Washington State
DEPARTMENT OF
ENTERPRISE SERVICES

COOPERATIVE PURCHASING AGREEMENT
WASHINGTON/OREGON COOPERATIVE

NO. 29023

FOR

ILLUMINATION TRAFFIC SIGNALS, INTELLIGENT TRANSPORTATION SYSTEM, EQUIPMENT & PARTS

Categories: 6, 11, 12, 13, 15, 21, 22, 31, 36, 37, 42, 48, 49, 50, 56, 59, 61,62, 64, 66, and 75

Washington & Oregon
For Use by Eligible Purchasers

By and Between

STATE OF WASHINGTON
DEPARTMENT OF ENTERPRISE SERVICES

and

K&K SYSTEMS, INC

Dated April 15, 2025

COOPERATIVE PURCHASING AGREEMENT
WASHINGTON/OREGON COOPERATIVE

NO. 29023

ILLUMINATION TRAFFIC SIGNALS, INTELLIGENT TRANSPORTATION SYSTEM, EQUIPMENT & PARTS
CATEGORIES 6, 11, 12, 13, 15, 21, 22, 31, 36, 37, 42, 48, 49, 50, 56, 59, 61, 62, 64, 66, and 75
Washington & Oregon

This Cooperative Purchasing Agreement (Cooperative Purchasing Agreement or "Contract") is made and entered into by and between the State of Washington acting by and through the Department of Enterprise Services, a Washington State governmental agency ("Enterprise Services") and K&K Systems, a Mississippi Corporation ("Contractor") and is dated and effective as of April 15, 2025.

R E C I T A L S

A. Pursuant to Legislative authorization, Enterprise Services, on behalf of the State of Washington, is authorized to develop, solicit, and establish enterprise procurement solutions, including statewide contracts, for goods and/or services to support Washington state agencies ("Contract"). *See* RCW 39.26.050(1). The Washington State Legislature also has authorized Enterprise Services to make these contracts available, pursuant to an agreement in which Enterprise Services ensures full cost recovery, to other local or federal government agencies or entities, public benefit nonprofit organizations, and any tribes located in the State of Washington. *See* RCW 39.26.050(1) & (2).

B. The Washington State Legislature also has authorized Enterprise Services to participate in, sponsor, conduct, or administer cooperative purchasing agreements. *See* RCW 39.26.050(1). Accordingly, pursuant to Washington's Procurement Code for Goods/Services, RCW 39.26, and the Interlocal Cooperation Act, RCW 39.34, Enterprise Services and the State of Oregon have entered into an *Interstate Cooperative Agreement for Joint Participation In Each State's Purchasing Program*. *See WA/OR Interstate Cooperative Agreement No. DASPS-56815-14* (dated January 1, 2015). The *WA/OR Interstate Cooperative Agreement* enables specified eligible purchasers to utilize certain of each state's designated competitively solicitated Contracts. The *WA/OR Interstate Cooperative Agreement* creates the opportunity for procurement efficiencies and cost savings as well as increasing potential use and marketplace incentives for vendors to contract with the states.

C. Enterprise Services, on behalf of the State of Washington, in collaboration with the State of Oregon, as part of a competitive governmental procurement, issued Competitive Solicitation No. 29023 dated October 11, 2024 to establish Cooperative Purchasing Agreements for ITS to enable eligible purchasers to procure illumination traffic signals, intelligent transportation system, equipment & parts from the qualified awarded Contractors in a cost effective, efficient manner using the terms and conditions of the Cooperative Purchasing Agreement.

D. Enterprise Services evaluated all responses to the Competitive Solicitation and identified Contractor as an apparent successful bidder.

E. Enterprise Services has determined that entering into this Cooperative Purchasing Agreement will meet the identified needs and be in the best interest of the State of Washington.

F. The purpose of this Cooperative Purchasing Agreement is to enable eligible purchasers to purchase the Goods and/or Services as set forth herein.

A G R E E M E N T

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

1. TERM. The term of this Cooperative Purchasing Agreement commences April 15, 2025 and ends March 31, 2029.

2. ELIGIBLE PURCHASERS. This Cooperative Purchasing Agreement may be utilized by any of the following types of entities (each an eligible "Purchaser"):

2.1. WASHINGTON STATE AGENCIES. All Washington state agencies, departments, offices, divisions, boards, and commissions.

2.2. WASHINGTON STATE INSTITUTIONS OF HIGHER EDUCATION Any the following institutions of higher education (colleges) in Washington:

- State universities – i.e., University of Washington & Washington State University;
- Regional universities – i.e., Central Washington University, Eastern Washington University, & Western Washington University
- Evergreen State College;
- Community colleges; and
- Technical colleges.

2.3. ORCPP MEMBERS. Oregon Cooperative Purchasing Program (ORCPP) Members, which include the following Oregon entities:

- Cities, counties, school districts, and special districts;
- Qualified rehabilitation facilities and residential programs in contract with the Oregon Department of Human Services;
- Quasi-state agencies and independent state agencies with their own procurement authority;
- Public bodies created as governmental entities but not considered a unit of local or municipal government;
- Oregon constitutional offices;
- Specified Public Benefit Nonprofit Corporations; and
- American Indian tribes or agencies.

ORCPP Members do not include Oregon state agencies subject to the Oregon Department of Administrative Services' procurement authority.

2.4. CONTRACT USAGE AGREEMENT PARTIES. Any of the following types of entities that have executed a Contract Usage Agreement with Enterprise Services:

- Political subdivisions (e.g., counties, cities, school districts, public utility districts) in the State of Washington;
- Federal governmental agencies or entities;
- Public-benefit nonprofit corporations (i.e., public benefit nonprofit corporations as defined by RCW 24.03A.245) who also receive federal, state, or local funding); and
- Federally-recognized Indian Tribes located in the State of Washington.

3. SCOPE – INCLUDED GOODS AND/OR SERVICES & PRICES.

CONTRACT SCOPE. Pursuant to this Cooperative Purchasing Agreement, Contractor is authorized to sell and provide only those Goods and/or Services set forth in *Exhibit A – Included Goods/Services* for the prices set forth in *Exhibit B – Prices for Goods/Services*. Contractor shall not represent to any Purchaser under this Cooperative Purchasing Agreement that Contractor has contractual authority to sell or provide any goods and/or services beyond those set forth in *Exhibit A – Included Goods/Services*.

(a) Goods. For purposes of this Cooperative Purchasing Agreement, "Goods" means all equipment, materials, supplies, ancillary parts, accessories, components and other items purchased by Purchaser pursuant to this Cooperative Purchasing Agreement and as identified in the Purchase Order.

(b) Services. For purposes of this Cooperative Purchasing Agreement, "Services" means all services of any nature ordered by Purchaser pursuant to this Cooperative Purchasing Agreement and as identified in the Purchase Order.

(c) Specifications. Where applicable, specifications for Goods and/or Services are detailed in this Cooperative Purchasing Agreement and the Purchase Order. Unless otherwise specified in the Purchase Order, all Goods and/or Services provided shall be new and unused of the latest model or design.

3.2. ABILITY TO MODIFY SCOPE OF COOPERATIVE PURCHASING AGREEMENT. Subject to mutual agreement between the parties, Enterprise Services reserves the right to modify the Goods and/or Services included in this Cooperative Purchasing Agreement; *Provided*, however, that any such modification shall be effective only upon thirty (30) calendar days advance written notice; and *Provided further*, that any such modification must be within the scope of the Competitive Solicitation for this Cooperative Purchasing Agreement.

3.3. MSRP DISCOUNT. Notwithstanding the foregoing, the MSRP discount set forth in *Exhibit B – Prices* will not be adjusted through the Economic Adjustment Process. Prices for goods provided under the MSRP discount must be on the current MSRP list. Contractor shall provide an MSRP list and description of products to Purchasers upon Purchaser's request.

3.4. PRICE CEILING. Although Contractor may offer lower prices to Purchasers, during the term of this Cooperative Purchasing Agreement, Contractor guarantees to provide the Goods and/or Services at no greater than the prices set forth in *Exhibit B – Prices for Goods/Services*.

3.5. BEST PRICING. Contractor represents and warrants, Contractor's prices for the Goods and/Services included in *Exhibit A – Included Goods/Services* as priced to Eligible Purchasers pursuant to the pricing for such Goods and/Services as set forth in this Contract (e.g., *Exhibit*

B – Prices for Goods/Services) are equal to or less than Contractor's standard prices generally offered to similarly situated purchasers contracting for similar volumes of such Goods and/or Services under similar terms and conditions . Contractor understands and acknowledges that this Contract is designed to function as an enterprise procurement solution in which Enterprise Services, on behalf of the State of Washington, develops and competitively solicits and awards contracts for Goods and/or Services that are designed to be utilized by Washington state agencies and other Eligible Purchasers to channel public entity spending on Goods and/or Services in a mutually beneficial, cost-effective, and efficient manner to qualified, innovative, and competitive contractors. If, during the term of this Contract, Contractor enters into an agreement with any other purchaser that contains more favorable pricing than is provided herein, then this Contract shall be deemed to be amended to provide Purchasers such more favorable pricing on a retroactive basis. To ensure compliance, Enterprise Services, upon seven (7) business days advance written notice to Contractor, may audit Contractor's records. Contractor shall, within thirty (30) calendar days, reimburse Purchasers retroactively in the amount of the savings such Purchasers should have received but for Contractor's failure to comply with this provision.

3.6. CONTRACT INFORMATION. Enterprise Services shall maintain and provide to eligible Purchasers information regarding this Cooperative Purchasing Agreement, including scope, pricing, and lowest responsive, responsible bidder designation. In addition, Enterprise Services identifies awarded contractors who qualify as Washington Small Businesses, Certified Veteran-Owned Businesses, or that, pursuant to the Cooperative Purchasing Agreement provide goods/services that meet specified state procurement priorities as set forth in the Competitive Solicitation.

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

4.1. QUALIFIED TO DO BUSINESS. Contractor represents and warrants that Contractor is (a) in good standing; (b) qualified to do business in the State of Washington; and (c) registered with the Washington State Department of Revenue and the Washington Secretary of State.

4.2. TAXES. Contractor represents and warrants that Contractor is current, in full compliance, and has paid all applicable taxes owed to the State of Washington.

4.3. LICENSES; CERTIFICATIONS; AUTHORIZATIONS; & APPROVALS. Contractor represents and warrants that Contractor possesses and shall keep current during the term of this Cooperative Purchasing Agreement all required licenses, certifications, permits, authorizations, and approvals necessary for Contractor's proper performance of this Cooperative Purchasing Agreement.

4.4. SUSPENSION & DEBARMENT. Contractor represents and warrants as previously certified in Contractor's Bidder's Certification, that neither Contractor nor its principals or affiliates presently are nor have ever been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any governmental contract by any governmental department or agency within the United States.

4.5. CIVIL RIGHTS. Contractor represents and warrants that Contractor complies with all applicable requirements regarding civil rights. Such requirements prohibit discrimination against individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin.

4.6. WASHINGTON STATE WAGE THEFT PREVENTION. Contractor represents and warrants as previously certified in Contractor's Bidder's Certification, that during the term of this Cooperative Purchasing Agreement and the three (3) year period immediately preceding the award of the Cooperative Purchasing Agreement, Contractor has not been determined, by a final and binding citation and notice of assessment issued by the Washington Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction, to be in willful violation of any provision of Washington state wage laws set forth in RCW 49.46, 49.48, or 49.52.

4.7. WASHINGTON STATE WORKERS' RIGHTS (EXECUTIVE ORDER 18-03). Contractor represents and warrants, as previously certified in Contractor's Bidder's Certification, that Contractor does NOT require its employees, as a condition of employment, to sign or agree to mandatory individual arbitration clauses or class or collective action waivers. Contractor further represents and warrants that, during the term of this Cooperative Purchasing Agreement, Contractor shall not, as a condition of employment, require its employees to sign or agree to mandatory individual arbitration clauses or class or collective action waivers.

4.8. WASHINGTON STATE PAY EQUALITY FOR 'SIMILARLY EMPLOYED' INDIVIDUALS. Contractor represents and warrants, as previously certified in Contractor's Bidder's Certification, that, among Contractor's employees, 'similarly employed' individuals are compensated as equals. For purposes of this provision, employees are similarly employed if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed. Contractor may allow differentials in compensation for Contractor's workers based in good faith on any of the following: a seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels. A bona fide job-related factor or factors may include, but is not limited to, education, training, or experience that is: consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential. A bona fide regional difference in compensation level must be consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential. Notwithstanding any provision to the contrary, upon breach of warranty and Contractor's failure to provide satisfactory evidence of compliance within thirty (30) days, Enterprise Services may suspend or terminate this Cooperative Purchasing Agreement and any Purchaser hereunder similarly may suspend or terminate its use of the Cooperative Purchasing Agreement and/or any agreement entered into pursuant to this Cooperative Purchasing Agreement.

4.9. REMOVED INTENTIONALLY

4.10. REMOVED INTENTIONALLY

4.11. PUBLIC CONTRACTS AND PROCUREMENT FRAUD. Contractor represents and warrants that, within the three (3) year period prior to this Cooperative Purchasing Agreement, neither Contractor

nor its principals or affiliates: (a) have been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, local, or tribal) contract or purchase order under a public contract; (b) have been in violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; (c) have been indicted for or otherwise criminally or civilly charged by a government entity (federal, state, local, or tribal) with commission of any of the offense enumerated in subsection (b) of this provision; or (d) had one or more public contracts (federal, state, local, or tribal) terminated for cause or default.

4.12. PROCUREMENT ETHICS & PROHIBITION ON GIFTS. Contractor represents and warrants that Contractor complies fully with all applicable procurement ethics restrictions including, but not limited to, restrictions against Contractor providing gifts or anything of economic value, directly or indirectly, to Enterprise Services and Purchasers' employees.

4.13. WASHINGTON'S ELECTRONIC BUSINESS SOLUTION (WEBS). Contractor represents and warrants that Contractor is registered in Washington's Electronic Business Solution (WEBS), Washington's contract registration system and that, all of Contractor's information therein is current and accurate and that throughout the term of this Cooperative Purchasing Agreement, Contractor shall maintain an accurate profile in WEBS.

4.14. WASHINGTON'S STATEWIDE PAYEE DESK. Contractor represents and warrants that Contractor is registered with Washington's Statewide Payee Desk, which registration is a condition to payment.

4.15. CONTRACT PROMOTION; ADVERTISING AND ENDORSEMENT. Contractor represents and warrants that Contractor shall use commercially reasonable efforts both to promote and market the use of this Cooperative Purchasing Agreement with eligible Purchasers and to ensure that those entities that utilize this Cooperative Purchasing Agreement are eligible Purchasers. Contractor understands and acknowledges that neither Enterprise Services nor Purchasers are endorsing Contractor's Goods and/or Services or suggesting that such Goods and/or Services are the best or only solution to their needs. Accordingly, Contractor further represents and warrants that Contractor shall make no reference to Enterprise Services, any Purchaser, or the State of Washington in any promotional material without the prior written consent of Enterprise Services.

4.16. CONTINGENT FEES. Contractor represents and warrants that no person or selling agent has been employed or retained to solicit or secure this Cooperative Purchasing Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established agents as defined in the Federal Acquisition Regulations.

4.17. FINANCIALLY SOLVENT. Contractor represents and warrants that Contractor has not commenced bankruptcy proceedings and that there are no judgment, liens, or encumbrances of any kind affecting title to any Goods and/or Services that are the subject of this Cooperative Purchasing Agreement.

4.18. OPERATIONAL CAPABILITY. Contractor represents and warrants, as previously certified in Contractor's Bidder's Certification, that Contractor has the operational and financial capability to perform the Cooperative Purchasing Agreement.

4.19. CONTRACT TRANSITION. Contractor represents and warrants that, in the event this Cooperative Purchasing Agreement or a similar contract, is transitioned to another contractor (e.g., Contract expiration or termination), Contractor shall use commercially reasonable efforts to assist Enterprise Services (including the Purchasers hereunder) for a period of sixty (60) calendar days to effectuate a smooth transition to another contractor to minimize disruption of service and/or costs to the State of Washington and such Purchasers; *Provided*, however, that, if costs are incurred, Contractor shall be compensated for such costs consistent with the terms and conditions pertaining to this Cooperative Purchasing Agreement for the sixty (60) day period immediately before such transition.

4.20. COOPERATIVE PURCHASING AGREEMENT. Contractor represents and warrants, as previously certified in Contractor's Bidder's Certification, that Contractor is able to and shall service all Eligible Purchasers, as specified herein, in the States of Washington & Oregon.

4.21. AUTHORIZED DEALER. Contractor represents and warrants that Contractor is an authorized service provider or product reseller for the goods and/or services and that it shall maintain its authorized service provider or product reseller status for the Term of this Contract. Upon request by Enterprise Services, Contractor shall provide evidence of its status as an authorized service provider or product reseller.

5. QUALITY; WARRANTY; REMEDIES.

5.1. GOODS WARRANTY. Contractor warrants, unless otherwise specified in *Exhibit A – Included Goods/Services* that, for a period of twelve (12) months from the date when the Goods are put into use, or eighteen (18) months after delivery of the Goods, or based on manufacturer's recommendation, whichever is later ("Goods Warranty Period"), the Goods: (a) are free from defects in design, material, and workmanship; (b) are fit and safe for the intended purposes and appropriate for the specified application(s) (if any); (c) are consistent with recognized industry quality standards; (d) comply with the requirements, specifications, drawings, standards, and descriptions included in this Contract; and (e) are produced and delivered in full compliance with applicable law ("Goods Warranty"). Contractor further warrants that it has good and marketable title to the Goods and shall keep Purchaser's property free of liens. If Purchaser receives notice of a lien caused by Contractor, Purchaser may withhold any payment otherwise due Contractor until Contractor submits proof, in a form satisfactory to Purchaser, that all lienable claims have been fully paid or waived.

5.2. GOODS REMEDY. If Goods do not comply with the Goods Warranty or any defects develop during the Goods Warranty Period under normal use, at Purchaser's election, Contractor promptly shall remedy the defect by removing, repairing, correcting, or replacing, and/or reinstalling any defective Goods. Contractor's Goods Warranty support shall include, at Contractor's sole expense, all technical support, parts, materials and equipment, and labor, including freight and "in/out" costs required to address the defect. If, in Purchaser's judgment, repair or replacement is inadequate, or fails of its essential purpose, Contractor shall refund the full amount of any payments that have been made. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.

5.3. SERVICES WARRANTY. Contractor warrants that: (a) Services shall be performed in a timely, efficient, and professional manner; (b) all Contractor personnel assigned to perform Services

shall have the necessary skill and training; and (c) Services shall be performed in a manner consistent with the standard of care in the industry ("Services Warranty"). The Services Warranty shall survive for a period of twelve (12) months after the date when Services are completed ("Services Warranty Period").

5.4. SERVICES REMEDY. If Services do not comply with the Services Warranty or are in any manner found to be nonconforming during the Services Warranty Period, Contractor promptly shall remedy the non-conformance, or at Purchaser's election, Contractor shall re-perform or correct the nonconforming Services at no additional cost to Purchaser or refund the amounts paid for the Services.

5.5. IT WARRANTY. Contractor warrants, that all hardware, software, and firmware associated with Goods or Services ("IT Goods" and "IT Services", respectively) shall not: (a) contain any viruses, malicious code, Trojan horse, worm, time bomb, self-help code, back door, or other software code or routine designed to: (i) damage, destroy, or alter any software or hardware; (ii) reveal, damage, destroy, or alter any data; (iii) disable any computer program automatically; or (iv) permit unauthorized access to any software or hardware; (b) contain any third party software (including software that may be considered free software or open source software) that (i) may require any software to be published, accessed, or otherwise made available without the consent of Purchaser, or (ii) may require distribution, copying, or modification of any software free of charge; and (c) infringe on any patent, copyright, trademark, or other proprietary or intellectual property right of any third party or misappropriate any trade secret of any third party ("IT Warranty"). The IT Warranty shall expire twelve (12) months after the date IT Goods are delivered or IT Services are complete, as applicable.

5.6. IT REMEDY. If IT Goods or IT Services do not comply with the IT Warranty, or if any defect or non-conformance develops during the IT Warranty Period, Contractor, at Purchaser's election, promptly shall: (a) remedy the defect by removing, repairing, correcting or replacing, and/or reinstalling any defective IT Goods; (b) re-perform or correct the non-conforming IT Services at no additional cost to Purchaser; or (c) refund the amounts paid for IT Services and IT Goods.

5.7. FAILURE TO REMEDY. If Contractor does not remedy a defect or nonconformity within ten (10) calendar days after receipt of written notice from Purchaser, or if an emergency exists rendering it impossible or impractical for Purchaser to have Contractor provide a remedy, Purchaser may, without prejudice to any other rights or remedies available to it, make or cause to be made required modifications, adjustments, or repairs, or may replace Goods, Services, IT Goods, or It Services, in which case Contractor shall reimburse Purchaser for its actual costs or, at Purchaser's option, Purchaser shall offset the costs incurred from amounts owing to Contractor.

5.8. TECHNICAL SUPPORT. During any applicable warranty period, Contractor shall provide all warranty service and telephone support, including after-hour technical support, at its own cost. Contractor shall maintain a technical support hotline to address breakdowns and safety incidents.

6. SAFETY; SECURITY; CONTRACTOR REQUIREMENTS WHILE ON PURCHASER'S PREMISES. Contractor's failure to comply with any of the requirements in this Section shall be cause for termination.

6.1. REGULATORY REQUIREMENTS/SAFETY. Goods and/or Services supplied by Contractor shall meet all applicable health, safety, and other federal, state, local, and/or tribal regulatory requirements applicable to the Goods and/or Services.

6.2. MATERIAL SAFETY DATA SHEETS. As applicable, Contractor shall provide Purchaser with all appropriate current Material Safety Data Sheets ("MSDS") at the time of delivery of each shipment of Goods which requires such compliance and/or and for materials used by Contractor while performing Services pursuant to this Contract.

6.3. CLEAN-UP. If Contractor, its agents, employees, or subcontractors perform onsite Services, Contractor, at its cost, shall remove all excess materials, equipment, packaging, and garbage within the scope of its performance of Services and leave that portion of the premises in which the work was performed in a clean condition. Should Contractor fail to clean up a Site after completion of work, Purchaser shall have the right to remove the materials and set off the cost of clean up against amounts owed to Contractor.

6.4. ACCIDENT AND INJURY REPORTING. If Contractor, its agents, employees, or subcontractors are present at Purchaser's premises, Contractor promptly shall report in writing all injuries, accidents, property damage, near-miss incidents, or any claims regarding damages or injury involving Contractor, its agents, employees, or subcontractors occurring at such premises. Contractor agrees to cooperate and assist Purchaser in any investigation of incidents.

6.5. ON SITE REQUIREMENTS. As applicable, while on Purchaser's premises or while interacting with Purchaser and/or Enterprise Services' personnel, Contractor, its agents, employees, or subcontractors shall comply, in all respects, with Purchaser's physical, fire, access, safety, health and security requirements and not interfere with Purchaser's operations. Contractor represents and warrants that Contractor, its agents, employees, or subcontractors who access Purchaser's premises shall be adequately trained and at all times comply with Purchaser's requirements.

6.6. IT SECURITY POLICIES. Contractor, its agents, employees, or subcontractors shall comply with all Washington State IT security policies and standards which shall be made available to Contractor upon request.

7. SUBCONTRACTORS.

7.1. CONTRACTOR RESPONSIBILITY. Notwithstanding any provision to the contrary, in the event Contractor elects to utilize subcontractors to perform this Cooperative Purchasing Agreement, Contractor shall: (a) incorporate Contractor's responsibilities under this Cooperative Purchasing Agreement into its subcontracts; (b) be fully responsible for the performance of any such subcontractors (regardless of tier) and ensure that subcontractors comply with each and every Contractor obligation set forth in this Cooperative Purchasing Agreement; (c) be the sole point of contact for Enterprise Services and any Purchasers regarding all contractual matters; (d) ensure that such subcontractors are registered in WEBS; and (e) defend, indemnify, and hold Enterprise Services and Purchasers harmless in case of negligence, other tortious fault, or intentional misconduct by any such subcontractors (regardless of tier). Prior to utilizing any subcontractor to perform this Cooperative Purchasing Agreement, Contractor shall provide written notice to Enterprise Services' contract administrator. Such notice shall confirm that the subcontractor is registered in WEBS and provide the necessary information for Enterprise Services' contract administrator to

include such subcontractor(s) in Washington's Purchasing Contract Management System (PCMS).

7.2. REPORTING. If Contractor is required to report to Purchaser and/or Enterprise Services, such report(s) shall include subcontractor data, by subcontractor, for any data that Contractor is required to report as well as a consolidated 'rollup' report combining Contractor and subcontractor data.

7.3. SUBCONTRACTOR REPRESENTATIONS AND CERTIFICATIONS. Any Contractor representations or certifications set forth in this Cooperative Purchasing Agreement shall apply to subcontractors (at any tier) and Contractor shall not utilize any subcontractors (at any tier) who cannot provide such representations or certifications, excepting the certification to be registered with Washington's Statewide Payee Desk, unless Purchaser shall pay such subcontractor directly.

8. USING THE COOPERATIVE PURCHASING AGREEMENT – PURCHASES.

8.1. ORDERING REQUIREMENTS. Eligible Purchasers shall order Goods and/or Services from this Cooperative Purchasing Agreement, consistent with the terms hereof and by using any ordering mechanism agreeable both to Contractor and Purchaser but including, at a minimum, a purchase order. When practicable, Contractor and Purchaser also shall use telephone orders, email orders, web-based orders, and similar procurement methods (collectively "Purchaser Order"). All Purchase Orders must reference the Contract number. The terms of this Cooperative Purchasing Agreement shall apply to any Purchase Order and, in the event of any conflict, the terms of this Cooperative Purchasing Agreement shall prevail. Notwithstanding any provision to the contrary, in no event shall any 'click-agreement,' software or web-based application terms and conditions, or any other agreement modify the terms and conditions of this Cooperative Purchasing Agreement.

8.2. DELIVERY REQUIREMENTS. Contractor must ensure that the Goods and/or Services are delivered or provided as required by this Cooperative Purchasing Agreement, the Purchase Order used by Purchaser, and as otherwise mutually agreed in writing between Purchaser and Contractor. The following apply to all deliveries:

(a) Contractor shall make all deliveries to the applicable delivery location specified in the Purchase Order. Such deliveries shall occur during Purchaser's normal work hours (defined as 8:00 AM to 3:30 PM Monday through Friday, excluding Washington State Holidays). Deliveries outside the regular business hours shall be pre-arranged with the purchaser. If contractor attempts to make delivery without prior arrangements, the State reserves the right to reject delivery. Contractor shall provide at a minimum of three business day prior notification of making a delivery.

(b) Contractor shall ship all Goods and/or Services purchased pursuant to this Contract, freight charges prepaid by Contractor, FOB Purchaser's specified destination with all transportation and handling charges included. Contractor shall bear all risk of loss, damage, or destruction of the Goods and/or Services ordered hereunder that occurs prior to delivery, except loss or damage attributable to Purchaser's fault or negligence.

(c) All packing lists, packages, instruction manuals, correspondence, shipping notices, shipping containers, and other written materials associated with

this Contract shall be identified by the Contract number set forth on the cover of this Contract and the applicable Purchaser's Purchase Order number. Packing lists shall be enclosed with each shipment and clearly identify all contents and any backorders.

8.3. RECEIPT AND INSPECTION OF GOODS AND/OR SERVICES. Goods and/or Services purchased under this Cooperative Purchasing Agreement are subject to Purchaser's reasonable inspection, testing, and approval at Purchaser's destination. Purchaser reserves the right to reject and refuse acceptance of Goods and/or Services that are not in accordance with this Cooperative Purchasing Agreement and Purchaser's Purchase Order. If there are any apparent defects in the Goods and/or Services at the time of delivery, Purchaser promptly shall notify Contractor. At Purchaser's option, and without limiting any other rights, Purchaser may require Contractor to repair or replace, at Contractor's expense, any or all of the damaged Goods and/or Services or, at Purchaser's option, Purchaser may note any such damage on the receiving report, decline acceptance, and deduct the cost of rejected Goods and/or Services from final payment. Payment for any Goods and/or Services under such Purchase Order shall not be deemed acceptance.

8.4. SHIPPING. Product to be shipped directly to end user. Shipping shall be a pass-through cost only and clearly identified on the invoice. Contractor shall invoice Purchaser for all shipping and handling costs incurred in the delivery of goods. Purchaser agrees to reimburse Contractor for such costs, provided that Contractor includes all relevant documentation. The Purchaser and Contractor may negotiate shipping costs for each order on a case-by-case basis. Both parties shall engage in good faith discussions to determine the most cost-effective and efficient shipping method. *Tax rate is based upon destination of product. Total price must be inclusive of any other charges, including but not limited to costs associated with providing proof of delivery to Purchaser's location.*

9. INVOICING & PAYMENT.

9.1. CONTRACTOR INVOICE. Contractor shall submit properly itemized invoices to Purchaser's designated invoicing contact for Goods and/or Services delivered under this Cooperative Purchasing Agreement. Such invoices shall itemize the following:

(a) Contract No. 29023;

(b) Contractor name, address, telephone number, and email address for billing issues (i.e., Contractor Customer Service Representative);

(c) Contractor's Federal Tax Identification Number;

(d) Date(s) of delivery;

(e) Applicable Goods and/or Services;

(f) Invoice amount; and

(g) Payment terms, including any available prompt payment discounts.

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

9.2. PAYMENT. Payment is the sole responsibility of, and shall be made by, the Purchaser. Purchaser's obligation to pay invoices is subject to receipt of a timely and accurate invoice and conforming Goods and/or Services. Unless Contractor has provided a prompt payment

discount set forth in *Exhibit B – Prices for Goods/Services*, Purchaser's payment is due within thirty (30) calendar days of invoice. Purchaser retains the right of setoff for any amount due or owing to Purchaser. Purchaser may make payments electronically (e.g., ACH payments). Contractor shall provide information necessary to facilitate electronic payments. If Purchaser fails to make timely payment(s), Contractor may invoice Purchaser in the amount of one percent (1%) per month on the amount overdue or a minimum of $1. Payment shall not be considered late if a check or warrant is mailed within the time specified.

9.3. OVERPAYMENTS. Contractor promptly shall refund to Purchaser the full amount of any erroneous payment or overpayment. Such refunds shall occur within thirty (30) calendar days of written notice to Contractor; *Provided*, however, that Purchaser shall have the right to elect to have either direct payments or written credit memos issued. If Contractor fails to make timely refunds of overpayment(s) (either directly or by credit memo), Contractor shall pay Purchaser interest at the rate of one percent (1%) per month on the amount overdue thirty (30) calendar days after notice to Contractor.

9.4. ADVANCE PAYMENT PROHIBITED. Except as authorized by law, Contractor shall not request or receive advance payment for any Goods and/or Services furnished by Contractor pursuant to this Cooperative Purchasing Agreement.

9.5. NO ADDITIONAL CHARGES. Unless otherwise specified herein, Contractor shall not include or impose any additional charges including, but not limited to, charges for shipping, handling, insurance, or payment processing.

9.6. TAXES/FEES. Contractor promptly shall pay all applicable taxes on its operations and activities pertaining to this Contract. Failure to do so shall constitute breach of this Contract. Unless otherwise agreed, Purchaser shall pay applicable sales tax imposed by the State of Washington on purchased Goods and/or Services. Contractor's invoices shall separately state (a) taxable and non-taxable charges and (b) sales/use tax due by jurisdiction. In regard to federal excise taxes, Contractor shall include federal excise taxes only if, after thirty (30) calendar days written notice to Purchaser, Purchase has not provided Contractor with a valid exemption certificate from such federal excise taxes.

10. CONTRACT MANAGEMENT.

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

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

Enterprise Services	**Contractor**
Attn: Team Cedar	Attn: George Legorreta
Washington Dept. of Enterprise Services	K&K Systems, INC
	687 Palmetto Road

PO Box 41411
Olympia, WA 98504-1411
Tel: (360)407-2215
Email:
DESContractsTeamCedar@des.wa.gov

Tupelo, MS 38801
Tel: (662) 255-6642
Email: g.legorreta@k-ksystems.com

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

10.2. CONTRACTOR CUSTOMER SERVICE REPRESENTATIVE. Contractor shall designate a customer service representative (and inform Enterprise Services of the same) who shall be responsible for addressing Purchaser issues pertaining to this Cooperative Purchasing Agreement.

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

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

Contractor
Attn: Krissy Keith-Baughman
K&K Systems, Inc
PO Box 1065
Verona, MS 38879
Email: krissy@k-ksystems.com

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

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

11.1. CONTRACT SALES REPORTING. Contractor shall report total Contract sales quarterly for this Cooperative Purchasing Agreement to Enterprise Services, as set forth below.

(a) Contract Sales Reporting System. Contractor shall report quarterly Contract sales in Enterprise Services' Contract Sales Reporting System. Enterprise Services shall provide Contractor with a login password and a vendor number. The password and vendor number shall be provided to the Sales Reporting Representative(s) listed on Contractor's Bidder Profile.

(b) Data. Each sales report must identify every authorized Purchaser by name as it is known to Enterprise Services and its total combined sales amount invoiced during the reporting period (i.e., sales of an entire agency or political subdivision, not its individual subsections). The "Miscellaneous" option may be used only with prior approval by Enterprise Services. Upon request, Contractor shall provide contact information for all authorized Purchasers specified herein during the term of the Contract. If there are no Contract sales during the reporting period, Contractor must report zero sales.

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

QUARTER	FOR SALES MADE IN CALENDAR QUARTER	CONTRACT SALES REPORT	
		DUE BY	PAST DUE
1	January 1 – March 31	April 30	May 1
2	April 1 – June 30	July 31	August 1
3	July 1 – September 30	October 31	November 1
4	October 1 – December 31	January 31	February 1

11.2. VENDOR MANAGEMENT FEE. Contractor shall pay to Enterprise Services a vendor management fee ("VMF") of 1.25 percent on the purchase price for all Cooperative Purchasing Agreement sales (the purchase price is the total invoice price less applicable sales tax) under this Cooperative Purchasing Agreement.

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

Amount owed to Enterprise Services = Total Contract sales invoiced (not including sales tax) x .0125.

(b) The VMF must be rolled into Contractor's current pricing. The VMF must not be shown as a separate line item on any invoice unless specifically requested and approved by Enterprise Services.

(c) Enterprise Services shall invoice Contractor quarterly based on Contract sales reported by Contractor. Contractor is not to remit payment until Contractor receives an invoice from Enterprise Services. Payments must be received within thirty (30) calendar days of the invoice issue date from Enterprise Services. Contractor's VMF payment to Enterprise Services must reference the invoice number.

(d) Contractor's VMF payment to Enterprise Services must reference this Contract number, the year and quarter for which the VMF is being remitted, and Contractor's name as set forth in this Contract, if not already included on the face of the check.

(e) Contractor's failure to report accurate total net Contract sales, to submit a timely Contract sales report, or to remit timely payment of the VMF to Enterprise Services, shall be cause for Enterprise Services, at its discretion, to suspend Contractor or terminate this Contract or exercise remedies provided by law. Without limiting any other available remedies, the parties agree that Contractor's failure to remit to Enterprise Services timely payment of the VMF shall obligate Contractor to pay to Enterprise Services, to offset the administrative and transaction costs incurred by the State to identify, process, and collect such sums, the sum of $200.00 or twenty-five percent (25%) of the outstanding amount, whichever is greater, or the maximum allowed by law, if less.

(f) Enterprise Services reserves the right, upon thirty (30) calendar days advance written notice, to increase, reduce, or eliminate the VMF for subsequent purchases, and reserves the right to renegotiate Contract pricing with Contractor when any subsequent adjustment of the VMF might justify a change in pricing.

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

- The Goods and/or Services sold (including, as applicable, item number or other identifier);
- Per unit quantities sold;
- Items and volumes purchased by Purchaser;
- Shipment/delivery locations by Purchaser; and
- Contract price.

This report must be provided in an electronic format that can be read by Microsoft (MS) Excel. Such report is due within thirty (30) calendar days of the annual anniversary of the effective date of this Contract or otherwise agreed between contractor and Contract Administrator.

12. RECORDS RETENTION & AUDITS.

12.1. RECORDS RETENTION. Contractor shall maintain books, records, documents, and other evidence pertaining to this Cooperative Purchasing Agreement and orders placed by Purchasers under it to the extent and in such detail as shall adequately reflect contract performance and administration of purchases, payments, taxes, and fees. Contractor shall retain such records for a period of six (6) years following expiration or termination of this Cooperative Purchasing Agreement or final payment for any order placed by a Purchaser against this Cooperative Purchasing Agreement, whichever is later; *Provided*, however, that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved.

12.2. AUDIT. Enterprise Services reserves the right to audit, or have a designated third-party audit, applicable records to ensure that Contractor properly has invoiced Purchasers and that Contractor has paid all applicable vendor management fees to Enterprise Services. Accordingly, Contractor shall permit Enterprise Services, any Purchaser, and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Cooperative Purchasing Agreement or Purchase Orders placed by a Purchaser under this Cooperative Purchasing Agreement for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of six (6) years following expiration or termination of this Cooperative Purchasing Agreement or final payment for any order placed by a Purchaser against this Cooperative Purchasing Agreement, whichever is later; *Provided*, however, that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved.

12.3. OVERPAYMENT OF PURCHASES OR UNDERPAYMENT OF FEES. Without limiting any other remedy available to any Purchaser, Contractor shall (a) reimburse Purchasers for any overpayments inconsistent with the terms of this Cooperative Purchasing Agreement or Purchase Orders placed thereunder, at a rate of 125% of any such overpayments, found as a result of the examination of Contractor's records; and (b) reimburse Enterprise Services for any

underpayment of vendor management fees, at a rate of 125% of such fees found as a result of the examination of Contractor's records (e.g., if Contractor underpays the Vendor Management Fee by $500, Contractor would be required to pay to Enterprise Services $500 x 1.25 = $625); *Provided*, however, that, in the event Contractor timely discovers and corrects any Purchaser overpayment or Contractor underpayment of vendor management fees and does so prior to the initiation of any audit, Contractor shall be entitled to reimburse Purchaser or pay to Enterprise Services the actual amount of such Purchaser overpayment or such underpayment of vendor management fees.

13. INSURANCE.

13.1. REQUIRED INSURANCE. Contractor, at its expense, shall maintain in full force and effect the insurance coverages set forth in *Exhibit C – Insurance Requirements*. All costs for insurance, including any payments of deductible amounts, shall be considered incidental to and included in the prices for Goods and/or Services and no additional payment shall be made to Contractor.

13.2. WORKERS COMPENSATION. Contractor shall comply with applicable workers compensation statutes and regulations (e.g., RCW Title 51, Industrial Insurance). If Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, Enterprise Services may terminate this Cooperative Purchasing Agreement. This provision does not waive any of the Washington State Department of Labor and Industries (L&I) rights to collect from Contractor. If Contractor performs Services on Purchaser's behalf in the State of Washington, and only to the extent of claims against Contractor by Purchaser under the Indemnity obligations in this Cooperative Purchasing Agreement, Contractor expressly waives any immunity it may be granted under the Washington State Industrial Insurance Act, Title 51 RCW. Contractor's indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefit acts. The parties expressly acknowledge and certify that the waiver of immunity under Title 51 RCW was mutually negotiated and agreed upon.

14. CLAIMS.

14.1. ASSUMPTION OF RISKS; CLAIMS BETWEEN THE PARTIES. Contractor assumes sole responsibility and all risks of personal injury or property damage to itself and its employees and agents in connection with its operations under this Cooperative Purchasing Agreement. Enterprise Services has made no representations regarding any factor affecting Contractor's risks. Contractor shall pay for all damage to any Purchaser's property resulting directly or indirectly from Contractor's acts or omissions under this Contract.

14.2. THIRD-PARTY CLAIMS; GENERAL INDEMNITY. To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold Enterprise Services and any Purchaser and their employees and agents harmless from and against all claims, demands, judgments, assessments, damages, penalties, fines, costs, liabilities, or losses including, without limitation, sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees (collectively "Claims") to the extent arising out of Contractor's or its successors', agents', or subcontractors' negligence, other tortious fault, or intentional misconduct under this Cooperative Purchasing Agreement. The parties agree that if there are any limitations of Contractor's liability,

including a limitation of liability clause for anyone for whom the Contractor is responsible, such limitations of liability shall not apply to injuries to persons (including death), damages to property, data breach, and/or intellectual property infringement. Contractor shall take all steps needed to keep Purchaser's property free of liens arising from Contractor's activities, and promptly obtain or bond the release of any such liens that may be filed.

14.3. INTELLECTUAL PROPERTY INDEMNITY. To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold Enterprise Services and any Purchaser and their employees and agents harmless from against any and all Claims resulting from allegations of infringement of any patents, copyrights, trade secret, or similar intellectual property rights covering the Goods and/or Services provided, or the use of the Goods and/or Services under this Cooperative Purchasing Agreement. If Purchaser's use of Goods and/or Services provided by Contractor is enjoined based on an intellectual property infringement Claim, Contractor shall, at its own expense, either procure for Purchaser the right to continue using the Goods and/or Services or, after consulting with Purchaser and obtaining Purchaser's consent, replace or modify the Goods and/or Services with substantially similar and functionally equivalent non-infringing Goods and/or Services.

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

16. TERMINATION; EXPIRATION; SUSPENSION; & REMEDIES.

16.1. TERMINATION. This Cooperative Purchasing Agreement may be terminated: (a) upon the mutual written agreement of the parties; (b) by the non-breaching party where the breach is not cured within thirty (30) calendar days after written notice of breach is delivered to the breaching party, unless a different time for cure is otherwise stated in this Cooperative Purchasing Agreement; and (c) as otherwise expressly provided for in this Cooperative Purchasing Agreement. This Cooperative Purchasing Agreement shall terminate automatically and without further action if a party becomes insolvent or is placed in receivership, reorganization, liquidation, or bankruptcy. In addition to any other available remedies, the non-breaching party may terminate this Cooperative Purchasing Agreement as provided in subsection (b) above without further liability by written notice to the breaching party. A termination for breach shall not affect rights or obligations accrued or owed before the effective date of the termination notice.

16.2. TERMINATION FOR NONAPPROPRIATION OR REDUCTION OF FUNDS OR CHANGES IN LAW. Enterprise Services may suspend or terminate this Cooperative Purchasing Agreement and Purchasers may suspend or terminate applicable Purchase Orders, in whole or in part, at the sole discretion of Enterprise Services or, as applicable, Purchaser, if Enterprise Services or, as applicable, Purchaser reasonably determines that: (a) a change in Federal or State legislation

or applicable laws materially affects the ability of either party to perform under the terms of this Cooperative Purchasing Agreement or applicable Purchase Order; or (b) that a change in available funds affects Purchaser's ability to pay under the applicable Purchase Order. A change of available funds as used in this section includes, but is not limited to a change in Federal or State funding, whether as a result of a legislative act or by order of the President or the Governor. If a written notice is delivered under this provision, Purchaser shall reimburse Contractor for Goods properly ordered and/or Services properly performed until the effective date of said notice. Except as stated in this provision, in the event of termination for nonappropriation or reduction of funds or changes in law, Purchaser shall have no obligation or liability to Contractor.

16.3. TERMINATION FOR PUBLIC CONVENIENCE. Enterprise Services, for public convenience, may terminate this Cooperative Purchasing Agreement; *Provided*, however, that such termination for public convenience must, in Enterprise Services' judgment, be in the best interest of the State of Washington; and *Provided further*, that such termination for public convenience shall only be effective upon sixty (60) calendar days prior written notice; and *Provided further*, that such termination for public convenience shall not relieve any Purchaser from payment for Goods/Services already ordered as of the effective date of such notice. Except as stated in this provision, in the event of such termination for public convenience, neither Enterprise Services nor any Purchaser shall have any obligation or liability to Contractor.

16.4. PURCHASER OBLIGATIONS – EXPIRATION. Upon expiration of this Cooperative Purchasing Agreement, Purchaser shall accept and take delivery of all outstanding and not yet fulfilled Purchase Orders and pay Contractor the price as set out in the Cooperative Purchasing Agreement. Notwithstanding any provision to the contrary, in no event shall a Purchaser's Purchase Order pursuant to this Cooperative Purchasing Agreement that is executed prior to expiration of this Cooperative Purchasing Agreement allow for Contractor to provide Goods and/or Services more than twelve (12) months beyond the expiration date of the Cooperative Purchasing Agreement.

16.5. CONTRACTOR OBLIGATIONS – EXPIRATION OR TERMINATION. Upon expiration or termination of this Cooperative Purchasing Agreement, Contractor shall: (a) continue to fulfill its warranty obligations with respect to any Goods and/or Services sold hereunder and all provisions of the Contract that, by their nature, would continue beyond the expiration, termination, or cancellation of the Cooperative Purchasing Agreement shall so continue and survive; and (b) promptly return to Purchaser all keys, badges, and other materials supplied by Purchaser for the performance of any Purchase Order entered into pursuant to this Cooperative Purchasing Agreement.

16.6. DEFAULT. Any of the following events shall constitute cause for Enterprise Services to declare Contractor in default of this Cooperative Purchasing Agreement:

(a) Contractor fails to perform or comply with any of the terms or conditions of this Cooperative Purchasing Agreement;

(b) Contractor fails to timely report quarterly contract sales;

(c) Contractor fails to timely pay the vendor management fees when due;

(d) Contractor fails to maintain the insurance overages specified herein or timely provide to Enterprise Services the Certificate of Insurance and updates thereto specified herein; or

(e) Contractor breaches any representation or warranty provided herein.

16.7. SUSPENSION & TERMINATION FOR DEFAULT. Enterprise Services may suspend Contractor's operations under this Cooperative Purchasing Agreement immediately by written cure notice of any default. Suspension shall continue until the default is remedied to Enterprise Services' reasonable satisfaction; *Provided*, however, that, if after thirty (30) calendar days from such a suspension notice, Contractor remains in default, Enterprise Services may terminate Contractor's rights under this Cooperative Purchasing Agreement. All of Contractor's obligations to Enterprise Services and Purchasers survive termination of Contractor's rights under this Cooperative Purchasing Agreement, until such obligations have been fulfilled.

16.8. REMEDIES FOR DEFAULT.

(a) Enterprise Services' rights to suspend and terminate Contractor's rights under this Cooperative Purchasing Agreement are in addition to all other available remedies.

(b) In the event of termination for default, Enterprise Services may exercise any remedy provided by law including, without limitation, the right to procure for all Purchasers replacement Goods and/or Services. In such event, Contractor shall be liable to Enterprise Services for damages as authorized by law including, but not limited to, any price difference between the Cooperative Purchasing Agreement price and the replacement or cover price as well as any administrative and/or transaction costs directly related to such replacement procurement – e.g., the cost of the competitive procurement.

16.9. LIMITATION ON DAMAGES. Notwithstanding any provision to the contrary, the parties agree that in no event shall any party or Purchaser be liable to the other for exemplary or punitive damages; *Provided*, however, that nothing contained in this Section shall in any way exclude or limit: (a) a party's liability for all damages arising out of that party's intentional acts or omissions; (b) the operation of any Goods or Services warranty provided in this Cooperative Purchasing Agreement; or (c) damages subject to the Intellectual Property Indemnity section of this Cooperative Purchasing Agreement. Any limitation of either party's obligations under this Cooperative Purchasing Agreement, by delivery slips or other documentation is void.

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

16.11. PURCHASE ORDER TERMINATION. Purchaser Orders between Eligible Purchasers and Contractor may be terminated as follows: (a) upon the mutual written agreement of the parties to the Purchase Order; (b) by the non-breaching party where the breach of the Purchase order is not cured within thirty (30) calendar days after written notice of breach is delivered to the breaching party, unless a different time for cure is otherwise stated in the applicable Purchase Order; and (c) as otherwise expressly provided for in the applicable Purchase Order. Purchase Orders shall terminate automatically and without further action if a party becomes insolvent

or is placed in receivership, reorganization, liquidation, or bankruptcy. In addition to any other available remedies, the non-breaching party may terminate the Purchase Order as provided in subsection (b) above without further liability by written notice to the breaching party. A termination for breach shall not affect rights or obligations accrued or owed before the effective date of the termination notice.

17. PUBLIC INFORMATION & PUBLIC RECORDS DISCLOSURE REQUESTS.

17.1. WASHINGTON'S PUBLIC RECORDS ACT. Unless statutorily exempt from public disclosure, this Cooperative Purchasing Agreement and all related records are subject to public disclosure as required by Washington's Public Records Act, RCW 42.56.

17.2. CONTRACTOR OBLIGATION. Contractor shall identify and mark the precise portion(s) of the relevant page(s) of any records provided to Enterprise Services that Contractor believes are statutorily exempt from disclosure and identify the precise statutory basis for exemption from disclosure. In addition, if, in Contractor's judgment, certain portions of such records are not statutorily exempt from disclosure but are sensitive because particular portions of Contractor's records (NOT including pricing) include highly confidential, proprietary, or trade secret information (or the equivalent) that Contractor protects through the regular use of confidentiality or similar agreements and routine enforcements through court enforcement actions, Contractor shall identify and mark the precise portion(s) of the relevant page(s) of any records that include such sensitive information.

17.3. ENTERPRISE SERVICES' OBLIGATION. In the event that Enterprise Services receives a public records disclosure request pertaining to records that Contractor has submitted and marked either as (a) statutorily exempt from disclosure; or (b) sensitive, Enterprise Services, prior to disclosure, shall do the following: Enterprise Services' Public Records Officer shall review any records marked by Contractor as statutorily exempt from disclosure. In those situations, where the designation comports with the stated statutory exemption from disclosure, Enterprise Services shall redact or withhold the record(s) as appropriate. For records marked 'sensitive' or for records where Enterprise Services determines that no statutory exemption to disclosure applies or is unable to determine whether the stated statutory exemption to disclosure properly applies, Enterprise Services shall notify Contractor, at the address provided in the Contract, of the public records disclosure request and identify the date that Enterprise Services intends to release the record(s) (including records marked 'sensitive' or exempt from disclosure) to the requester unless Contractor, at Contractor's sole expense, timely obtains a court order enjoining Enterprise Services from such disclosure. In the event Contractor fails to timely file a motion for a court order enjoining such disclosure, Enterprise Services shall release the requested record(s) on the date specified. Contractor's failure properly to identify exempted or sensitive information or timely respond after notice of request for public disclosure has been given shall be deemed a waiver by Contractor of any claim that such records are exempt or protected from public disclosure.

18. GENERAL PROVISIONS.

18.1. TIME IS OF THE ESSENCE. Time is of the essence for each and every provision of this Cooperative Purchasing Agreement.

18.2. COMPLIANCE WITH LAW. Contractor shall comply with all applicable law. Contractor shall obtain all necessary permits and approvals and give all stipulations, certifications, and

representations that may be required for it to perform this Cooperative Purchasing Agreement.

18.3. NONDISCRIMINATION.

(a) Nondiscrimination Requirement. During the term of this Cooperative Purchasing Agreement, Contractor, including any subcontractor, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, Contractor, including any subcontractor, shall give written notice of this nondiscrimination requirement to any labor organizations with which Contractor, or subcontractor, has a collective bargaining or other agreement.

(b) Obligation to Cooperate. Contractor, including any subcontractor, shall cooperate and comply with any Washington state agency investigation regarding any allegation that Contractor, including any subcontractor, has engaged in discrimination prohibited by this Cooperative Purchasing Agreement pursuant to RCW 49.60.530(3).

(c) Default. Notwithstanding any provision to the contrary, Enterprise Services may suspend Contractor, including any subcontractor, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this Cooperative Purchasing Agreement, pursuant to RCW 49.60.530(3). Any such suspension will remain in place until Enterprise Services receives notification that Contractor, including any subcontractor, is cooperating with the investigating state agency. In the event Contractor, or subcontractor, is determined to have engaged in discrimination identified at RCW 49.60.530(3), Enterprise Services may terminate this Cooperative Purchasing Agreement in whole or in part, and Contractor, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200. Contractor or subcontractor may be given a reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court-ordered injunctive relief or settlement agreement.

(d) Remedies for Breach. Notwithstanding any provision to the contrary, in the event of termination or suspension for engaging in discrimination, Contractor, subcontractor, or both, shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original Cooperative Purchasing Agreement and the replacement or cover contract and all administrative costs directly related to the replacement contract, which damages are distinct from any penalties imposed under Chapter 49.60, RCW. Enterprise Services and/or Purchasers shall have the right to deduct from any monies due to Contractor or subcontractor, or that thereafter become due, an amount for damages Contractor or subcontractor will owe Enterprise Services and/or Purchasers for default under this provision.

18.4. ENTIRE AGREEMENT. This Cooperative Purchasing Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior negotiations, representations, and understandings between them. There are no representations or understandings of any kind not set forth herein.

18.5. AMENDMENT OR MODIFICATION. Except as set forth herein, this Cooperative Purchasing Agreement may not be amended or modified except in writing and signed by a duly authorized representative of each party.

18.6. AUTHORITY. Each party to this Cooperative Purchasing Agreement, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this Cooperative Purchasing Agreement and that its execution, delivery, and performance of this Cooperative Purchasing Agreement has been fully authorized and approved, and that no further approvals or consents are required to bind such party.

18.7. NO AGENCY. The parties agree that no agency, partnership, or joint venture of any kind shall be or is intended to be created by or under this Cooperative Purchasing Agreement. Neither party is an agent of the other party nor authorized to obligate it.

18.8. INDEPENDENT CONTRACTOR. The parties intend that an independent contractor relationship is created by this Cooperative Purchasing Agreement. Contractor and its employees or agents performing under this Cooperative Purchasing Agreement are not employees or agents of Enterprise Services. Contractor shall not have authorization, express or implied, to bind Enterprise Services to any agreement, liability, or understanding, except as expressly set forth herein. Contractor and its employees and agents are not entitled to unemployment insurance or worker's compensation benefits through Enterprise Services or the State of Washington and Enterprise Services and the State of Washington will not pay for or otherwise provide such coverage for Contractor and its employees and agents.

18.9. ASSIGNMENT. Contractor may not assign its rights under this Cooperative Purchasing Agreement without Enterprise Services' prior written consent and Enterprise Services may consider any attempted assignment without such consent to be void; *Provided*, however, that, if Contractor (a) provides written notice to Enterprise Services within thirty (30) calendar days of such event and (b) timely executes Enterprise Services' Assignment, Assumption, and Consent Agreement, Contractor may assign its rights under this Cooperative Purchasing Agreement in full to any parent, subsidiary, or affiliate of Contractor that controls or is controlled by or under common control with Contractor, is merged or consolidated with Contractor, or purchases a majority or controlling interest in the ownership or assets of Contractor. Unless otherwise agreed, Contractor guarantees prompt performance of all obligations under this Cooperative Purchasing Agreement notwithstanding any prior assignment of its rights.

18.10. BINDING EFFECT; SUCCESSORS & ASSIGNS. This Cooperative Purchasing Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

18.11. ASSIGNMENT OF ANTITRUST RIGHTS REGARDING PURCHASED GOODS AND/OR SERVICES. Contractor irrevocably assigns to Enterprise Services, on behalf of the State of Washington, any claim for relief or cause of action which Contractor now has or which may accrue to Contractor in the future by reason of any violation of state or federal antitrust laws in connection with any Goods and/or Services provided in Washington for the purpose of carrying out Contractor's obligations under this Cooperative Purchasing Agreement, including, at Enterprise Services' option, the right to control any such litigation on such claim for relief or cause of action.

18.12. FEDERAL FUNDS. To the extent that any Purchaser uses federal funds to purchase Goods and/or Services pursuant to this Cooperative Purchasing Agreement, such Purchaser shall specify, with its Purchase Order, any applicable requirement or certification that must be satisfied by Contractor at the time the Purchase Order is placed or upon delivery of such Goods and/or Services to Purchaser.

18.13. SEVERABILITY. If any provision of this Cooperative Purchasing Agreement is held to be invalid or unenforceable, such provision shall not affect or invalidate the remainder of this Cooperative Purchasing Agreement, and to this end the provisions of this Cooperative Purchasing Agreement are declared to be severable. If such invalidity becomes known or apparent to the parties, the parties agree to negotiate promptly in good faith in an attempt to amend such provision as nearly as possible to be consistent with the intent of this Cooperative Purchasing Agreement.

18.14. WAIVER. Failure of either party to insist upon the strict performance of any of the terms and conditions hereof, or failure to exercise any rights or remedies provided herein or by law, or to notify the other party in the event of breach, shall not release the other party of any of its obligations under this Cooperative Purchasing Agreement, nor shall any purported oral modification or rescission of this Cooperative Purchasing Agreement by either party operate as a waiver of any of the terms hereof. No waiver by either party of any breach, default, or violation of any term, warranty, representation, contract, covenant, right, condition, or provision hereof shall constitute waiver of any subsequent breach, default, or violation of the same or other term, warranty, representation, contract, covenant, right, condition, or provision.

18.15. SURVIVAL. All representations, warranties, covenants, agreements, and indemnities set forth in or otherwise made pursuant to this Cooperative Purchasing Agreement shall survive and remain in effect following the expiration or termination of this Cooperative Purchasing Agreement, *Provided*, however, that nothing herein is intended to extend the survival beyond any applicable statute of limitations periods.

18.16. GOVERNING LAW. The validity, construction, performance, and enforcement of this Cooperative Purchasing Agreement shall be governed by and construed in accordance with the laws of the State of Washington, without regard to any choice of law principles that would provide for the application of the laws of another jurisdiction.

18.17. JURISDICTION & VENUE. In the event that any action is brought to enforce any provision of this Cooperative Purchasing Agreement, the parties agree to exclusive jurisdiction in Thurston County Superior Court for the State of Washington and agree that in any such action venue shall lie exclusively at Olympia, Washington.

18.18. ATTORNEYS' FEES. In the event of litigation or other action brought to enforce this Cooperative Purchasing Agreement, each party shall bear its own attorneys' fees and costs.

18.19. FAIR CONSTRUCTION & INTERPRETATION. The provisions of this Cooperative Purchasing Agreement shall be construed as a whole according to their common meaning and not strictly for or against any party and consistent with the provisions contained herein in order to achieve the objectives and purposes of this Cooperative Purchasing Agreement. Each party hereto and its counsel has reviewed and revised this Cooperative Purchasing Agreement and agrees that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be construed in the interpretation of this Cooperative Purchasing

Agreement. Each term and provision of this Cooperative Purchasing Agreement to be performed by either party shall be construed to be both a covenant and a condition.

18.20. FURTHER ASSURANCES. In addition to the actions specifically mentioned in this Cooperative Purchasing Agreement, the parties shall each do whatever may reasonably be necessary to accomplish the transactions contemplated in this Cooperative Purchasing Agreement including, without limitation, executing any additional documents reasonably necessary to effectuate the provisions and purposes of this Cooperative Purchasing Agreement.

18.21. EXHIBITS. All exhibits referred to herein are deemed to be incorporated in this Cooperative Purchasing Agreement in their entirety.

18.22. CAPTIONS & HEADINGS. The captions and headings in this Cooperative Purchasing Agreement are for convenience only and are not intended to, and shall not be construed to, limit, enlarge, or affect the scope or intent of this Cooperative Purchasing Agreement nor the meaning of any provisions hereof.

18.23. ELECTRONIC SIGNATURES. An electronic signature or electronic record of this Cooperative Purchasing Agreement or any other ancillary agreement shall be deemed to have the same legal effect as delivery of an original executed copy of this Cooperative Purchasing Agreement or such other ancillary agreement for all purposes.

18.24. COUNTERPARTS. This Cooperative Purchasing Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Cooperative Purchasing Agreement at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Cooperative Purchasing Agreement.

EXECUTED as of the date and year first above written.

STATE OF WASHINGTON
Department of Enterprise Services

By: Elena McGrew
Elena Porshneva Mcgrew
Its: Procurement Manager

K & K SYSTEMS, INC.,
a Mississippi Corporation

By: Troy Keith
Troy Keith
Its: President

EXHIBIT A

INCLUDED GOODS/SERVICES

This Contract is for purchasing equipment, systems and parts for Illumination Traffic Signals and Intelligent Transportation Equipment and Systems to aid in traffic safety and management, additionally all awarded manufactured products by specified contract category, for each of the following categories for Illumination Traffic Signals and Intelligent Transportation Systems includes replacement parts and any manufactured required mounting hardware, needed to deliver a complete system solution.

Warranty: Meets requirement.

Category	Description	Manufacturer
6	DETECTION SYSTEMS - INFRARED / PARTS	K&K Systems
11	DETECTION SYSTEMS - THERMAL	K&K Systems
12	DETECTION SYSTEMS - VIDEO / PARTS	K&K Systems
13	DIGITAL VIDEO RECORDERS / PARTS	K&K Systems
15	FLASHING BEACONS / PARTS	K&K Systems
21	ILLUMINATION - NAVIGATION LIGHTING / PARTS	K&K Systems
22	ILLUMINATION - SIGN LIGHTING MECHANICAL SYSTEMS / PARTS	K&K Systems
31	MOTION SENSORS / PARTS	K&K Systems
36	PEDESTRIAN PUSHBUTTONS - ACCESSIBLE PEDESTRIAN SIGNALS (APS) / PARTS	K&K Systems
37	PEDESTRIAN PUSHBUTTONS - CONVENTIONAL (NON-APS) / PARTS	K&K Systems
42	RECTANGULAR RAPID FLASHING BEACON (RRFB) SYSTEMS / PARTS	K&K Systems
48	SCHOOL ZONE FLASHER (NON SOLAR POWERED) EQUIPMENT / PARTS	K&K Systems

49	SCHOOL ZONE FLASHER (SOLAR POWERED) EQUIPMENT / PARTS	K&K Systems
50	SERVICE CABINETS / PARTS	K&K Systems
56	SIGNS - ELECTRONIC (REGULATORY, WARNING, GUIDE, ETC.) / PARTS	K&K Systems
59	SIGNS - MOUNTING HARDWARE AND BRACKETS / PARTS	K&K Systems
61	SIGNS - SIGNS WITH EMBEDDED FLASHING LIGHTS / PARTS	K&K Systems
62	SIGNS - VEHICLE ACTIVATED TRAFFIC CONTROL SIGNS (VATCS) (RADAR, CURVE WARNING, SPEED WARNING, ETC.) / PARTS	K&K Systems
64	SURVEILENCE TRAILERS / PARTS	K&K Systems
66	TIME CLOCKS	K&K Systems
75	VARIABLE MESSAGE SIGNS (VMS) - VRIABLE SPEED LIMIT OR LANE UTILIZATION TYPE / PARTS	K&K Systems
81	MISCELLANEOUS PARTS	K&K Systems

Exhibit B

PRICES FOR GOODS/SERVICES

Purchase Card Options: Visa, Mastercard, American Express, and Discover

MINIMUM ORDER REQUIREMENTS. The contractor shall maintain a minimum purchase requirement of $150.00 for each individual order placed under this contract. Orders that do not meet the minimum requirement of $150.00 will not be accepted. The contractor reserves the right to adjust product or service offerings as necessary to meet this minimum order value.

Manufacture	Category	Percent off Discount
K&K Systems, Inc.	6	3%
K&K Systems, Inc.	11	3%
K&K Systems, Inc.	12	3%
K&K Systems, Inc.	13	3%
K&K Systems, Inc.	15	3%
K&K Systems, Inc.	21	3%
K&K Systems, Inc.	22	3%
K&K Systems, Inc.	31	3%
K&K Systems, Inc.	36	3%
K&K Systems, Inc.	37	3%
K&K Systems, Inc.	42	3%
K&K Systems, Inc.	48	3%
K&K Systems, Inc.	49	3%
K&K Systems, Inc.	50	3%
K&K Systems, Inc.	56	3%
K&K Systems, Inc.	59	3%
K&K Systems, Inc.	61	3%
K&K Systems, Inc.	62	3%
K&K Systems, Inc.	64	3%
K&K Systems, Inc.	66	3%
K&K Systems, Inc.	75	3%
K&K Systems, Inc.	81	3%

Optional Support Services					
Type of Support Service	**Manufactured Product**	**Category**	**Included or Purchasable**	**Price**	**Unit of Measure**
Manufacturer Warranty	K&K Systems, Inc.	**6, 11, 12, 13, 15, 21, 22, 31, 36, 37, 42, 48, 49, 50, 56, 59, 61, 62, 64, 66, and 75**	Included	none	12 months of use or 18 months from delivery of goods, whichever occurs first

Exhibit C

INSURANCE REQUIREMENTS

1. **INSURANCE OBLIGATION**. During the term of this Cooperative Purchasing Agreement, Contractor shall possess and maintain in full force and effect, at Contractor's sole expense, the following insurance coverages:

    a. COMMERCIAL GENERAL LIABILITY INSURANCE. Commercial general liability insurance (and, if necessary, commercial umbrella liability insurance) covering bodily injury, property damage, products/completed operations, personal injury, and advertising injury liability on an 'occurrence form' that shall be no less comprehensive and no more restrictive than the coverage provided by Insurance Services Office (ISO) under the most recent version of form CG 00 01 in the amount of not less than $2,000,000 per occurrence and $4,000,000 general aggregate. This coverage shall include blanket contractual liability coverage. This coverage shall include a cross-liability clause or separation of insured condition.

    b. WORKERS' COMPENSATION INSURANCE. Contractor shall comply with applicable Workers' Compensation or Industrial Accident insurance providing benefits as required by law.

    c. EMPLOYERS' LIABILITY (STOP GAP) INSURANCE. Employers' liability insurance (and, if necessary, commercial umbrella liability insurance) with limits not less than $1,000,000 each accident for bodily injury by accident, $1,000,000 each employee for bodily injury by disease, and $1,000,000 bodily injury by disease policy limit.

    d. COMMERCIAL AUTOMOBILE LIABILITY INSURANCE (only required if Contractor is using a vehicle to deliver goods or provide services to Purchaser premises). Commercial automobile liability insurance covering the ownership, maintenance, and/or use of all owned/leased, non-owned, and hired vehicles used in the performance of the Contract, with limits of not less than $1,000,000 per accident, combined single limit for bodily injury and property damage liability. Coverage shall be provided on Insurance Services Office (ISO) form number CA 0001 or an equivalent. The required limits can be satisfied by any combination of primary, umbrella, or excess policy

    e. TECHNOLOGY PROFESSIONAL LIABILITY ERRORS AND OMISSIONS INSURANCE (only required if Contractor's awarded Contract Category requires technical assistance). Appropriate to the Consultant's profession and work hereunder, with limits not less than $2,000,000 per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the Vendor in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.

The insurance coverage limits set forth above may be satisfied by any combination of primary, umbrella, or excess policy. The insurance coverage limits set forth herein are the minimum. Contractor's insurance coverage shall be no less than the minimum amounts specified. Coverage in the amounts of these minimum limits, however, shall not be construed to relieve Contractor from liability in excess of such limits. Contractor waives all rights against the State of Washington for the recovery of damages to the extent such damages are covered by any insurance required herein.

2. **INSURANCE CARRIER RATING**. Coverages provided by Contractor must be underwritten by an insurance company deemed acceptable to the State of Washington's Office of Risk Management. Insurance coverage shall be provided by companies authorized to do business within the State of Washington and rated A- Class VII or better in the most recently published edition of Best's Insurance Rating. Enterprise Services reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.

3. **ADDITIONAL INSURED**. When specified as a required insurance coverage (see § 1 – Insurance Obligation, above) Commercial General Liability, Commercial Automobile Liability, and Pollution Liability Insurance shall include the State of Washington and all authorized Purchasers (and their agents, officers, and employees) as Additional Insureds evidenced by copy of the Additional Insured Endorsement attached to the Certificate of Insurance on such insurance policies.

4. **CERTIFICATE OF INSURANCE**. Prior to execution of the Cooperative Purchasing Agreement, Contractor shall furnish to Enterprise Services, as evidence of the insurance coverage required by this Cooperative Purchasing Agreement, a certificate of insurance satisfactory to Enterprise Services that insurance, in the above-stated kinds and minimum amounts, has been secured. In addition, no less than ten (10) calendar days prior to coverage expiration, Contractor shall furnish to Enterprise Services an updated or renewed certificate of insurance, satisfactory to Enterprise Services, that insurance, in the above-stated kinds and minimum amounts, has been secured. Failure to maintain or provide proof of insurance, as required, shall result in Contractor suspension and/or cooperative purchasing agreement termination. **All policies and certificates of insurance shall include the Cooperative Purchasing Agreement number stated on the cover of this Cooperative Purchasing Agreement**. All certificates of Insurance and any related insurance documents shall be sent via email to Enterprise Services, at the email address set forth below:

   Email: DESContractsTeamCedar@des.wa.gov
   Note: The Email Subject line must state:
   Cooperative Purchasing Agreement Insurance Certificate – Contract No. 29023 – Illumination Traffic Signals, Intelligent Transportation Systems, Parts

5. **PRIMARY COVERAGE**. Contractor's insurance shall apply as primary and shall not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above including, at a minimum, the State of Washington and/or any Purchaser. All insurance or self-insurance of the State of Washington and/or Purchasers shall be excess of any insurance provided by Contractor or subcontractors.

6. **SUBCONTRACTORS**. Contractor shall include all subcontractors as insureds under all required insurance policies. Alternatively, prior to utilizing any subcontractor, Contractor shall cause any such subcontractor to provide insurance that complies with all applicable requirements of the

insurance set forth herein and shall furnish separate Certificates of Insurance and endorsements for each subcontractor to Enterprise Services. Each subcontractor must comply fully with all insurance requirements stated herein. Failure of any subcontractor to comply with insurance requirements does not limit Contractor's liability or responsibility.

7. **WAIVER OF SUBROGATION**. Contractor waives all rights of subrogation against the State of Washington and any Purchaser for the recovery of damages to the extent such damages are or would be covered by the insurance specified herein.

8. **NOTICE OF CHANGE OR CANCELLATION**. There shall be no cancellation, material change, exhaustion of aggregate limits, or intent not to renew insurance coverage, either in whole or in part, without at least sixty (60) calendar days prior written Legal Notice by Contractor to Enterprise Services. Failure to provide such notice, as required, shall constitute default by Contractor. Any such written notice shall include the Cooperative Purchasing Agreement number stated on the cover of this Cooperative Purchasing Agreement.

9. **EXTENDED REPORTING PERIOD**. If any required insurance coverage is on a claims-made basis (rather than occurrence), Contractor shall maintain such coverage for a period of no less than three (3) years following expiration or termination of the Cooperative Purchasing Agreement.

* * * END OF INSURANCE REQUIREMENTS * * *