management company. Professional services include auctions, negotiated sales, and appraisals. From downsizing to complete plant closures. Licensed and Bonded. Since 1924.



The Xchanging Recovery Marketplace connects global buyers and sellers of insurance salvage across ocean marine, property and casualty as well as specialty lines of business. With over 900 customers worldwide, Xchanging is the leading provider of business processing services and software solutions to the insurance industry internationally.

#### Redeployment Sites:

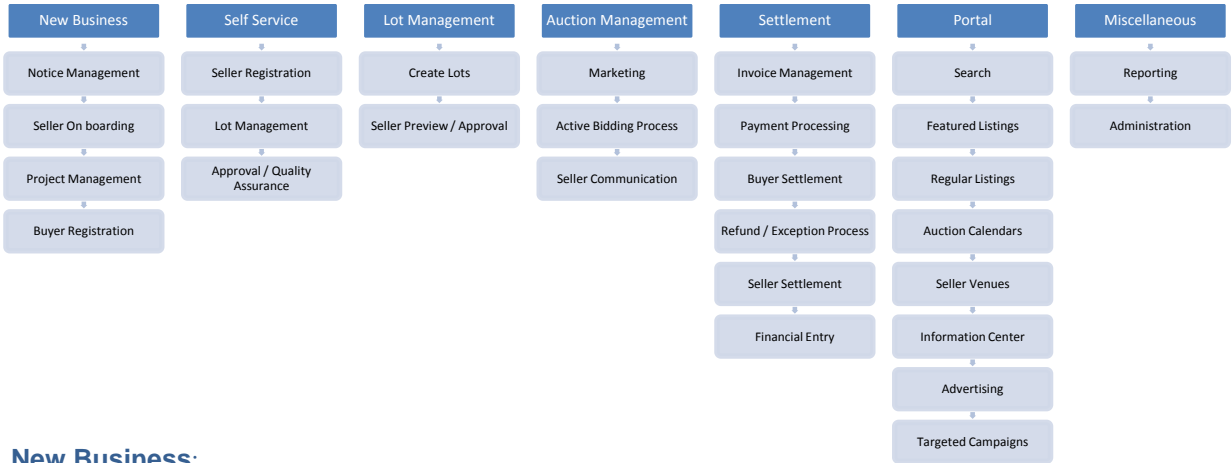


AssetNation's redeployment offering provides a platform for procurement and asset managers within a company to manage, market, and distribute excess and idle assets to other branches and regions.

# Exhibit C

## AMP Functional Capabilities

AMP is a complete end to end commerce platform for the company and delivers seven key commerce capabilities:



### 1. New Business:

**Notice Management:** Includes adding a new seller after a successful sales cycle. This capability is utilized by AssetNation employees in creating a seller account and all finance related setup in the system.

**Seller Onboarding:** This capability is used by AssetNation employees to fully onboard the seller including contract creation and commission schedule creation which enables sellers to conduct commerce in our marketplaces.

**Project Management:** This capability is used by AssetNation employees for salvage related projects where services are required in addition to marketplace activity. This capability provides for complete setup of a project including time and material entry.

**Buyer Registration:** The AssetNation network of marketplaces provides buyers with a rich and flexible set of capabilities for participating in commerce once registered. Specifically, buyers have access to any of AssetNation's multiple venues that offer items of interest – once a buyer's credentials are generated; those credentials are portable across the entire network of marketplaces. The process of onboarding a buyers includes self-validation process including email and telephone validation as well as a final verification process conducted by AssetNation that protects both the buyer and mitigates risks to our seller community.

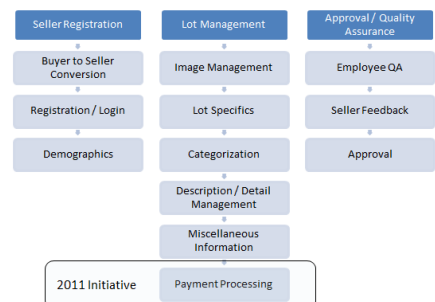


### 2. Self Service:

**Seller Registration:** Enables a process where direct sellers can initiate a basic registration during the self-consignment process and create the record that contains high level account information including name, phone number, email address & Login ID. These records can also be created by employees, if necessary, for the customer.

**Lot Management:** Enables the seller to collect and submit critical asset information required to post the consignment to the marketplace for sale.

**Approval/Quality Assurance:** The capability to verify the information the seller is providing for the asset being consigned and ensures it is ready to market.



## Exhibit C

### 3. Lot Management:

**Create Lots:** Process of setting up the item for sale within our marketplace -- descriptions, categorization, sale terms, etc...

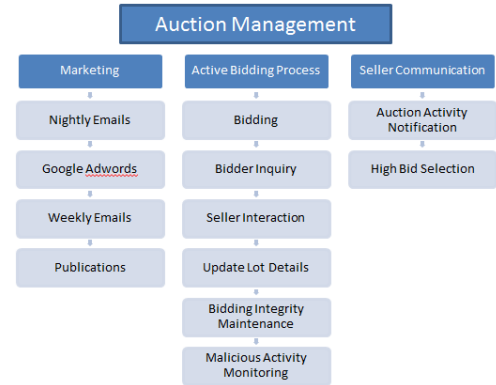
**Seller Preview Approval:** Process of obtaining sellers final approval on the listing (if required) prior to posting the lot to a "live" status in our marketplace.



### 4. Auction Management:

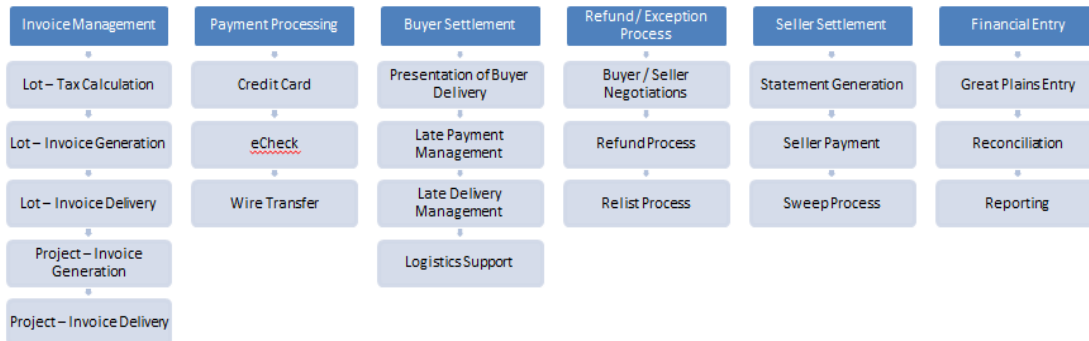
**Marketing:** Management of all buy-side marketing required to ensure the sale of the asset. Promotion methods include email blasts to identified buyers, any required SEO as well general advertisement.

**Active Bidding Process:** Any listing can leverage a number of different price discovery formats and buying bases can be either public, limited in a private invitation only format or confined to an internal constituency for corporate sellers. Award scenarios can also vary widely within our marketplaces such as reserved auctions or unreserved auctions, automatic high bid selection, seller award selection, etc. Settings can be made to provide buyers within feedback about their place within a specific market or final notification of whether they were the high bidder or not. Buyers can also manage their bidding through functionality such as setting a maximum bid amount and letting the system bid at predefined minimum bid increments up to that maximum bid amount.



**Seller Communication:** Sellers can be notified via email at various stages of their lot cycle. One example would be being notified when a lot they are participating in closes and what the amount of the high bid is for that lot.

### 5. Settlement:



**Invoice Management:** Includes when to send an invoice, how to deliver, currency, tax amount, commissions and possible late fees.

**Payment Processing:** Settlement can be made via credit card, Echeck, bank check, and/or wire transfers.

**Buyer Settlement:** Includes presenting the appropriate documentation so the buyer can pick up their item after payment has been rendered.

**Refund / Exception Process:** Allows for claims, when necessary, to be made and for these disputes to be resolved.

**Seller Settlement:** Includes proof that the item has been picked up and pays the seller their proceeds according to the seller's contract.

**Financial Entry:** Posting and recording the completed transaction to the appropriate ledger accounts.



## Exhibit C

### 6. Portal:

Portal defines a set of user experience related capabilities expected to be released during 1H12. Additional details are provided later in this document.

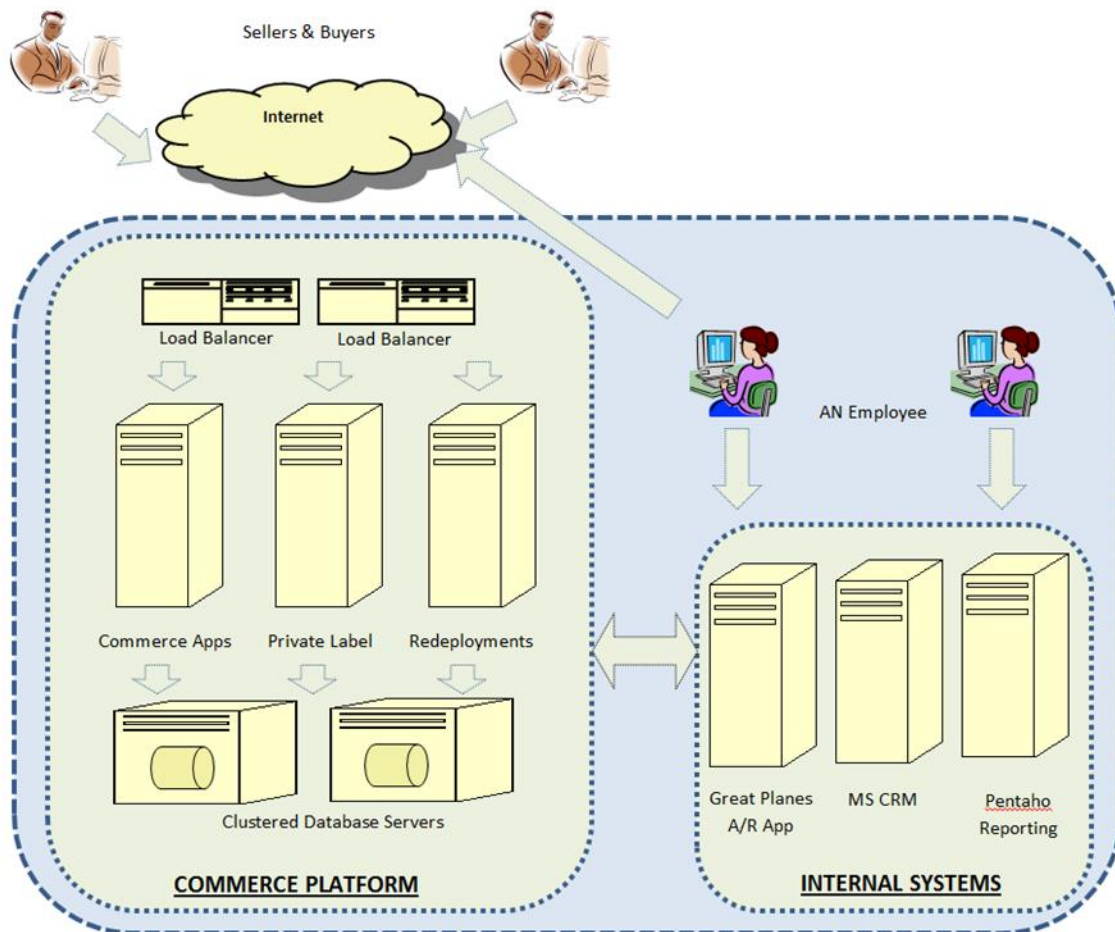
### 7. Miscellaneous:

Reporting: Reporting capabilities include auction, user, and financial reporting delivered in real-time, as well as required ad-hoc and historical reporting.

Administration: This includes user setup as well as administration of venues, users, contracts, etc.

## Architecture & Component Technology:

### High Level Architectural Diagram:



## Exhibit C

### AMP Composition:

AMP is a proprietary platform developed using Adobe's Cold Fusion technology and hosts the following applications:

#### Commerce Apps:

Venues within our network are treated as Commerce applications and are Core Venues, Private Label Venues or Redeployment Sites.

#### Core Venues

- AMP is an application accessed by the employees to manage commerce from our various venues.
- AssetAuctions: Surplus auction application
- AssetAuctions Mx: Surplus auction application for AssetNation's Mexico business
- SalvageSale: Salvage auction application
- SalvageSale Limited: Salvage auction application for AssetNation's UK business

#### Private Label Venues:

Private labels are platforms hosted and managed by Assentation for our partners

- Britton,
- Penton
- Xchanging

#### Redeployments:

Redeployment sites are platforms hosted for enterprises and typically used by procurement functions to manage assets internally. Each of these sites is a unique application deployed on AMP.

#### Commerce Apps, Private Label & Redeployment Components:

Server Name(s):	An-front-core-1 An-front-plab-1 An-front-redp-1
Description:	These servers house the application that markets and auctions product for all venues.
Operating System:	Windows Server 2008 64-bit R2
Application Server Software:	Adobe ColdFusion Version 9.0.1
Programming Language:	ColdBox Framework Version 3.0
Web Server:	IIS Version 7.5
Third Party Tools integration:	<ul style="list-style-type: none"> <li>• Cybersource (Payment Gateway)</li> <li>• Avalara (Tax Calculation)</li> <li>• Reachmail</li> <li>• IfByPhone (Phone Validation)</li> </ul>
Open Source Products used:	<ul style="list-style-type: none"> <li>• Hibernate (built into ColdFusion)</li> <li>• ColdSpring</li> </ul>
Database Connections used:	Auctiondb

#### AMP Back End Components

Server Name(s):	An-back-amp-1
Description:	This server is houses the management tool for our marketplace.
Operating System:	Windows Server 2008 64-bit R2
Application Server Software:	Adobe ColdFusion 9.0.1
Programming Language:	CFML
Web Server:	IIS Version 7.5
Third Party Tools integration:	<ul style="list-style-type: none"> <li>• Cybersource (Payment Gateway)</li> <li>• Avalara (Tax Calculation)</li> <li>• Reachmail</li> <li>• IfByPhone (Phone Validation)</li> <li>• Telesign (Phone Validation)</li> </ul>
Open Source Products used:	N/A
Database Connections used:	Auctiondb

## Exhibit C

### AuctionDB Database Components

Server Name(s):	An-db-1
Description:	This server is the database that houses auctiondb, the operational database.
Operating System:	Windows Server 2008 64-bit R2
Application Server Software:	Microsoft SQL Server 2008 R2
Programming Language:	N/A
Web Server:	N/A
Third Party Tools integration:	N/A
Open Source Products used:	N/A
Database Connections used:	Dynamics

### Other Internal Applications:

#### Pentaho:

Pentaho is an OpenSource Reporting/BI platform helps Asset Nation employees run various useful reports for from very valuable data collected during the commerce

Server Name(s):	Dev-pentaho
Description:	This server is the ETL tool and Application server for the Pentaho reporting tool.
Operating System:	Windows Server 2008 64-bit R2
Application Server Software:	Pentaho Data Integration Pentaho Reporting Tool
Programming Language:	N/A
Web Server:	Apache 2.0
Third Party Tools integration:	N/A
Open Source Products used:	Pentaho is an
Database Connections used:	Auctiondb

#### Dynamics Database

Server Name(s):	Dynamics
Description:	This server houses the databases for both the Dynamics Great Plains system and Microsoft CRM.
Operating System:	Windows Server 2008 64-bit R2
Application Server Software:	Microsoft SQL Server 2008 R2
Programming Language:	N/A
Web Server:	N/A
Third Party Tools integration:	N/A
Open Source Products used:	N/A
Database Connections used:	N/A

#### MS CRM:

This is packaged software from Microsoft. CRM is used to store Customer information and Customer Account details. This is fully integrated with Commerce platform.

Server Name(s):	Dynamics
Description:	This server houses the application software for Microsoft CRM.
Operating System:	Windows Server 2003 64-bit SP2
Application Server Software:	Microsoft CRM Version 4.07
Programming Language:	N/A
Web Server:	IIS Version 6.0
Third Party Tools integration:	N/A
Open Source Products used:	N/A
Database Connections used:	Dynamics

## Exhibit C

### Great Plains:

This is commercially available financial software from Microsoft.

Server Name(s):	Dynamics
Description:	Since Dynamics great plains is a client-server application, there is no application running the dynamics server, only the clients connect to the database.
Operating System:	N/A
Application Server Software:	N/A
Programming Language:	N/A
Web Server:	N/A
Third Party Tools integration:	N/A
Open Source Products used:	N/A
Database Connections used:	Dynamics

## 2012 AssetNation Roadmap

The 2012 Technology Roadmap targets four critical imperatives for the business as well as a robust maintenance cycle for the core platform. The major imperatives as follows:

### Business Intelligence (Phase II):

In Q4-2011, the company successfully executed a limited release of AssetNation-BI developed on Pentaho. The solution provides the company with increased visibility into all aspects of commerce activity taking place across all AssetNation venues – operational data such as transactions (events, auctions, lots), cycle time, bidder and buyer activity, status, etc. and commercial data such as revenue, commissions, premiums and segment data.

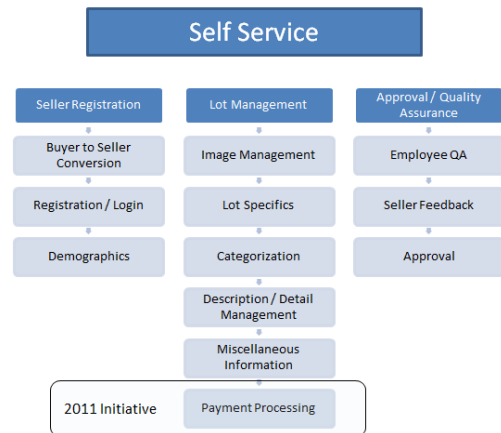
In the first half of 2012, the company will complete the mapping of all remaining data (seller, buyer, and owner), complete the development of core reporting functionality for internal and external use and complete all internal training and deploy the solution for all remaining employees.

### Self Service:

A key constituency within our Seller Community are direct sellers – sellers who do not require a comprehensive program to manage the disposition of their assets and/or salvage due to either their infrequent need to transact or their desire to manage most of the process themselves. Examples of direct sellers would include members of the Penton Media community – end users (sellers) who simply need a liquid venue to sell their assets.

To date, the company has been serving these customers with an early release of Self Service functionality; enabling sellers to submit their consignments directly to AssetNation content and market managers. In 2012, the company will be developing and releasing Self Service 2.0 to improve upon the consignment process for direct sellers. In Q4-2011, the company completed a detailed Functional Requirements Document and prototyped a UI. Key functionality/benefits include:

- Enhanced Seller registration
- VIN and Serial Number look-ups for pre-population of consignments with base parametric data
- Simplified image management with “Drag & Drop” capability.
- Easy categorization by Seller.
- Minimal back-office touch points.
- Enables faster time to market.



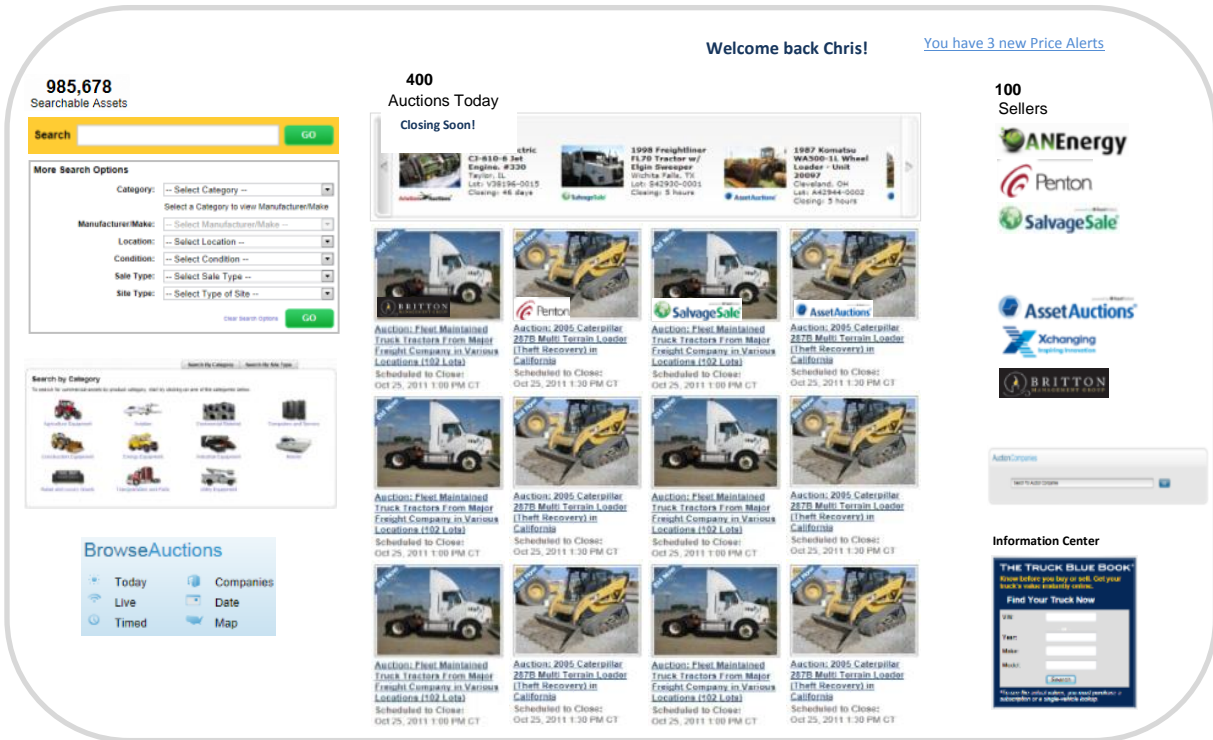
# Exhibit C

## Portal:

A major imperative in 2012 is the development of the AssetNation Portal – transforming our web presence from a loose federation of discrete venues to a primary destination where all network commerce is aggregated. By leveraging both our buy-side and sell-side capabilities into one portal, we will deliver an enhanced user experience for all our secondary commerce customers. We also believe that by aggregating our commerce, we will create a number of new revenue streams for the company based on our aggregated web traffic and asset count. Highlights of our Portal initiative include:

- Seller and Buyer personalization
- Robust search across a massive supply of surplus and salvage assets
- Enhanced web marketing capabilities
- Enhanced buy-side offerings (partner value added services)

## Portal Illustration



## Targeted Market Maker Solutions:

A late 2012 design initiative is the development of a robust set of seller oriented capabilities targeted at the Independent Market Maker (IMM) space – small and mid-sized auctioneers to allow them to take advantage of our large network in a way that closely matches how they prefer to work.

The IMM space is a huge growth area within the secondary market. Our analysis suggests that small and mid-sized IMM make up as much as 80% of the market when measured in gross transaction volume. Our experience with the Britton Management Group has demonstrated how quickly these affiliates can ramp and generate significant revenue and transaction volume. As a result, we have identified 4 key capabilities for development of this market segment:

- **Targeted Settlement:** Established IMM do not require the full breadth of our current settlement capabilities but instead require on-demand and point-type settlement solutions that they can use or supplement their existing capabilities with from time to time. We are currently studying how existing settlement capabilities can be decomposed and or partitioned to serve this segment.

## Exhibit C

- **Live Auction Support:** The ability to expose our existing buyer base to traditional IMMs creates opportunity for incremental gross transaction volume, revenue and a “foot in the door” to upsell these IMM’s into additional marketing related revenue solutions.
- **Buyer Management:** Many IMMs require the ability to manage their own buyer communities or, at a minimum, have real time and unfiltered access to buyers participating in their markets. We are exploring how to segment buying bases within our network while not diminishing any of the portability our current buyers are accustomed to today.

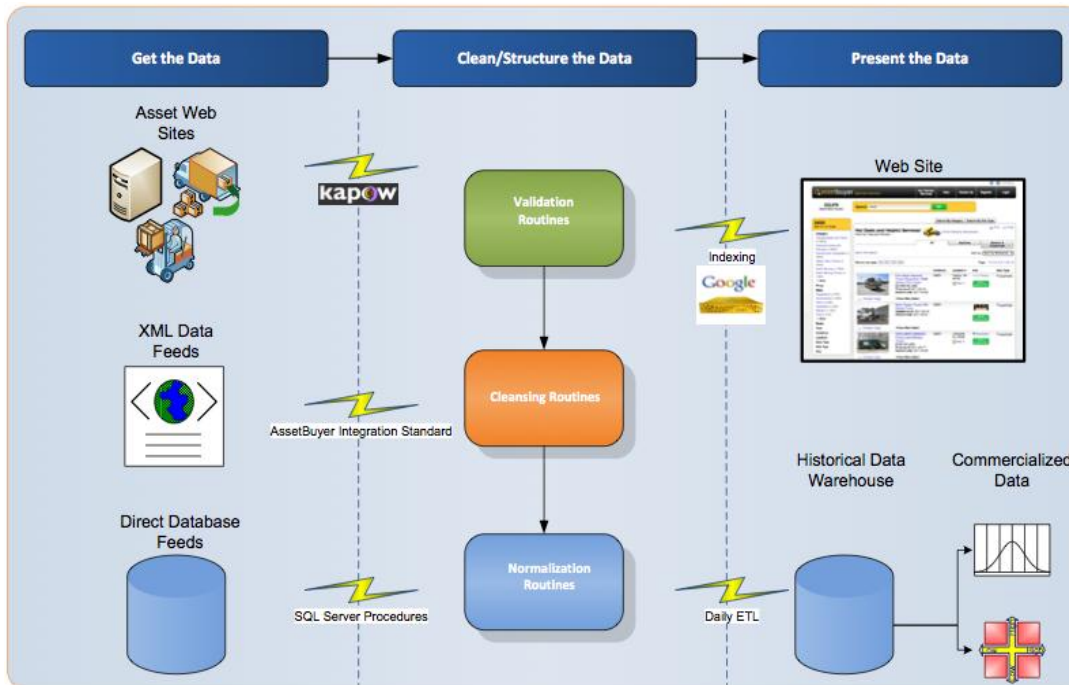
## AssetBuyer Technology Overview

### Introduction

Connecting businesses with what they need, AssetBuyer is changing the way commercial asset buyers find what they're looking for. AssetBuyer.com is the industry innovator in online commercial asset comparison-shopping. Customers around the world use AssetBuyer to quickly obtain free and unbiased information about products, services, merchants and sellers before making a purchase decision.

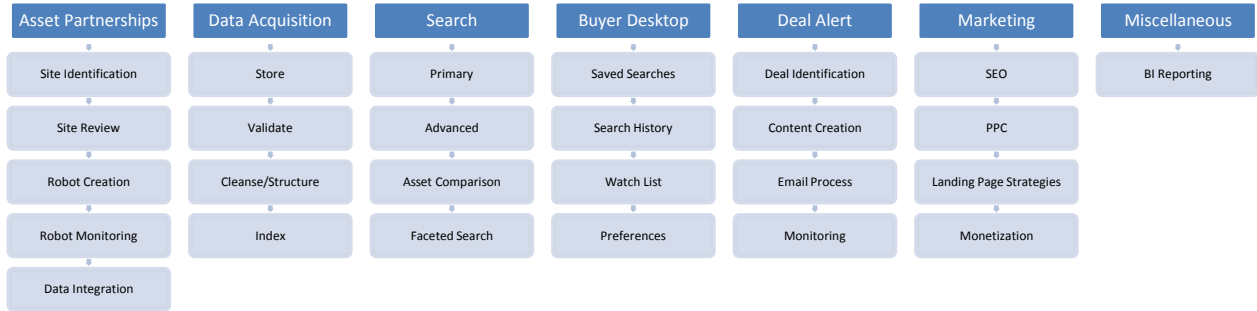
At AssetBuyer.com, B2B shoppers can instantly find and compare hundreds of thousands of unique commercial assets contained in several category classes, such as Construction Equipment, Computers & Servers, Transportation, Energy Equipment, and Retail Goods. The Company connects its online shoppers to the leading commercial asset brands on the Internet today.

### How AssetBuyer Works:



# Exhibit C

## Platform Functional Capabilities



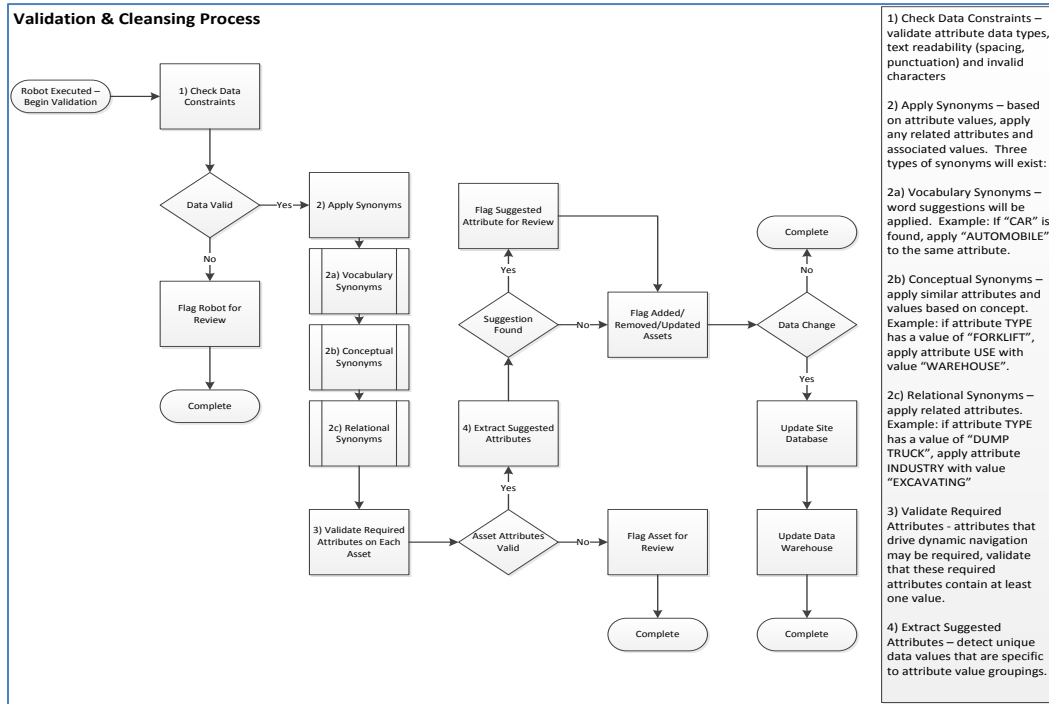
### Asset Partnerships:

Before assets sites are added to the AssetBuyer index, they go through a thorough review process. Product mix and volume are analyzed to determine if they are an appropriate fit for the site. Once a site has been approved, XML data integrations or web data scraping agents are put into place to gather the site's data in a repeatable process. Here are a few of the sites currently in our network.



### Data Acquisition:

Once data begins coming into the AssetBuyer databases from an asset site, it must go through an extensive validation and cleansing process via our proprietary rules engine application. All assets feed through this application on every run to ensure the data is as clean and structured as possible.



## Exhibit C

### Search:

We provide several ways for buyers to search for assets on the web site. From basic keyword searching to faceted searches (see below), we recognize that each buyer has unique searching needs. We also provided advanced capabilities like side-by-side asset comparisons. Our partnership with Google and its Search Appliance product ensures that searches are fast and targeted.

### Buyer Desktop:

Advanced buyer features require logging into our Buyer Desktop. This Desktop provides buyers the ability to mine the data in a way unique to them. Current and planned features within the Buyer Desktop are below.

#### Current

- Saved Searches
- Search History
- Watch List
- Communication Preferences

#### To Be

- Personalized Deal Alerts
- Deal Customization
- Marketing Automation

### Deal Alerts:

Deal Alerts are currently sent weekly to our buyer community. These alerts highlight assets for sale on our site that are well below market values. We will soon be adding the ability to highly customize the types of Deal Alerts a customer receives based on his/her needs. An example of a Deal Alert is below.



## DEAL ALERT

#### Sign Up for our Deal Alerts!

AssetBuyer is a new commercial asset search site. We pull together information from hundreds of auction and listing sites and give you one place to compare. Now our "active search" technology can work for you!

We scan the globe and when we identify an item that is currently well below market rate, we will deliver the alert right to your email inbox. We also post it to our Deal Alert Twitter page.

- › Receive Deal Alerts via Email by joining our Buyer Community - [Click here to register.](#)
- › Receive Deal Alerts via Twitter: Visit us at <http://twitter.com/AssetBuyer>
- › Check out our current Deal Alert - [Click here to see more!](#)

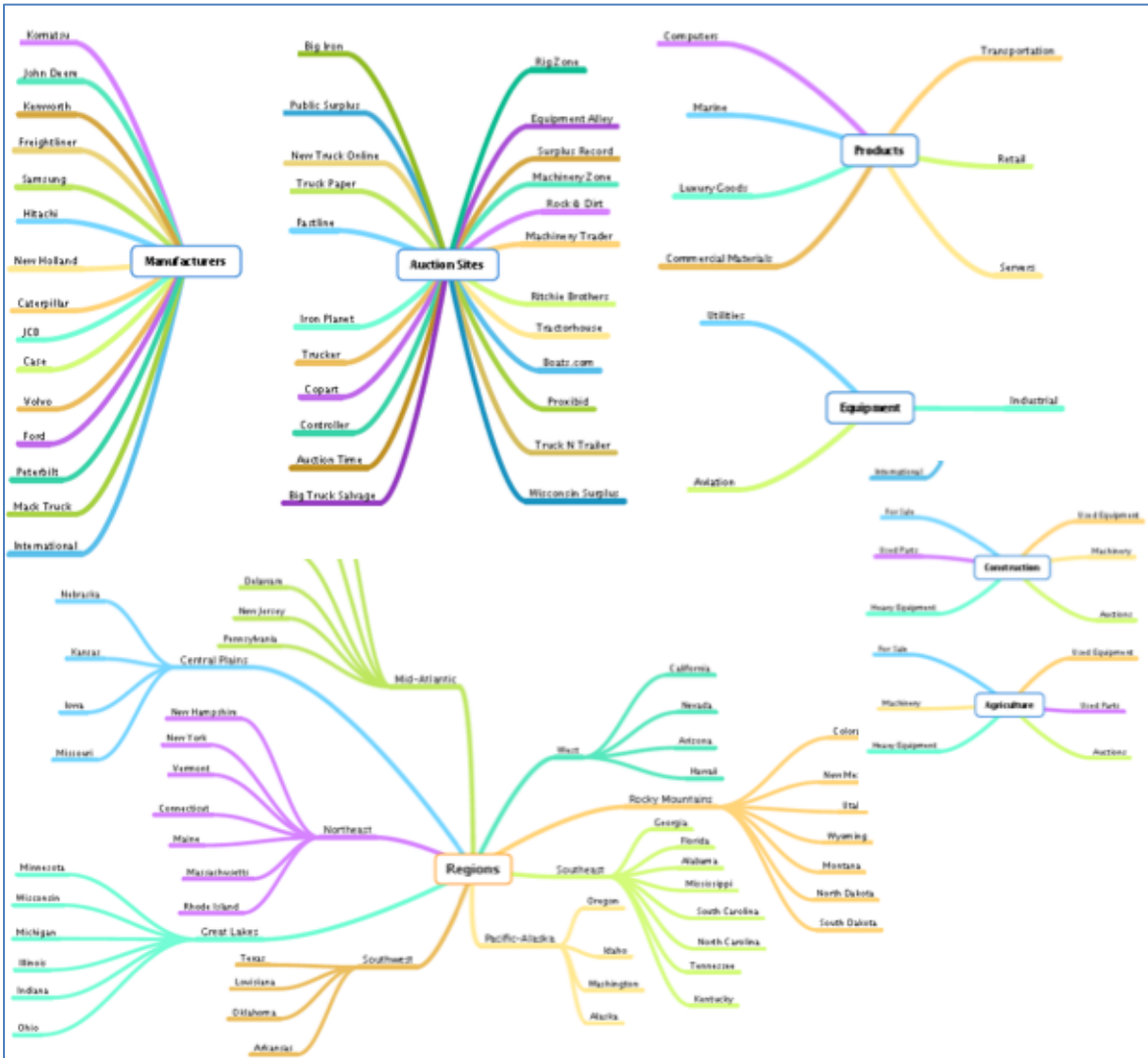
AssetBuyer's Current Deal Alert			
	<b>2007 John Deere 9860 STS Combine</b> Total Operating Hours: 1100 Separator Hours / 1400 Engine Hours <b>Current Bid: \$80,000</b> <a href="#">Click Here to See More</a>	<b>Pricing Benchmark - Auction Average</b> <b>\$144,125</b> Based on 6 auctions	<b>Pricing Benchmark - Retail Average</b> <b>\$191,482</b> Based on 10 listings



# Exhibit C

## Marketing:

We use applications like Google Analytics and Optify to assist us with highly-developed SEO and PPC programs. We drive search traffic via a Landing Page strategy, which is profiled below.



# Exhibit C

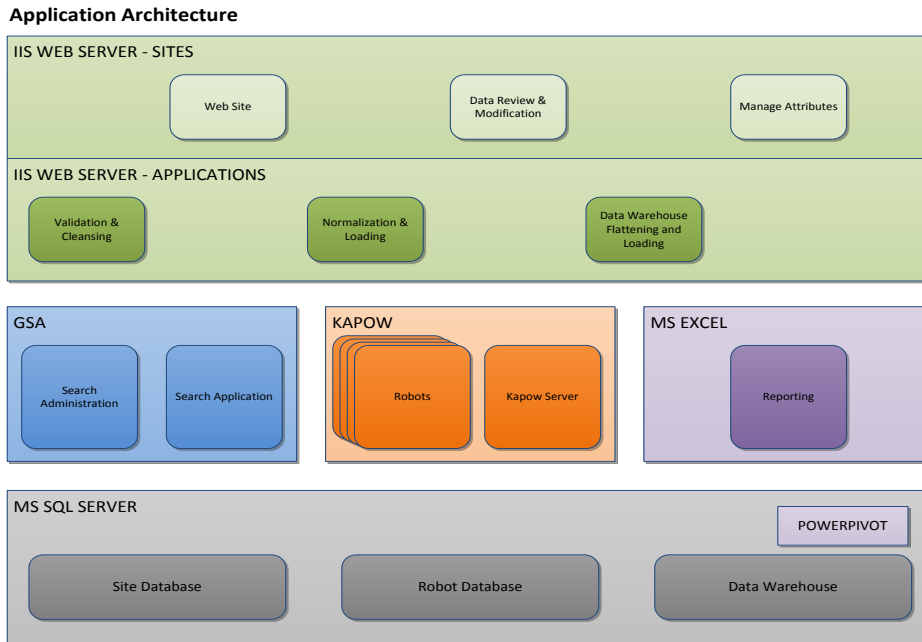
## Miscellaneous:

All data that is indexed on the AssetBuyer site is also loaded into an historical data warehouse for Business Intelligence (BI) uses. This data allows us to analyze data and to provide corporations views into the asset data. Examples of the reports are below.



## Deployment Diagram:

The AssetBuyer platform is based on Microsoft .NET technology, working alongside world-class partner applications from providers like Google and Kapow.



## Exhibit C

### AssetBuyer

Server Name(s):	Sv-Prod-Web-1 Sv-Prod-Db-1 Sv-Prod-Robot-1 Sv-Prod-Mobile-1 GSA (Google Search Appliance)
Description:	These servers house the web, application, database, and robot needs for the AssetBuyer platform.
Operating System:	Windows Server 2008 64-bit R2
Application Server Software:	Microsoft .NET Framework
Programming Language:	C#
Web Server:	IIS Version 7.5
Third Party Tools integration:	GetSatisfaction
Open Source Products used:	N/A
Database Server used:	Microsoft SQL Server 2008 R2

### AssetBuyer Mobile

Server Name(s):	Sv-Prod-Mobile-1
Description:	This web server houses the mobile site for the AssetBuyer platform.
Operating System:	Windows Server 2008 64-bit R2
Programming Language:	PHP, with JavaScript/JQuery
Web Server:	Apache 2.2
Third Party Tools integration:	N/A
Open Source Products used:	N/A
Database Server used:	Microsoft SQL Server 2008 R2

### Other Internal Applications:

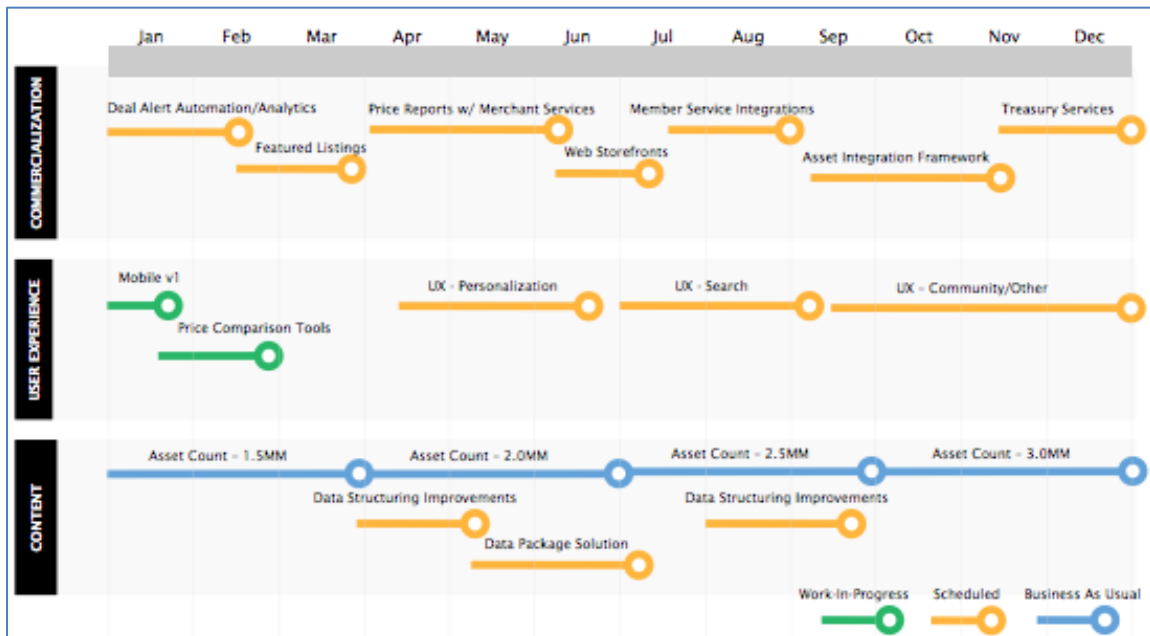
#### Salesforce CRM:

CRM is used to store Customer information and Customer Account details. It is a hosted, "in the cloud" offering by SalesForce.

#### Optify:

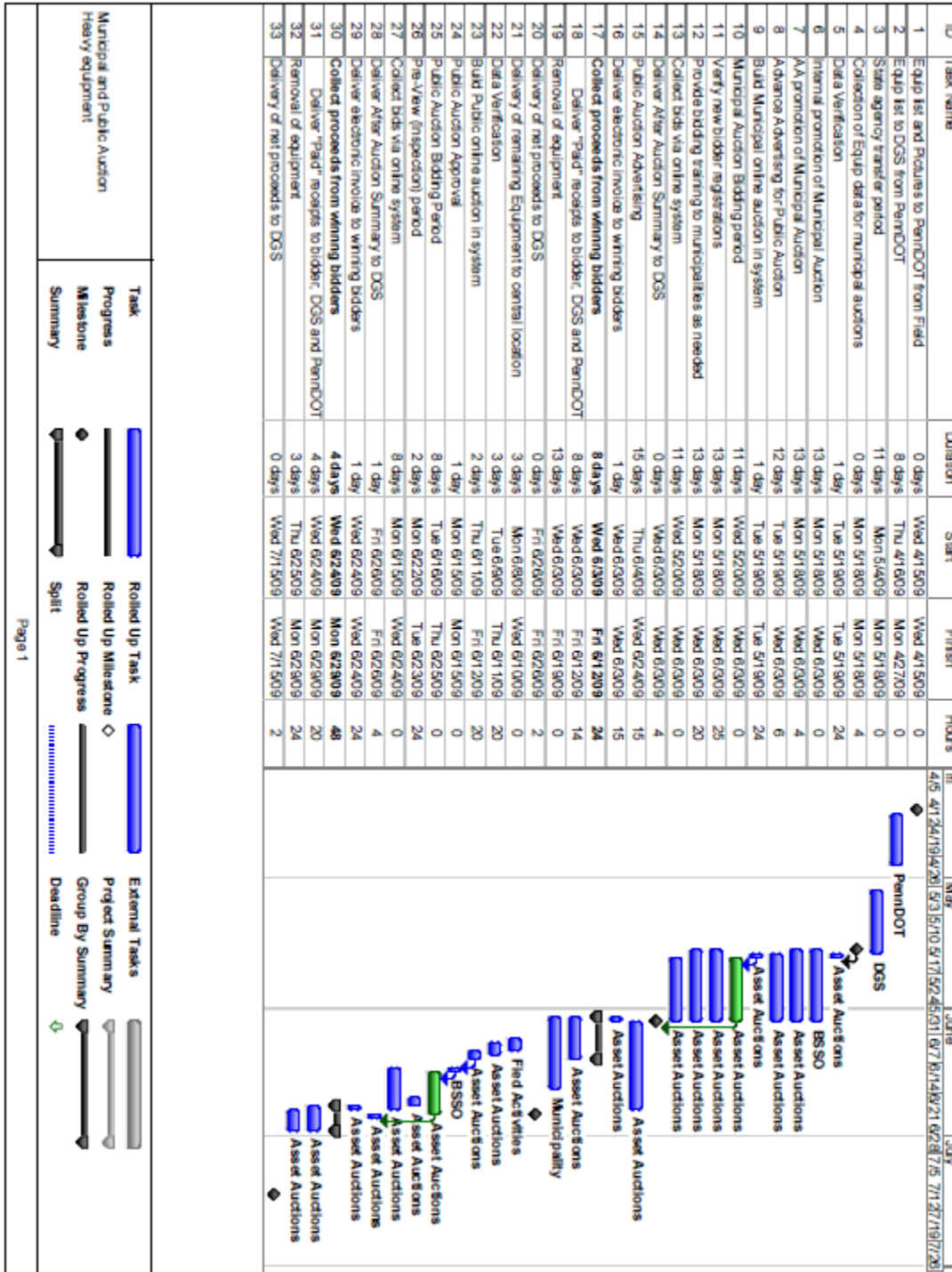
Optify is an Internet marketing suite of tools. It is a hosted, "in the cloud" offering by Optify.

### 2012 AssetBuyer Roadmap



# Exhibit C

## B. Gantt Chart Example for Private and Public Equipment Auctions



# Exhibit C

## C. Gantt Chart Example for Public General Merchandise Auction

