



# **RFP RESPONSE – TECHNICAL**

**Digital Signage for Schramm State Recreation Area**  
**RFP 5878 Z1**

July 10, 2018

ORIGINAL



**Form A**  
**Bidder Contact Sheet**  
**Request for Proposal Number 5878 Z1**

Form A should be completed and submitted with each response to this RFP. This is intended to provide the State with information on the bidder's name and address, and the specific person(s) who are responsible for preparation of the bidder's response.

Preparation of Response Contact Information	
Bidder Name:	Nanonation
Bidder Address:	301 South, 13th Street, Suite 700 Lincoln, NE 68508
Contact Person & Title:	Barry Caughlin - Senior Sales Manager
E-mail Address:	barrycaughlin@nanonation.net
Telephone Number (Office):	402.323.6490
Telephone Number (Cellular):	402.676.5832
Fax Number:	402.323.6268

Each bidder should also designate a specific contact person who will be responsible for responding to the State if any clarifications of the bidder's response should become necessary. This will also be the person who the State contacts to set up a presentation/demonstration, if required.

Communication with the State Contact Information	
Bidder Name:	Nanonation
Bidder Address:	301 South, 13th Street, Suite 700 Lincoln, NE 68508
Contact Person & Title:	Barry Caughlin - Senior Sales Manager
E-mail Address:	barrycaughlin@nanonation.net
Telephone Number (Office):	402.323.6490
Telephone Number (Cellular):	402.676.5832
Fax Number:	402.323.6268



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## REQUEST FOR PROPOSAL FOR CONTRACTUAL SERVICES FORM

### BIDDER MUST COMPLETE THE FOLLOWING

By signing this Request for Proposal for Contractual Services form, the bidder guarantees compliance with the procedures stated in this Request for Proposal, and agrees to the terms and conditions unless otherwise indicated in writing and certifies that bidder maintains a drug free work place.

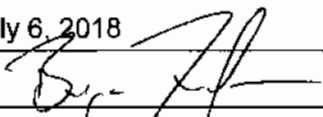
Per Nebraska's Transparency in Government Procurement Act, Neb. Rev Stat § 73-603 DAS is required to collect statistical information regarding the number of contracts awarded to Nebraska Contractors. This information is for statistical purposes only and will not be considered for contract award purposes.

X NEBRASKA CONTRACTOR AFFIDAVIT: Bidder hereby attests that bidder is a Nebraska Contractor. "Nebraska Contractor" shall mean any bidder who has maintained a bona fide place of business and at least one employee within this state for at least the six (6) months immediately preceding the posting date of this RFP.

\_\_\_\_\_ I hereby certify that I am a Resident disabled veteran or business located in a designated enterprise zone in accordance with Neb. Rev. Stat. § 73-107 and wish to have preference, if applicable, considered in the award of this contract.

\_\_\_\_\_ I hereby certify that I am a blind person licensed by the Commission for the Blind & Visually Impaired in accordance with Neb. Rev. Stat. §71-8611 and wish to have preference considered in the award of this contract.

### FORM MUST BE SIGNED USING AN INDELIBLE METHOD (NOT ELECTRONICALLY)

FIRM:	Nanonation
COMPLETE ADDRESS:	301 South 13th Street, Suite 700, Lincoln, NE 68508
TELEPHONE NUMBER:	402.323.6266
FAX NUMBER:	402.323.6268
DATE:	July 6, 2018
SIGNATURE:	
TYPED NAME & TITLE OF SIGNER:	Bryan Fairfield - CEO



## CORPORATE OVERVIEW

### BIDDER IDENTIFICATION & INFORMATION

**Company Name:** Nanonation Inc.  
**Company Address:** 301 S 13<sup>th</sup> Street Suite 700, Lincoln, NE 68508  
**Entity Organization:** Privately Held C Corporation  
**State of Incorporation:** Delaware  
**Year of Incorporation:** March 31, 2000

The name of the corporation was originally Nanoation.net, but was changed approximately one year later to Nanonation Inc. The form of organization has never changed.

### FINANCIAL STATEMENTS

Nanonation is a privately held corporation with approximately 50 employees and has been based in Lincoln, NE for the entirety of its eighteen-year history. The company's focus since inception is on the growing area of public-space digital signage and interactive digital media solutions. Recognized as a leader in this space, the company has many Fortune 500 clients, several of which have been clients for more than ten years. With a client list of more than 100 active accounts, none accounting for more than 5% of revenue and diverse client base, spanning industries such as retail, financial services, museums, hospitality, and others, the organization is well positioned to continue to succeed regardless of any disruptions to specific industries or customers.

Below are the company's summarized financial statements for the previous two years:

Profit & Loss Statement		
	Year Ended	
	<u>31-Mar-17</u>	<u>31-Mar-18</u>
Income	\$5,961,151.48	\$5,501,110.28
Cost of Goods Sold	\$3,035,243.84	\$3,153,036.47
Gross Margin	\$2,925,907.64	\$2,348,073.81
SG&A	\$1,993,999.73	\$1,873,560.64
EBITDA	\$931,907.91	\$474,513.17



## Balance Sheet

	Year Ended	
	<u>31-Mar-17</u>	<u>31-Mar-18</u>
<b>Assets</b>		
Current Assets		
Cash	\$1,120,562.19	\$905,898.48
Accounts Receivable	\$473,644.07	\$1,057,385.21
Other Current Assets	\$62,143.32	\$76,154.45
Total Current Assets	\$1,656,349.58	\$2,039,438.14
Fixed Assets	\$14,542.03	\$16,399.79
<b>Total Assets</b>	<b>\$1,670,891.61</b>	<b>\$2,055,837.93</b>
<b>Liabilities &amp; Equity</b>		
Current Liabilities		
Accounts Payable	\$164,169.09	\$145,998.59
Other Current Liabilities	\$499,106.86	\$360,764.59
Total Current Liabilities	\$663,275.95	\$506,763.18
Total Long-Term Liabilities	\$3,168,151.11	\$3,235,618.08
Total Liabilities	\$3,831,427.06	\$3,742,381.26
Total Equity	-\$2,160,535.45	-\$1,686,543.33
<b>Total Liabilities &amp; Equity</b>	<b>\$1,670,891.61</b>	<b>\$2,055,837.93</b>

## Statement of Cash Flows

	Year Ended	
	<u>31-Mar-17</u>	<u>31-Mar-18</u>
<b>OPERATING ACTIVITIES</b>		
Net Income	\$941,231.94	\$474,819.53
Total Adjustments to reconcile Net Income to Net Cash provided by operations:	\$412,543.29	-\$757,102.36
<b>Net cash provided by operating activities</b>	<b>\$1,353,775.23</b>	<b>-\$282,282.83</b>
<b>INVESTING ACTIVITIES</b>		
<b>Net cash provided by investing activities</b>	<b>\$0.00</b>	<b>-\$1,857.76</b>
<b>FINANCING ACTIVITIES</b>		
<b>Net cash provided by financing activities</b>	<b>-\$400,778.94</b>	<b>\$66,639.57</b>
<b>Net cash increase for period</b>	<b>\$952,996.29</b>	<b>-\$217,501.02</b>
<b>Cash at beginning of period</b>	<b>\$181,800.38</b>	<b>\$1,134,796.67</b>
<b>Cash at end of period</b>	<b>\$1,134,796.67</b>	<b>\$917,295.65</b>

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## Banking Reference

Daniel S Black  
Commercial Banking Rel Mgr  
Phone: 402.434.1504  
Email: daniel.black@usbank.com

## CHANGE IN OWNERSHIP

No change in ownership or control of the company is anticipated during the twelve (12) months following the proposal due date.

## OFFICE LOCATION

Nanonation Headquarters  
301 South 13<sup>th</sup> Street, Suite 700  
Lincoln, NE 68508

## RELATIONSHIP WITH THE STATE

Nanonation is currently a supplier to the State of Nebraska in relation to the following projects:

### Raising Nebraska

Nanonation contracted with the University of Nebraska to provide vast digital experiences at its Raising Nebraska exhibit in conjunction with the Nebraska State Fair starting in 2014 through current. Please see CRM-1 in the Corporate Requirements Matrix for a further description of the project.

### Nebraska Tourism Commission

In 2104 the Tourism Commission contracted Nanonation to build and place six informational kiosks in various high traffic travel and tourism locations throughout Nebraska. The kiosks were built to enable the commission to update area travel and tourism information and deliver that information to travelers and tourers. These units are currently deployed and running today. More recently Nanonation was contracted by the Commission to create a new mobile Passport app for the state's Passport program. Nanonation produced and deployed mobile apps for both iOS and Android for the commission prior to the program start in 2018.

## BIDDER'S EMPLOYEE RELATIONS TO STATE

No such past or present relationships exists between Nanonation, its employees and the State.



## CONTRACT PERFORMANCE

### Amtrak

In February 2017, a contract for Next Generation Kiosks with Amtrak was terminated for convenience due to funding being withdrawn for the project related to general budget reductions at Amtrak during that time. The contract terminated amicably between the parties and Nanonation remains ready to continue the work started in 2016 at such a time Amtrak chooses to revitalize the program.

#### Contact

Franklin C. King

Sales Distribution Support

Amtrak | 10 G Street, NE Ste. 4W-324 | Washington, DC 20002

Email: frank.king@amtrak.com | Office: 202-906-4855

## SUMMARY OF BIDDER'S CORPORATE EXPERIENCE

### Attachment B – Corporate Requirement Matrix

Req #	
CRM-1	Below, please provide three examples of large-scale interactive digital signage deployments that your company has completed in the past 3 years.
Bidder Response:	
<b>1. Nebraska State Fair - Raising Nebraska - Rich Interactive &amp; Embedded Tech</b>	
	
<p>Raising Nebraska is designed to educate visitors on the integral role agriculture plays in the state. It incorporates twelve different digital experiences to immerse the user variously into the role of farmer, conservationist, rancher, and consumer. The user learns more about the source, production, and uses of agriculture throughout.</p> <p>Raising Nebraska is an immersive interactive experience dedicated to food and agriculture in an attempt to help teach where food comes from, the science and technology of agriculture, the role of agriculture in the state's economy, and the importance of Nebraska agriculture in feeding the world. A comprehensive learning experience inside a 25,000 sq. ft. exhibit building, it originally launched at the 2014 Nebraska State Fair, but is open year-round. The intent is to provide consumers with research-based information they can use in making their own decisions about food. Raising Nebraska visitors can visualize how agriculture is a part of their daily lives by going through each of the twelve interactive experiences within the building.</p>	





The challenge the customer presented to Nanonation was bringing a very earthy subject into a very digital world. Much of the annual audience for the facility are members of a generation in which interactive is a given in their everyday life. Nanonation and the project stakeholders were challenged with identifying digital methodologies that were intuitive, repeatable, and delivered educational content. Example challenges included identification of a method to educate users on: a) the impact of variable rate irrigation on crop yield and water use through a center pivot system, b) crop production by county through Nebraska, c) the nutritional value of their meals through an interactive experience while sitting at a kitchen table.

Nanonation, along with David and Associates worked with a number of stakeholders to brainstorm solutions to these challenges. Achieving dirt to digital success was Nanonation's primary task. A total of twelve separate solutions were used to create a fun environment for people of all ages. Nanonation developed a touch-driven game in which visitors operate a center pivot to control water distribution. A dinner table with four interactive place settings allowed users to select meals from a variety of options to learn about the source and value of their food and about hunger issues. The grain bin theatre was built inside a full size grain bin with a nine screen video wall to show short movie content about Nebraska's agriculture industry. On a walkable map of Nebraska Nanonation installed triggers that activate when a user stands on a county that will launch informational content on digital signs related to that region. Visitors can also experience driving a combine in a 3D video environment. Along with several other digital deployments like The Amazing Egg, and a dairy and meat counter, these experiences help Raising Nebraska deliver entertainment and education to visitors.

The solutions also helped Raising Nebraska with their sponsors and stakeholders. Many of the interactive experiences were sponsored by specific donors who are recognized in the environment for their contribution to the educational experience.

Based on the success of the Raising Nebraska digital experiences, The Nebraska State Fair came to Nanonation for other interactive experiences throughout the state fair including an interactive wayfinding solution. The solution itself allows for customers to easily navigate across the screen and find the specific area they want to target. Once a building or landmark is clicked on a pop up box appears with that building's information. When the box appears, the customer has the option to place a marker that will stay on the screen until the user is done searching the way finder. The marker is extremely helpful for visitors to find specific points of interest across the state fair grounds. The solution also allows for easy-to-use searching features. Simply click the search option and the points of interest that are preset into the system will appear. Once the user finds the location they are looking for they can click on it and it will be marked on the screen for them to easily find.



Nanonation was the primary contractor for this project. The original contract amount was over \$400,000 and includes all custom development, software and hardware. This is a current client and we recently completed an interactive in 2018.

Contact: Kathleen Lodi | Tel: 402.479.9018 | Email: klodi@unl.edu

## 2. Fontenelle Forest - Raptor Woodland Refuge

Fontenelle Forest is a 1,400-acre forest, located near Bellevue, Nebraska. Fontenelle wanted to create an interactive experience which would enhance the newly built Raptor Woodland Refuge by giving visitors more information about the various birds on display. So, Fontenelle Forest partnered with Nanonation to create a series of digital experiences. The solutions digitize and enhance their visitor center and engage young and old alike by immersing them in fun and educational applications. The experiences are designed to complement their overall mission of educating the public about conservation and rehabilitation efforts related to raptor habitat management and recovery. Multiple digital experiences were conceived including: An Interactive Timeline which showcases various aspects of Fontenelle Forest including information about the Native Americans who originally lived in the area and the visit from Lewis and Clark more than 200 years ago, a Digital Trail Map, Interactive Mew Map, Trivia Board, and an Interactive Matching Game. The experiences combined the scientific expertise of Fontenelle's staff and Nanonation's creative experience in the attractions and retail markets. Nanonation was the primary contractor for this project. The project completed early and on budget. Budget for the project was \$300,000.



Contact: Joe Vavak | Tel: 402.731.3140 Ext. 1006 | Email: [JVavak@fontenelleforest.org](mailto:JVavak@fontenelleforest.org)

## 3. Nebraska High School Hall of Fame

The Nebraska High School Sports Hall of Fame is located in Lincoln's sports hub just west of Memorial Stadium and shares the space with The Nebraska School Activities Association (NSAA), the Nebraska Coaches Association and Nebraska State Athletic Administrators Association (NSAAA).

The Hall of Fame wanted to share more than 150 years of sports memories in a limited amount of space. to help solve this, Nanonation created touchscreen experiences to share unlimited videos, pictures, stories and news articles.



"We wanted it to be educational, informational and interactive," said Chuck Johnston, Executive Director. There are several touchscreen experiences at the exhibit hall with the crown jewel in the middle, a five-screen history timeline that contains digital memories from Nebraska sports dating back to 1854. The time period for the original project was May of 2014 ending in November 2014. The project was completed within budget and under the agreed timeline. There have been multiple additions to the project over the last few years. Nanonation's responsibilities were to develop all custom software for signage and interactive educational stations, procure all hardware and schedule installation. Nanonation was the primary contractor for this project. The original contract amount was nearly \$200,000 and includes all custom development, software and hardware. This is a current client and we have recently completed a new interactive in 2018. Also, we are working on two more interactive experiences currently.

Contact: Chuck Johnston | Tel: 402.476.4767 | Email: [cjohnston1196@gmail.com](mailto:cjohnston1196@gmail.com)





CRM-2	Provide three references to other state agencies or non-profit organizations who have utilized your services in the past 3 years.
<p>Bidder Response:</p> <ol style="list-style-type: none"> <li>1. Lisa Hukill - Boys Town Senior Officer Operations &amp; finance Development Office: 402-498-1095 <a href="mailto:Lisa.Hukill@boystown.org">Lisa.Hukill@boystown.org</a></li> <li>2. Chuck Johnston - Nebraska High School Hall of Fame Exec. Director Office : 402-709-2958 <a href="mailto:cjohnston1196@gmail.com">cjohnston1196@gmail.com</a></li> <li>3. Erin Wirth - Nebraska Tourism Commission Tourism Development Office: 402-471-3789 <a href="mailto:erin.wirth@nebraska.gov">erin.wirth@nebraska.gov</a></li> </ol>	
CRM-3	Please describe the bidder's ability to complete this project in the allocated timeline (final installation completed by December 15, 2018). Please include what staff will be involved in this project and their accessibility to complete this project, the bidder's ability to meet deadlines and your project management practices.
<p>Bidder Response:</p> <p>Nanonation has reviewed the scope of the project and, assuming a project kickoff on or near the expected date outlined in the proposed timeline, sees fully expects to be able to meet the requested deadline. The solutions in scope for this project are directly related to Nanonation's core business and ones that we have extensive experience in successfully executing. Our Nanopoint platform is specifically designed to allow for customized interactive experiences to be created in timelines shorter than traditional custom software development. This is because all of the core kiosk and digital signage functionality is already built into the platform and the customization is focused on the presentation layer that will be unique to the customer's project.</p> <p>The team leaders, outlined later in this document, will work closely with the assigned project manager to allocate individual designer, developer and QA tester resources necessary to complete this project. As there will be multiple experiences being created simultaneously for different areas of SRA, multiple resources will be assigned to the overall project.</p> <p>Please see the proposed timeline in the Project Work Plan section of this document. For more details on our project management approach and practices, please see the Summary of Proposed Personnel/Management Approach on the following page and the Project Methodology outlined in the Technical Approach section of this document.</p>	



## **SUMMARY OF PROPOSED PERSONNEL/MANAGEMENT APPROACH**

To ensure projects run smoothly while delivering to the defined scope, timeline and budget, a single point of contact will be assigned as your project manager. Your project manager will coordinate all resources to work as a cohesive unit while providing regular communication and status updates to all stakeholders. Understanding that many organizations operate with varying processes and procedures, the project manager will tailor their approach to meet your organization's requirements. During the initial project kick-off meeting, the project manager will identify the cadence and audience of project status communications. As part of the project status communications, a project timeline will be kept up to date with changes identified. The project manager will also maintain a project plan in Microsoft Project (or similar) that can be shared or exported for your review. Over the course of a project, change is likely to occur and as scope changes are identified, your dedicated project manager will document and communicate the change for review with the team. Once a determination has been made as to the impact of the requested change, the project manager and/or the account executive will engage in a discussion of the impact.

Understanding that Nanonation partners with clients to create experiences that everybody can be proud of, our flexible production environment will allow for periodic change without disrupting timeline or budget. In these instances, the project manager will document the change as part of project documentation and keep the team focused on delivery. At project inception and throughout the various stages of the project, there are opportunities to evaluate requirements and deliverables. The project manager will not approve work unless it is part of the approved requirements or has been appropriately approved by the client. If changes are introduced that will impact cost, the project manager and account executive will have collaborative conversations with stakeholders prior to approving the work. The project manager will use the original statement of work as the starting point for project requirements and cost increases will not be passed along unless there is a material change to those requirements.

### **Key Personnel**

The following team members have been identified as the key personnel for the project because they lead the various teams that will be involved in the execution of the project. Nanonation's design and development teams consist of many team members who share responsibility for creation of the final deliverables. As leaders of these teams, the managers who's resumes are outlined below, direct these resources throughout the project.



AshLea Allberry - COO (Leads Development & Design Teams)

## AshLea B. Allberry

(308) 627-3390

[ashlea.allberry@gmail.com](mailto:ashlea.allberry@gmail.com)

### Education

University of Nebraska at Kearney  
Bachelor of Science – **Business Administration, Industrial Technology**  
Master of Business Administration (MBA)

### Experience

**Chief Operating Officer, Nanonation, Inc. (12/17 – Present)**

**Vice President, Operations, Nanonation, Inc. (04/14 – Present)**

**Director, Service Delivery (10/12 – 04/14)**

- Lead all production departments (Software Development, Quality Assurance and Design)
- Direct management of personnel (various employees, Managers and Directors)
- Manage budgets and purchasing, consisting of personnel, hardware, software and development
- Responsible for utilization measurements across the organization
- Lead production processes and procedures visioning, creation and implementation
- Responsible for all project scheduling, traffic control and reporting
- Work with the CEO on strategic conversations and initiatives
- Responsible for production estimates early in the project lifecycle
- Responsible for selecting and maintaining project planning, PTO and document repository software
- Ensure infrastructure partners and plans are in place and well executed
- Implemented companywide performance review process
- Manage all grant administration for training of new and existing employees
- Created onboarding process for all new employees
- Provide leadership in the Human Resources area of the business
- Create and maintain comprehensive yearly department initiative plans
- Maintain a heavy focus on company culture and related initiatives
- Assist Sales/Marketing departments as needed

**Adjunct Professor, Marketing and MIS, University of Nebraska at Kearney (08/16 – Present)**

- Teach the capstone course: Emerging Marketing Media to Juniors and Seniors College of Business and Technology; Marketing Department
- Constructed the online course

**Director of Iowa Operations and Rural Initiatives, Xpanxion, LLC (05/12 – 10/12)**

- Managed Iowa Operations (see related President role below)
- Worked directly with State and local entities to establish grant funding; maintained all reporting
- Collaborated with State and Local Community Leadership to grow the organization and attract candidates to the area
- Worked directly with benefits broker to shop benefits, select plans, and present to employees
- Responsible for seven budgets
- Collaborated with CFO on all Nebraska and Iowa salary reviews (for 80+ employees)
- Conducted salary reviews for all Nebraska and Iowa employees
- Created the framework for Xpanxion's employee Career Levels Program
- Responsible for many areas of the Resource Management process, communications and system
- Worked with Development teams in India and design teams in Atlanta to create Xpanxion's updated website – [www.xpanxion.com](http://www.xpanxion.com)

AshLea B. Allberry



#### **President, Rural Solutions, LLC (Partner of Xpanxion, LLC) (07/11 – 10/12)**

- Responsible for the site selection, planning, and inception of the company (majority owner until June 2012)
- Oversaw all employees and day-to-day management of the company
- Managed employee benefits program
- Led all recruiting and onboarding activity and strategy
- Created and implemented new employee onboarding process (including benefits selection)
- Completed and oversaw grant activities
- Managed all budgets and purchasing
- Ensured company worked seamlessly with affiliate company, Xpanxion, LLC

#### **Director of Marketing and Rural Initiatives, Xpanxion, LLC (01/10 – 05/12)**

##### **Recruiting and Training Coordinator, Xpanxion, LLC (10/09 – 01/10)**

- Responsible for US Marketing and Public Relations initiative planning and implementation
- Responsible for strategic planning of marketing message
- Oversaw Nebraska administrative personnel and ensured all US operations were working well
- Oversaw Nebraska recruiting, including candidate searches and interviewing
- Heavily involved in the career development of all Nebraska employees
- Assisted Vice President of Nebraska Operations with standardized Quality Assurance training for all new employees
- Implemented Xpanxion's onboarding process and documentation
- Implemented candidate tracking tools for Nebraska recruiting & managed relocations
- Hosted Xpanxion's CIO event "A C-Level Guide to Rural Outsourcing"
- Assisted company CFO with the Nebraska Advantage Job Training Grant process
- Involved in the 2010 Walter Scott Entrepreneurial Award application materials and acceptance
- Assisted with the implementation of one of the nation's first Quality Assurance classes at UNK
- Directly supervised all interns and managed the internship program

#### **Certifications**

- ISTQB (International Software Testing Qualifications Board) Certified Tester, Foundation Level
- OSHA Certified

#### **Community**

- President, Board of Directors – Heartland Big Brothers Big Sisters
- Board Member – Nebraska Council on Economic Education
- Leadership Council (Former) – Lincoln Young Professionals Group
- Co-Founder – RISE Lincoln (Women in Business Group)
- Co-Founder – 100% of Women Who Care (Benefiting non-profits in Lincoln, NE)
- Member and Committee Chair – Rotary Club #14
- Inspire Award Winner – 2016
- Guest Speaker – UNL College of Business Administration
- 2016/2017 Leadership Lincoln Executive Program - Class Member
- 2010/2011 Leadership Kearney Class – Member and Graduate
- Alpha Phi Sorority – Alumni
- Frequent Speaker at Various Events and Conferences (locally and nationally)

#### **References**

- Bryan Fairfield, Chief Executive Officer, Nanonation, Inc.
  - Phone: (402) 670-1400
- Nick Furek, (Former) Chief Financial Officer, Xpanxion, LLC
  - Phone: (706) 971-9220
- Eric Trettel, (Former) Vice President, Xpanxion, LLC
  - Phone: (308) 233-7735

*Ashlea B. Allberry*



## Collin Aldrich - Senior VP of Client Services (Leads Project Management & Support Teams)

### Collin S. Aldrich, Jr.

2445 West Stallion Road, Lincoln, NE 68523  
(402)261-4122 | cmsaldrich@gmail.com

#### Education:

Baylor University in Waco, Texas. BBA in Management Information Systems, 1996

#### Experience:

##### **Nanonation, Inc., Lincoln, NE (4/11 - Present)**

Senior Vice President (6/18 - Present)

Vice President, Client Services (4/17 - 6/18)

Vice President, Professional Services (11/15 - 4/17)

Director, Project Management (9/12 - 11/15)

- Manage vendor and strategic account relationships.
- Responsible for recruitment and hiring of project management staff, training of staff, team building activities and performance reviews.
- Oversee project management and professional services teams in areas of administration, budgeting, technical and project management skill growth, setting short term and long term targets and objectives.
- Partner with sales team in areas of RFP response, SOW creation, relationship building and product support.
- Create and document consistent processes for project management team.
- Assist in creation and adoption of Agile methodologies for production team.
- Administer facility management.

Project Manager (4/11 - 8/12)

- Manage project centric clients with duties including account management, requirements gathering, scope writing, level of effort estimation, project management, acceptance testing, delivery and support.
- Build and maintain good professional relationships with clients.
- Drive interactive software projects through the software development life cycle.
- Act as business intelligence analyst for large client to deliver ad-hoc reporting, automated reporting maintenance, data analysis and data interpretation.
- Track company development, design and quality assurance resources in addition to working with management team to refine and improve software development process.

##### **Automated Systems, Inc., Lincoln, NE (5/09 - 4/11)**

Project Manager

- Direct all aspects of three banking applications throughout entire software development life cycle using Agile software development methodologies. Responsible for training, technical documentation, enhancement prioritization and assisting with product sales.
- Act as second level support on all products owned including installation and maintenance.
- Lead development team in creating a document management platform from requirements gathering to beta release in less than 10 months.
- Manage report writing staff by executing performance reviews, compensation adjustments and workload prioritization while also assisting other managers with hiring and retention of staff.

##### **Experian, Lincoln, NE (11/99 - 5/09)**

Client Services Supervisor

- Successfully manage customer fulfillment team with responsibilities including performance reviews, personal development, conflict resolution, coaching, goal setting, metrics reporting, request for proposal response, client communication and business continuity planning.
- Responsible for leading the complete redesign of team including new process flow, supporting documentation, training and implementation during company-wide restructuring.
- Support the opening of a new office in San Jose, Costa Rica with duties including preparing job roles, recruiting and hiring



processes, reviewing resumes, interviewing applicants, making hiring recommendations and acting as a mentor to management staff.

- Travel to new location to train employees on Experian's mainframe applications, processes and procedures while monitoring transition of production to the foreign facility. Provide follow-up training, daily support and continued process improvements to maintain service levels.

#### Technical Advisor Consultant

- Serve as Subject Matter Expert supporting over 90 employees in problem resolution, training, documentation and support. Travel to Experian sites as business analyst to lead transition projects, facilitate cross-departmental knowledge sharing and implement process improvements.
- Champion ISO 9000 certification in less than nine months while performing multiple roles.

**Sysco Corporation, Houston, TX – Systems Administrator (6/98 – 11/99)**

**Sterling Bank, Houston, TX – Credit Analyst (6/97 – 6/98)**

**First Waco National Bank, Waco, TX – Credit Analyst and Banking Officer (5/94 – 6/97)**

#### **Computer Skills:**

MS Office, MS Project, MS Visio, JCL, Easytrieve, Scrumworks, Target Process, SharePoint, DoneDone, Jira and DNN; **Exposure to:** SAS, COBOL, VB, Visual Studio, IIS, SQL and SQL Server

#### **References:**

##### **Shawn Wilke**

Senior Manager, Targeting  
Experian Marketing Services  
402-202-3293  
Swilke77@yahoo.com

##### **Mark Drewes**

Manager, Analytics Center of Excellence  
Salt River Project  
480-285-4116  
Mark\_Drewes@outlook.com

##### **Tim Hermanson**

Senior Analyst  
First National Bank of Omaha  
Hermanson.Timothy@gmail.com  
402-770-4396



## Scott Eastman - Creative Director (Leads Design Team)

### Scott Eastman

eastman.scott@gmail.com

(402) 457-9022

1024 Turner Blvd

Omaha, NE 68105

### experience

#### December 2007 – Present

#### Creative Director, Nanonation

- Establish design standards for all client, internal, and marketing projects
- Recruit and manage a team of six designers
- Present and pitch concepts to clients
- Travel to win new business, maintain relationships, and kickoff major projects
- Collaborate between departments to improve processes

#### September 2005 – December 2007

#### Interactive Designer, Nanonation

- Design interactive systems for national and international clients
- Conduct usability studies with live testers
- Build new brand identities and interpret print brand standards for interactive

#### May 2005 – August 2005

#### Intern, Archival

- Copywriting, design, and support material for local and national campaigns

#### January 1999 – May 2005

#### Illustrator - Art Director, Daily Nebraskan

- Create illustrations and informational graphics for a daily campus paper
- Set stylistic standards for all paper graphics
- Recruit and manage a team of five artists and designers
- Facilitate collaboration between reporters and artists for feature stories

### skills

- Comfortable on Mac and Windows
- Proficient in Photoshop, Illustrator, InDesign, and Keynote
- Familiar with Flash, AfterEffects, and HTML

### education

#### Degree

#### Bachelor of Fine Arts

1999 – 2004 University of Nebraska-Lincoln

1998 – 1999 Kansas City Art Institute

### references

Dave Nelson – Owner/Creative Director, Secret Penguin	(402) 670-1957
Ryan Sorensen – Creative Director, Proxibid	(917) 456-7742
Leanne Sorensen – Creative Director, Ervin & Smith	(917) 456-7839



## Subcontractors

Nanonation will utilize a subcontractor for the majority of the installation services related to this project. CCS is a partner that Nanonation has worked with on numerous successful projects and who has an expertise in the installation of technical and AV components called for in this RFP.

- i. CCS Presentation Systems  
11041 "O" Street, Omaha, NE 68137  
402-331-2320
- ii. CCS will be contracted to perform onsite installation of the displays and player PCs related to all of the areas in scope for this RFP. This will be in conjunction with an onsite Nanonation representative during the installation.
- iii. The subcontracted services are not based on hours but represent approximately 4.6% of the project scope.
- iv. Same as above.

## TECHNICAL APPROACH

### UNDERSTANDING OF PROJECT REQUIREMENTS

Nanonation has thoroughly reviewed the RFP requirements and is completely confident in our ability to deliver the exact solution that Schramm Recreational Area is seeking. The details of each experience are outlined in our response to Attachment A in this document and as discussed in the Company Overview section, Nanonation has extensive experience in delivering public-space technology solutions exactly like Schramm is seeking.

Following the project kickoff, Nanonation will enter our Project Assessment Phase. During this phase we will further refine the details of the multiple experiences to be created for SRA and refine the project schedule. During the next phase of the project, design mockups will be created for each of the experiences to create a visual representation of what the user will experience. SRA team members will be able to review, provide direction and ultimately, through the revision process, approve the design before development begins. This ensures that expectations are delivered accurately.

### Assumptions & Provider Responsibilities

#### Project Assumptions

The following is a list of assumptions made by Nanonation in relationship to this project. The scope of work and pricing outlined in this document are dependent on these assumptions.

- Power & Data for each player location will be provided by the State
- All branding assets (fonts, logos, etc.) and graphical media will be provided by the State.
- Nanonation will be creating the templated experiences and the State will utilize their experts to populate the detailed content about the animals and ecosystems into those templates.

#### Nanonation Responsibilities & Deliverables

The following components of the solution will be provided by Nanonation in relationship to this project.

- Development of the experiences outlined in the RFP.
- Sourcing, staging and installation of the hardware components of the project.
- Hosting and maintenance of servers (content and application) necessary to support the distributed signage network.
- Provide support services related to Nanonation's software and server environment as outlined in the Service Level Agreement.

#### Customer Responsibilities & Deliverables

The following components of the solution will be provided by Customer in relationship to this project. Some of these items may be provided by the Customer directly or through a third party as identified by the Customer.

- Provide reasonable assistance, cooperation, timely decisions and support in connection with the provision of the services by Nanonation.
- Coordinate scheduling of necessary Customer resources as required to complete the project.
- Obtain all approvals, permits, licenses and other similar consents required by Customer's suppliers and licensors necessary to support or permit the services outlined in this proposal.
- Content for playback on the signage network in a format specified by Nanonation and agreed upon by the provider.
- Customer or a third party identified by the customer will be responsible for the following activities related to playlist management:
  - Uploading and scheduling of content to the content server via the CommandPoint online tools as provided by Nanonation.

## PROPOSED DEVELOPMENT APPROACH

To create the look, feel, and functionality of the digital experiences, Nanonation will utilize its award winning patented Nanopoint client software platform and CommandPoint remote systems management platform to develop the custom solution for Schramm State Recreation Area.

The Nanopoint client software environment is a custom application written in .NET and Windows Presentation Foundation designed specifically around the needs of interactive kiosks. The application drives the user interface and controls the visual appearance through the implementation of interface description files. These files contain XML-formatted data that describe the physical layout of the interface as well as business logic, device functionality and integration points. Through this structure Nanonation is able to deliver highly customizable solutions for our customers while leveraging the advantages of our base platform.

Interface description files are analogous to pieces of content similar to graphic, image, video, or html files. Loading different sets of interface description files along with the associated content files will correspondingly change the visual appearance of the Nanopoint interface. One of the Nanopoint platform's greatest advantages is the ability to combine multiple media formats within a visual interface. This allows the combination of images, video, flash, HTML and other formats on the same screen simultaneously to create high impact visual presentation to the user.

Additionally, Nanopoint has the ability to integrate with and utilize external data sources through technologies such as web services or open APIs.

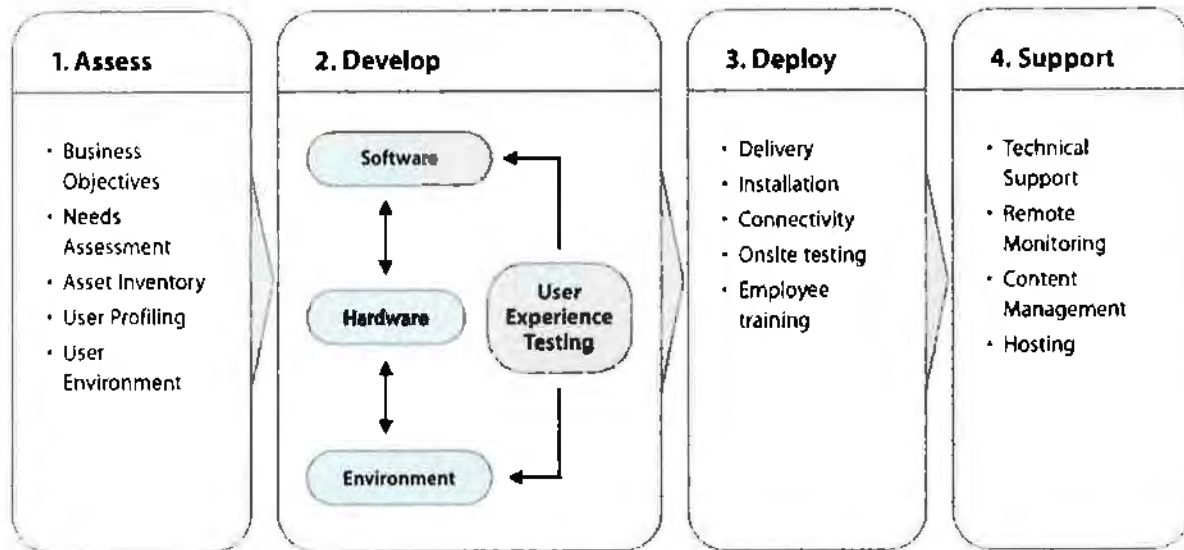
Because Nanopoint is not a proprietary content creation tool like some competitive systems but instead a flexible platform for various media types, this allows for the use of existing content and tools thereby reducing production time, costs and effort.





## Project Methodology

For all phases of the engagement, Nanonation employs our proven methodology to deliver powerful user experiences and successful customer self-service technologies.



### Assessment Stage

- Kick-off meeting with Nanonation and Client to introduce team and analyze the current and proposed systems and environment
- Inventory of media assets and business systems to leverage and use in the initiative
- Environment and location analysis
- Create development blueprint

### Develop Stage

- Develop application and interface
- Software integration with hardware, peripherals and external data sources
- Media and graphic integration
- Integrate desired business rules (i.e. length of session timeout, cache status, etc.)

### Deploy Stage

- Software testing
- System configuration & staging
- Software deployment and setup

### Support Stage

- Remote management, usage reporting capabilities and monitoring capabilities with status notification
- Toll-free phone support
- Software updates

## User Interface Design

One of Nanonation's core differentiators is our ability to create attractive and functional user interface designs that allow customers to move intuitively through the application to achieve their desired result. An effective design ensures the customer is satisfied when they complete the process and you achieve your business goal. To allow us to continue this success, there are a couple of prerequisites to this process and some parameters we've established that have proved to help achieve success.

- **Prerequisites to design** - these elements are required to ensure we properly extend your brand through the application and match your brand guidelines:
  - Company style guide
  - Approved Corporate font
  - Any additional images and media to be used in the application
- **Look-and-feel established** - Nanonation initially delivers two to five look-and-feel compositions, one of which needs to be approved before the next step. This step helps us ensure we are on the right path with the flow and direction of the user interface before beginning the more detailed design work.
- **Wireframe and flow exercise** - Nanonation submits the planned flow and direction of the application at this stage. For many applications this stage can be completed with a flow chart describing how a customer moves through the application.
- **Design iterations** - The core design process occurs only after both parties agree on the look and feel and the application flow.
  - Nanonation delivers an initial design of the full application based on the approved elements above
  - You have the ability to comment and make changes to the design and Nanonation will revise and resubmit new application designs based on this feedback
  - Up to three iterations (initial design and 2 revisions) are included in the price and timeline outlined in this document unless otherwise noted. Additional iterations will increase the timeline and incur additional fees, which will be agreed in a change control document.
- **Written sign-off** - Once you are satisfied with the final design, you sign-off on that design and that design is submitted to the Nanonation development team for inclusion in the final application.


## TECHNICAL CONSIDERATIONS

All of the digital signs and kiosks will require a wired or wireless network connection for monitoring, reporting and content updates. Nanonation will work with State IT resources to ensure a smooth integration of the solutions into Schramm's network.

Each player device will be a Windows 10 based PC. It is assumed that automatic OS and Windows Defender updates will be enabled for these players. If the State has specific path management and/or antivirus tools that it wishes to be used on the players, Nanonation will work with the State to incorporate these into the system image.

## ATTACHMENT A – TECHNICAL REQUIREMENTS MATRIX

The descriptions provided here outline the solutions Nanonation will deliver to the State and are intended in response to Section V of the RFP. Response to item E in Section V is included in the Project Work Plan, also included in this document.

TRM-1	<p>Describe the software, hardware and mechanisms the bidder will use to create the Floating Images Screen Tiles (Area 1).</p> <ol style="list-style-type: none"> <li>1. Describe what the user experience will be for this feature, and</li> <li>2. Provide images of similar installations.</li> </ol>
	<p>Bidder Response:</p> <p>1. This area will feature 3 large screens in a 1X3 landscape format. The content will have approximately 150 images of the flora and fauna that can be found at Schramm State Recreation Area. These images will float up the screen from the bottom to the top. When a user touches an image, that image will stop (other images will continue to "float up"), and a pop-up box will appear with the image and additional information about the specific plant or animal. There will be 4 different templates for on-screen tiles.</p> <p>To update the experience, Game and Parks will sign in to the CommandPoint content management tool and choose from a Photo gallery with text, a URL, a quiz, or a video tile template. From there simply drag and drop in the photos, text and or video to be displayed in the tile, the location on the screen you want it to spawn from, title, and other content that may be required. When complete NGPC can publish the new content by selecting the Publish button in CommandPoint and the tile will appear on screen the next time the system checks in to CommandPoint.</p> <p>A user will be able to touch any of or multiple tiles, and they will get a large pop up with more information via movie, quiz, URL, or photo gallery. The user can then select different tiles from any screen. When a user walks away, the system will time out and reset. The experience can be changed at will by Game and Parks. There will be a custom footer and background supplied for initial deployment. These can also be changed easily via change order.</p> <p>2. Shown in the picture is a current deployment of a similar system at the High School Hall of Fame in Lincoln, NE</p> <p><b>Hardware:</b> 3 – 55" touch screens and PC players hung in landscape format.  <b>Software:</b> Nanonation Timeline  <b>Content provided by:</b> NGPC  <b>Initial content upload:</b> Nanonation  <b>Installation space:</b> 18'2" w x 8' h wall  <b>Electrical:</b> Wall outlets  <b>Conductivity:</b> Hardwired data</p> 

TRM-2 Describe the bidder's work in developing interactive wayfinding kiosks. (Area 2)

**Bidder Response:**

Nanonation has developed numerous custom wayfinding applications for customers nationally including Universities, The Scott Technology Center, Fontenelle Forest, Nebraska Crossing, and the Nebraska State Fair. Nanonation's expertise in user interface development makes our wayfinding deployments very easy to use and quickly deliver the information the user is looking for. Working with Nanonation's design team we will create the specific look, feel and flow for use in your environment.

TRM-3 Describe the software, hardware and mechanisms you will use to create the Interactive Wayfinding Kiosks.

**Bidder Response:**

Nanonation will use its core online software tool CommandPoint to house and manage the content for the wayfinding unit. Nanopoint our local client software will reside on the PC that drives the experience on the kiosk. The two software pieces work together to deliver live real time updates, troubleshooting, reporting and the user interface for the wayfinding application.

This feature will have a 42" screen mounted on a free-standing, heavy, commercial ADA compliant kiosk.

**Hardware:** 1 – 42" Screen, PC Unit, ADA compliant kiosk.

**Software:** Nanonation Interactive Map

**Content provided by:** NGPC GIS imagery, Trail Maps, Points of interest data.

**Initial content upload:** Nanonation

**Installation space:** Kiosk will be near the front entrance

**Electrical:** Wall outlets

**Conductivity:** Hardwired data





TRM-4 Provide examples of what the public interface of the interactive kiosk would look like. (Area 2)

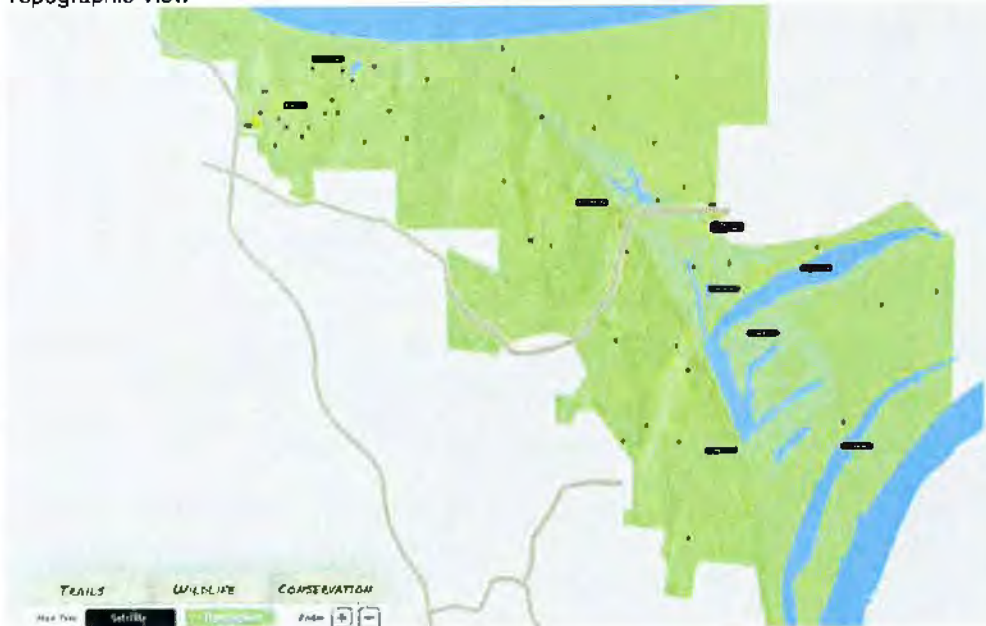
**Bidder Response:**

The pictures here depict intended functionality for this project using an example of an interactive wayfinding deployment we developed for Fontenelle Forest in Bellevue, NE. We envision the general look, feel and User interface will be similar to below.

**Satellite view**



**Topographic View**









TRM-5	Provide examples of what amenities the kiosk would be able to detail for the end user (Area 2)
<p><b>Bidder Response:</b></p> <p>For the purpose of this RFP, we are assuming +/- 50 points of interest. The content will feature an interactive map of the site. Users will be able to move the map, zoom in/out, and touch a feature (trail, building, points of interest, etc.) to learn more about each feature. Users will also be able to highlight trails, points of interest, restrooms, animal siting areas or any number points of interest chosen by NGPC. Any point of interest NGPC chooses is acceptable.</p> <p>Please see the images of the Fontenelle Forest project on the previous pages as an example.</p>	
TRM-6	Describe the software, hardware and mechanisms the bidder will use to create the interactive mountain biking experience (Area 3).
<p><b>Bidder Experience:</b></p> <p>Nanonation will use its gesture-based gaming software coupled with our core CommandPoint (cloud-based content management tool) and Nanopoint (our local player software) tools to create a gesture-based experience for your visitors. CommandPoint will manage all of the content, reporting, offer assistance in troubleshooting and communicate with Nanopoint regularly to pass reporting data and any experience changes needing to be made.</p> <p>This area will feature two 55" screens hung landscape next to each other with a fixed bike in front of each screen. The game will start with the rider gesturing putting on a helmet. The experience will consist of the rider, who is physically sitting on the bike, watching the screen as it simulates biking down various trails. The theme of this interactive is a biking adventure down one of two trails in Nebraska. The game will use real videos on screen with obstacles the user must maneuver around, or if they hit them, the game will end. The user will be able to speed up or slow down using the gestures. The user will be able to lean left and right to attempt to miss obstacles on the trail. The user will be on a real bicycle interacting with the screen. The bike will be able to move somewhat as the user leans and peddles. This project will be developed using the agile development model, where Nanonation and NGPC will work together on each iteration as development occurs to ensure a great user experience.</p> <p><b>Hardware:</b> 2 – 55" screens          Gesture technology for two bikes/users          Bikes on a mount allowing them to be pedaled without moving – supplied by NGPC</p> <p><b>Software:</b> Nanonation motion/gesture game</p> <p><b>Content provided by:</b> NGPC. Video standard to be determined by Nanonation. Nanonation to take raw footage from NGPC and create final videos for game.</p> <p><b>Initial content upload:</b> Nanonation</p> <p><b>Installation space:</b> 9'w x 8'h wall</p> <p><b>Electrical:</b> Wall outlets</p> <p><b>Conductivity:</b> Hardwired to data</p>	



TRM-7 Provide visuals as to what the game would look like for the end user. (Area 3)

Bidder Response:

Possible screen view



Stands and Bike examples





TRM-8	Describe the software, hardware and mechanisms the bidder will use to create the Quarantine Video (Area 4); including how the bidder would incorporate audio into the video that would be heard by those in the immediate area of the video only. Those in the surrounding areas must not hear the audio.
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#### Bidder Response:

This area will feature one 55" screen hung vertically and placed next to the window into the quarantine area. An attract loop designed to bring attention to the area will play when there is no one in the area. The attract loop will be able to be managed remotely using CommandPoint and our standard digital signage software. This allows Game and Parks to easily keep content fresh and relevant. There will be a proximity sensor above the window area that will trigger a video on the screen. The video will show a scientist who will give a presentation about the quarantine lab. At the completion of the video, the experience will time out and return to the attract loop.

The attract loop and or the video of the lab scientist can be changed by Game and Parks any time. Nanonation will use a professional directional speaker system to direct audio from the scientist video directly at the area in front of the screen. This will ensure only interested parties near the experience will hear the audio. All audio and video will be managed together in CommandPoint.

**Hardware:** 1 – 55" screen hung portrait, PC, motion sensor, directional speaker system

**Software:** Nanonation attract loop triggered signage

**Content provided by:** NGPC. Nanonation to Spec Video.

**Initial content upload:** Nanonation

**Installation space:** 5'6" w x 8' h wall

**Electrical:** Wall outlets

**Conductivity:** Hardwired to data





TRM-9	<p>Provide samples of what each of the public interface screens will look like for the Nature Center Interactive Interpretation Stations (Area 5) and the Aquarium Interactive Interpretation Stations (Area 6) including:</p> <ul style="list-style-type: none"> <li>- attract loop (Area 5 &amp; 6)</li> <li>- landing page allowing user to select 4-6 species to investigate (Area 6)</li> <li>- species-specific main page (Area 5 &amp; 6)</li> <li>- four additional pages with more specific content (Area 5 &amp; 6)</li> </ul>
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**Bidder Response:**

Nanonation will work with Schramm to create a customized user interface for each experience. User interface (UI) design is one of Nanonation's core areas of expertise and our in-house design team brings years of experience in UI best-practices. We have developed interactives targeted at a wide array of audiences from trendy retail shoppers to young children in educational spaces. Attached are examples of screens Nanonation may use in starting the design process with NGPC.

**Attract loop**





## Landing Page



## Species Specific Page



# ORNATE BOX TURTLE

**WHAT DO I EAT?**

**WHAT EATS ME?**

**WHERE DO I LIVE?**

**HOW LONG DO I LIVE?**

The ORNATE BOX TURTLE is one of only two terrestrial species of turtles native to the Great Plains of the United States.

## More Details page



# ORNATE BOX TURTLE


**WHAT DO I EAT?**

The ORNATE BOX TURTLE is an omnivore, with no particular dietary preferences. As an opportunistic feeder, it eats whatever is available in any given location or season.







TRM-10	Please describe the software, hardware and mechanisms the bidder will use to create the Nature Center Interactive Interpretation Stations (Area 5) and the Aquarium Interactive Interpretation Stations (Area 6)
<p>Bidder Response:</p> <p><b>AREA 5</b></p> <p>Nanonation will use its Pinpoint touch software platform combined with our core CommandPoint (cloud-based content management tool) and Nanopoint (our local player software) tools to create a touch-based experience for your customers. CommandPoint will manage all of the content, reporting, offer assistance in troubleshooting and communicate with Nanopoint regularly to pass reporting data and any experience changes needing to be made.</p> <p>This area will include 15 small digital touchscreens which will educate users about each of the animals featured in the "Live Animal Wall," "Tree Snag" and terrarium areas. This application will be a simple touch interactive experience. NGPC will have control to remotely change out animals and content for the screen as each exhibit evolves. Content can be added using online templates provided by Nanonation that will ensure the final viewable page will have a high quality look and feel. Content for this solution will be provided by NGPC. Templates can be changed, added to or taken out of the experiences on a global or per terminal basis.</p> <p>The application will have an attract loop designed to draw a user to the screen to learn more about the specific animal. Once the screen is touched the user will be taken to a page with information about the animal, pictures, and up to 4 buttons for learning more. These buttons link the user to more information about the animal. Things like "What do I eat?", "What eats me?" could be used. At this point in the experience, the user can either go back and make another selection from the learn more buttons or walk away and the system will time out and return to the attract loop.</p> <p><b>Hardware:</b> 15 – tablets (touch capable)  8 – live animal wall  3 – tree snag  4 – terrarium  15 – tablet mounts</p> <p><b>Software:</b> Nanonation custom application  <b>Content provided by:</b> NGPC  <b>Initial content upload:</b> Nanonation  <b>Installation space:</b> various locations around the Live Animal Wall and Tree Snag  <b>Electrical:</b> Recommend behind the false wall of the installs to the unseen area for standard 120V.  <b>Conductivity:</b> Wireless data</p>  <p><b>AREA 6</b></p> <p>This area will include 13 small digital touch screens to educate the user about the live animals featured in the aquarium tanks area. The content of these signs will be specific to the animals in the aquarium next to where the sign is installed. The application on these screens will be as above with the addition of a landing page. Because these exhibits will have multiple animals in them, the user will be given the option to choose the animal they are interested in from the landing page, and then the application will operate as above.</p> <p><b>Hardware:</b> 16 – tablets (touch capable)  16 – Floor mount stands</p> <p><b>Software:</b> Nanonation custom application  <b>Content provided by:</b> NGPC  <b>Initial content upload:</b> Nanonation  <b>Installation space:</b> Various locations around the aquarium (turtle tanks, cylinder tanks, stream tank, river tank, reservoir tank, farm pond tank)  <b>Electrical:</b> Standard Wall Plug  <b>Conductivity:</b> Wireless data</p>	



Note: Either application can be used on any touchscreen anywhere. The extra page level for area 6 will be a configurable variation that can simply be turned on or off in CommandPoint should the need arise for multiple animals in an area 5 habitat.

TRM-11	Please describe the software, hardware and mechanisms the bidder will use to create the Aquarium Ecosystems Videos (Area 7).
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**Bidder Response:**

Nanonation will use its Pinpoint touch software platform combined with our core CommandPoint (cloud-based content management tool) and Nanopoint (our local player software) tools to create a touch based experience for your customers. CommandPoint will manage all of the content, reporting, offer assistance in troubleshooting and communicate with Nanopoint regularly to pass reporting data and any experience changes needing to be made.

This area will include 4 large digital touchscreens which will educate users about the animals and ecosystem in each aquarium. This application will be a simple touch interactive experience. NGPC will have control to remotely change out animals and content for each screen as the exhibit evolves. This control will be via online templates with content by NGPC.

The application will have an attract loop designed to draw a user to the screen to learn more about the specific animal. Once the screen is touched, the user will be taken to a landing page with buttons to choose from. Topics can include learning more about the ecosystem, the individual animals that live in the aquarium, or a quiz about the ecosystem. These buttons link the user to more information about the ecosystem. Things like "What lives in a river?", "What eats me?" could be used. At this point in the experience, the user can either go back or make another selection from the learn more buttons or walk away, and the system will time out and return to the attract loop. This application will act very similar to the area 5 and 6 tablets with the addition of the quiz and landing page of choices.

**Hardware:** 4 – 46" Touch Screens with PC Player

**Software:** Nanonation custom application

**Content provided by NGPC**

**Initial content upload:** Nanonation

**Installation space:** Screens to be placed between each aquarium ecosystem.

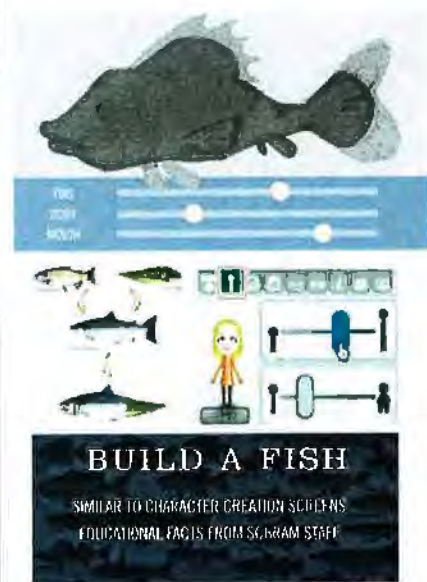
**Electrical:** Recommend plug be placed near wall mount location. Use a standard 120V.

**Conductivity:** Wireless data

TRM- 12	<p>Please describe, in detail, how users will interact and experience the following three features of Area 8: Fish Activity Station. Provide details of what public users will do with each activity, how they will interact with each activity and what features will be provided for the user with each activity. Please provide samples of the public interface screen mock-ups.</p> <ol style="list-style-type: none"> <li>1. Build A Fish</li> <li>2. Draw a Fish</li> <li>3. Fish Game</li> </ol>
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#### Bidder Response:

This feature will have a 42" screen mounted on a free-standing, heavy, commercial ADA compliant kiosk. We will use the same setup that we used for the wayfinding unit. The content will feature an attract loop and three fun kid-oriented conservation games. Users will approach the kiosk playing an attract loop that is designed to bring the user to the kiosk. The user will be invited to touch the screen to begin. Once the screen is touched the use will be taken to a landing page with three simple quick games to choose from. Below are some mock up ideas for the three games. NGPC and our design team will collaborate to develop the final look, feel, and functionality of these games. There will be three design reviews as these are developed. Input from NGPC staff is welcomed and needed during this process.



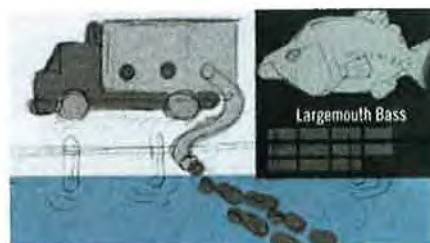
The first suggested game is "Build a Fish". The user can choose various fish parts to build a fish and learn about their creation like how fast they can swim, what they might eat and where they might live in the lake.

The "Draw a Fish" game will be a simple Painting interactive where users are encouraged to draw and color in a fish. The experience culminates in a completed fish picture you will be able to email to yourself or anyone you choose.





The last game will be based on stocking a pond or lake. The premise will be choosing the fish you put in the pond in relation to what is already there and then seeing the results of the choices you made. An example is If you put in too many predators in your pond, then you might end up with only predators in your lake. The game will teach balancing species in the environment through an entertaining gaming experience.



## LAKE STOCKING

PLAY THE FISH GAMES AND DECIDE  
THE RIGHT MIX OF FISH FOR A HABITAT

TRM-13	Please describe the hardware and mechanisms the bidder will use to create the Fish Activity Station (Area 8)
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Bidder Response:

**Hardware:** 1 – 42" Touch Screen, PC player, Freestanding Kiosk ADA compliant kiosk  
**Software:** Nanonation CommandPoint, Nanopoint, Pinpoint with Fish Conservation Games  
**Content provided by:** NGPC imagery  
**Initial content upload:** Nanonation  
**Installation space:** Kiosk will be in the area near 5  
**Electrical:** Floor outlet  
**Conductivity:** Hardwired or Wireless data

TRM- 14	Describe the bidder's online dashboard system for content updates and changes. Include in the description if the online system has the capabilities to: <ol style="list-style-type: none"> <li>1. be used and provide content updates both locally and remotely,</li> <li>2. provide NGPC staff with the ability to manage, in real-time, all content on all features,</li> <li>3. provide NGPC staff with real-time information regarding problems including the ability to manage and correct problems remotely,</li> <li>4. compatible with all standard browsers, and</li> <li>5. ability to remotely determine how often each sign is used and how long users are spending at each experience.</li> </ol>
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Bidder Response:

Nanonation's CommandPoint provides a software platform to remotely monitor, manage, and measure each endpoint regardless of location via the Internet. From health status to usage statistics to general content management to remote control and troubleshooting, each endpoint is monitored in real time.

As previously described in some of our other responses, CommandPoint is also the portal where NGPC staff will be able to remotely update content to the experiences within the space using our digital signage and kiosk content management features. To update, each kiosk or sign will require network connectivity (wired or wireless). Once updated however, the unit does not need to be online to continue to function and present content. This means a unit could be connected to network temporarily, for the purpose of updating, and then operated offline afterwards.





Nanonation provides a customized client portal accessible through Nanonation's website to all the tools and reporting functionality. These CommandPoint tools give you direct access to a full suite of management and reporting functions from any web-based PC using any standard browser. Using CommandPoint your team will be able to view in real time which units are in-use or available, monitor utilization and be automatically alerted to any problems. This will allow you to monitor how successful and impacting your deployment is.

A full systems management package, designed from the ground up specifically for signage, touch interactives and wrapped browser deployments, allows IT staff to see uptime statistics, take remote desktop control of a unit, perform system audits, and several other management functions. The remote functionality works with numerous network protocols, including broadband and wireless access and will work through corporate firewalls without exposing security risks.

Nanonation does not require a dedicated server and server license fee and includes access to these remote management and reporting tools as part of the overall software support.

TRM-15	Detail the training the bidder will provide to NGPC staff on maintaining hardware and software, updating sign content, and using the online dashboard that is provided at no additional cost to the State..
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**Bidder Response:**

Nanonation will provide training onsite for any employees NGPC would like to have in the training. This training will be limited to two hours under the scope of our proposal but additional training sessions can be purchased if ever required. Nanonation support staff is available for help with anything NGPC needs concerning Nanonation Software in addition to the training.

TRM- 16	1. Detail the bidder's 24/7/365 support
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**Bidder Response:**

**NANONATION SERVICE LEVEL AGREEMENT**

The Nanonation Support Line (800-430-4670) is available to receive calls at any time. The support center is staffed by technical support professionals Monday-Friday from 7:00 AM to 8:00 PM & Saturday-Sunday from 9:00 AM to 5:00 PM. Outside of these hours the after-hours call center will escalate your case to the on-call support engineer.

**Tier-2 Service Level**

At this service level, Nanonation will be the single point of contact to assist the client's internal IT staff or help desk. The client's internal IT staff or help desk will act as the first point of contact for individual customer locations and conduct initial troubleshooting steps to attempt to resolve issues. Clients IT staff or help desk will also proactively manage and monitor deployed units.

**Services to Be Provided on all Service Level Agreements**

- Toll free phone number
- Vendor content and application updates, as applicable
- Client web access to usage, monitoring and reporting console tools
- Remote monitoring, issue diagnosis and resolution
- Remote access software support
- Email or SMS message notification of terminal issues (if requested)
- Identification and resolution of Nanopoint/CommandPoint related problems with a level of effort commensurate with the severity of the error

**Software Issue Service Flow**

1. Nanonation is alerted or contacted by client locations or client's IT staff/help desk depending on purchased tier, via the toll free number



2. Nanonation responds to alert or call within 45 minutes during regular business hours or within 90 minutes after regular business hours.
3. Issue is identified as software related
4. Issue is resolved by support staff and issue is closed within four (4) hours during normal business hours
5. If issue is unresolved by support staff, then it is escalated to software engineer
6. Escalated issue is resolved by software engineer within 72 business hours of escalation

**Hardware Issue Service Flow**

1. Hardware issues will be facilitated and resolved by Client; However, if at any time a call is escalated to Nanonation as a software issue and Nanonation finds the issue to be hardware related, Nanonation will work with Client to identify and resolve the issue.

**Network Issue Service Flow**

1. All network issues will be facilitated and resolved by Client. If at any time a call is escalated to Nanonation as a software issue and Nanonation finds the issue to be network related, Nanonation will communicate findings to client to assist in a resolution.

**Limitations & Exclusions - Software Support**

Nanonation will not be responsible for providing Software support services relating to the following:

- (a) errors that result from Customer's improper handling or use of the supported Software;
- (b) errors caused by changes, alterations or revisions to the supported Software made by Customer, or on Customer's behalf by a third party
- (c) problems caused by Customer's data, network, database, operational or other environmental factors not within the direct control of Vendor.

Customer will reimburse Vendor for all reasonable expenses incurred and time spent in responding to false maintenance or support claims, repairing any of Customer's alterations or revisions to the Software, and correcting errors or other defects resulting from the occurrence of one or more of the events described in the items above. Such services will not be treated as support services, and will be invoiced to Customer at Vendor's development charges as defined in the attached Statement of Work at \$150.00/hour. Vendor shall provide a list of additional materials needed and a cost estimate of those materials which shall be subject to Customer written approval.

**Post Deployment Support**

In addition to the access to all of the CommandPoint tools provided in our standard annual support, Nanonation provides multiple levels of support for our clients. We understand that responding to trouble issues and being able to resolve them quickly are keys to a successful kiosk or digital sign deployment. Our dedicated support staff is available to respond to issues 24x7x365. Utilizing our built-in CommandPoint remote monitoring and control tools we are able to troubleshoot and correct the vast majority of issues without the need for dispatching onsite support personnel at the unit level. This not only saves time and reduces costs but helps ensure that you are maximizing uptime and interactions with your customers.

For instances when on-site service is necessary Nanonation works with a variety of partners to provide these services. We help our clients during the early stages of a project to map out appropriate servicing plans so that if trouble arises, it can be solved quickly.





TRM-17	<ol style="list-style-type: none"> <li>1. Detail the bidder's warranty policy including what is covered under this policy (verses the maintenance or software licensing fees),</li> <li>2. How long the warranty period lasts, and</li> <li>3. How your company will solve issues that arise during the warranty period.</li> </ol>
<p>Bidder Response:</p> <ol style="list-style-type: none"> <li>1. Nanonation warrants all software for any defects and will make any bug fixes to ensure the intended functionality is preserved for the prescribed period of the support agreement. Please see the Professional Services Agreement for full warranty details.</li> <li>2. Hardware Nanonation sources as the result of this RFP will carry the manufacturer's standard warranty. All screens and PC units quoted carry a three-year warranty. Nanonation will help to facilitate hardware warranty repair or replacements should the need arise.</li> <li>3. Nanonation agrees to be the first call if a problem with any of our deployments is found to be outside of normal onsite triage. Onsite triage includes simple processes like ensuring the unit is plugged in, turned on, online and not physically damaged beyond repair. Nanonation tech support will assist with the problem, determining if it is a hardware, software, or connectivity problem. Once the determination is made a plan will be executed to remedy the problem pursuant to our service level agreement above.</li> </ol>	



## PROJECT WORK PLAN

The following outlines Nanonation's anticipated project schedule for the experiences at Schramm State Recreational Area. This outline assumes timely responses by the State for design reviews and delivery of any necessary media and branding assets during the design phases of the project.

Task Name	Duration	Start	Finish
<b>RFP Process</b>	<b>59 days</b>	<b>Wed 6/13/18</b>	<b>Tue 9/4/18</b>
RFP Issued	1 day	Wed 6/13/18	Wed 6/13/18
RFP Questions Due	7 days	Thu 6/14/18	Fri 6/22/18
RFP Open Period	14 days	Mon 6/25/18	Thu 7/12/18
RFP Review Process	16 days	Fri 7/13/18	Fri 8/3/18
RFP Intent to Award	1 day	Mon 8/6/18	Mon 8/6/18
Contract Finalization Period	19 days	Tue 8/7/18	Fri 8/31/18
Contract Award	1 day	Tue 9/4/18	Tue 9/4/18
<b>Hardware Procurement</b>	<b>98 days</b>	<b>Tue 9/4/18</b>	<b>Thu 1/24/19</b>
Signed Paperwork Received by Nanonation	1 day	Tue 9/4/18	Tue 9/4/18
Testing Hardware Ordered	3 days	Thu 10/18/18	Mon 10/22/18
Testing Hardware Received	10 days	Tue 10/23/18	Mon 11/5/18
Full Hardware Order Placed	3 days	Tue 11/6/18	Thu 11/8/18
Full Hardware Order Received	10 days	Fri 11/9/18	Mon 11/26/18
<b>Project Kick-Off Phase</b>	<b>11 days</b>	<b>Wed 9/5/18</b>	<b>Wed 9/19/18</b>
Client Kickoff - Introductions and Planning	1 day	Wed 9/5/18	Wed 9/5/18
Weekly Status Meetings (Placeholder)	5 days	Thu 9/6/18	Wed 9/12/18
Client Supplies Brand Standards / Style Guides	5 days	Thu 9/6/18	Wed 9/12/18
Site Visit & Evaluation (Timing TBD)	10 days	Thu 9/6/18	Wed 9/19/18
<b>Design Phase</b>	<b>31 days</b>	<b>Wed 9/5/18</b>	<b>Wed 10/17/18</b>
Initial Design Creation	15 days	Wed 9/5/18	Tue 9/25/18
Initial Design Reviews & Iterations (Up to 3 Per Area)	15 days	Wed 9/26/18	Tue 10/16/18
Final Design Approval	1 day	Wed 10/17/18	Wed 10/17/18
<b>Application Development Phase</b>	<b>31 days</b>	<b>Wed 9/26/18</b>	<b>Wed 11/7/18</b>
Design Integration	15 days	Thu 10/18/18	Wed 11/7/18
Development - Product Based Areas	10 days	Wed 9/26/18	Tue 10/9/18
Development - Experiential Areas	18 days	Wed 9/26/18	Fri 10/19/18
<b>Testing Phase</b>	<b>24 days</b>	<b>Tue 10/23/18</b>	<b>Tue 11/27/18</b>
Configure & Stage Testing Hardware	1 day	Tue 10/23/18	Tue 10/23/18
QA - Product Based Areas	10 days	Thu 11/8/18	Wed 11/21/18
QA - Experiential Areas	12 days	Thu 11/8/18	Tue 11/27/18
<b>Hardware Configuration and Installation</b>	<b>13 days</b>	<b>Wed 11/28/18</b>	<b>Fri 12/14/18</b>



Configure & Stage All Hardware	2 days	Wed 11/28/18	Thu 11/29/18
Hardware Delivered to Site	1 day	Fri 11/30/18	Fri 11/30/18
Installation	5 days	Mon 12/3/18	Fri 12/7/18
Client Performed UAT	3 days	Mon 12/10/18	Wed 12/12/18
QA - Final Walkthrough	2 days	Thu 12/13/18	Fri 12/14/18

## DELIVERABLES & DUE DATES

Please reference the Project Work Plan in the previous section for a list of all deliverables and due dates.



## **RESPONSES TO SECTIONS II - IV**

## II. TERMS AND CONDITIONS

Bidders should complete Sections II through VI as part of their proposal. Bidder is expected to read the Terms and Conditions and should initial either accept, reject, or reject and provide alternative language for each clause. The bidder should also provide an explanation of why the bidder rejected the clause or rejected the clause and provided alternate language. By signing the RFP, bidder is agreeing to be legally bound by all the accepted terms and conditions, and any proposed alternative terms and conditions submitted with the proposal. The State reserves the right to negotiate rejected or proposed alternative language. If the State and bidder fail to agree on the final Terms and Conditions, the State reserves the right to reject the proposal. The State of Nebraska is soliciting proposals in response to this RFP. The State of Nebraska reserves the right to reject proposals that attempt to substitute the bidder's commercial contracts and/or documents for this RFP.

The bidders should submit with their proposal any license, user agreement, service level agreement, or similar documents that the bidder wants incorporated in the Contract. The State will not consider incorporation of any document not submitted with the bidder's proposal as the document will not have been included in the evaluation process. These documents shall be subject to negotiation and will be incorporated as addendums if agreed to by the Parties.

If a conflict or ambiguity arises after the Addendum to Contract Award have been negotiated and agreed to, the Addendum to Contract Award shall be interpreted as follows:

1. If only one Party has a particular clause then that clause shall control;
2. If both Parties have a similar clause, but the clauses do not conflict, the clauses shall be read together;
3. If both Parties have a similar clause, but the clauses conflict, the State's clause shall control.

### A. GENERAL

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

The contract resulting from this RFP shall incorporate the following documents:

1. Request for Proposal and Addenda;
2. Amendments to the RFP;
3. Questions and Answers;
4. Contractor's proposal (RFP and properly submitted documents);
5. The executed Contract and Addendum One to Contract, if applicable ; and,
6. Amendments/Addendums to the Contract.

These documents constitute the entirety of the contract.

Unless otherwise specifically stated in a future contract amendment, in case of any conflict between the incorporated documents, the documents shall govern in the following order of preference with number one (1) receiving preference over all other documents and with each lower numbered document having preference over any higher numbered document: 1) Amendment to the executed Contract with the most recent dated amendment having the highest priority, 2) executed Contract and any attached Addenda, 3) Amendments to RFP and any Questions and Answers, 4) the original RFP document and any Addenda, and 5) the Contractor's submitted Proposal.

Any ambiguity or conflict in the contract discovered after its execution, not otherwise addressed herein, shall be resolved in accordance with the rules of contract interpretation as established in the State of Nebraska.



**B. NOTIFICATION**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

Contractor and State shall identify the contract manager who shall serve as the point of contact for the executed contract.

Communications regarding the executed contract shall be in writing and shall be deemed to have been given if delivered personally or mailed, by U.S. Mail, postage prepaid, return receipt requested, to the parties at their respective addresses set forth below, or at such other addresses as may be specified in writing by either of the parties. All notices, requests, or communications shall be deemed effective upon personal delivery or three (3) calendar days following deposit in the mail.

**C. GOVERNING LAW (Statutory)**

Notwithstanding any other provision of this contract, or any amendment or addendum(s) entered into contemporaneously or at a later time, the parties understand and agree that, (1) the State of Nebraska is a sovereign state and its authority to contract is therefore subject to limitation by the State's Constitution, statutes, common law, and regulation; (2) this contract will be interpreted and enforced under the laws of the State of Nebraska; (3) any action to enforce the provisions of this agreement must be brought in the State of Nebraska per state law; (4) the person signing this contract on behalf of the State of Nebraska does not have the authority to waive the State's sovereign immunity, statutes, common law, or regulations; (5) the indemnity, limitation of liability, remedy, and other similar provisions of the final contract, if any, are entered into subject to the State's Constitution, statutes, common law, regulations, and sovereign immunity; and, (6) all terms and conditions of the final contract, including but not limited to the clauses concerning third party use, licenses, warranties, limitations of liability, governing law and venue, usage verification, indemnity, liability, remedy or other similar provisions of the final contract are entered into specifically subject to the State's Constitution, statutes, common law, regulations, and sovereign immunity.

The Parties must comply with all applicable local, state and federal laws, ordinances, rules, orders, and regulations.

**D. BEGINNING OF WORK**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

The bidder shall not commence any billable work until a valid contract has been fully executed by the State and the successful Contractor. The Contractor will be notified in writing when work may begin.

**E. CHANGE ORDERS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

The State and the Contractor, upon the written agreement, may make changes to the contract within the general scope of the RFP. Changes may involve specifications, the quantity of work, or such other items as the State may

find necessary or desirable. Corrections of any deliverable, service, or work required pursuant to the contract shall not be deemed a change. The Contractor may not claim forfeiture of the contract by reasons of such changes.

The Contractor shall prepare a written description of the work required due to the change and an itemized cost sheet for the change. Changes in work and the amount of compensation to be paid to the Contractor shall be determined in accordance with applicable unit prices if any, a pro-rated value, or through negotiations. The State shall not incur a price increase for changes that should have been included in the Contractor's proposal, were foreseeable, or result from difficulties with or failure of the Contractor's proposal or performance.

No change shall be implemented by the Contractor until approved by the State, and the Contract is amended to reflect the change and associated costs, if any. If there is a dispute regarding the cost, but both parties agree that immediate implementation is necessary, the change may be implemented, and cost negotiations may continue with both Parties retaining all remedies under the contract and law.

**F. NOTICE OF POTENTIAL CONTRACTOR BREACH**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

If Contractor breaches the contract or anticipates breaching the contract, the Contractor shall immediately give written notice to the State. The notice shall explain the breach or potential breach, a proposed cure, and may include a request for a waiver of the breach if so desired. The State may, in its discretion, temporarily or permanently waive the breach. By granting a waiver, the State does not forfeit any rights or remedies to which the State is entitled by law or equity, or pursuant to the provisions of the contract. Failure to give immediate notice, however, may be grounds for denial of any request for a waiver of a breach.

**G. BREACH**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
		ZDR	

Either Party may terminate the contract, in whole or in part, if the other Party breaches its duty to perform its obligations under the contract in a timely and proper manner. Termination requires written notice of default and a thirty (30) calendar day (or longer at the non-breaching Party's discretion considering the gravity and nature of the default) cure period. Said notice shall be delivered by Certified Mail, Return Receipt Requested, or in person with proof of delivery. Allowing time to cure a failure or breach of contract does not waive the right to immediately terminate the contract for the same or different contract breach which may occur at a different time. In case of default of the Contractor, the State may contract the service from other sources and hold the Contractor responsible for any excess cost occasioned thereby.

The State's failure to make payment shall not be a breach, and the Contractor shall retain all available statutory remedies and protections.

H. NON-WAIVER OF BREACH

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

The acceptance of late performance with or without objection or reservation by a Party shall not waive any rights of the Party nor constitute a waiver of the requirement of timely performance of any obligations remaining to be performed.

I. SEVERABILITY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

If any term or condition of the contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the provision held to be invalid or illegal.

J. INDEMNIFICATION

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
		ZDR	

1. GENERAL

The Contractor agrees to defend, indemnify, and hold harmless the State and its employees, volunteers, agents, and its elected and appointed officials ("the indemnified parties") from and against any and all third party claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses ("the claims"), sustained or asserted against the State for personal injury, death, or property loss or damage, arising out of, resulting from, or attributable to the willful misconduct, negligence, error, or omission of the Contractor, its employees, Subcontractors, consultants, representatives, and agents, resulting from this contract, except to the extent such Contractor liability is attenuated by any action of the State which directly and proximately contributed to the claims.

2. INTELLECTUAL PROPERTY

The Contractor agrees it will, at its sole cost and expense, defend, indemnify, and hold harmless the indemnified parties from and against any and all claims, to the extent such claims arise out of, result from, or are attributable to, the actual or alleged infringement or misappropriation of any patent, copyright, trade secret, trademark, or confidential information of any third party by the Contractor or its employees, Subcontractors, consultants, representatives, and agents; provided, however, the State gives the Contractor prompt notice in writing of the claim. The Contractor may not settle any infringement claim that will affect the State's use of the Licensed Software without the State's prior written consent, which consent may be withheld for any reason.

If a judgment or settlement is obtained or reasonably anticipated against the State's use of any intellectual property for which the Contractor has indemnified the State, the Contractor shall, at the Contractor's sole cost and expense, promptly modify the item or items which were determined to be infringing, acquire a license or licenses on the State's behalf to provide the necessary rights to the State to eliminate the infringement, or provide the State with a non-infringing substitute that provides the State the same functionality. At the State's election, the actual or anticipated judgment may be treated as a breach of warranty by the Contractor, and the State may receive the remedies provided under this RFP.

**3. PERSONNEL**

The Contractor shall, at its expense, indemnify and hold harmless the indemnified parties from and against any claim with respect to withholding taxes, worker's compensation, employee benefits, or any other claim, demand, liability, damage, or loss of any nature relating to any of the personnel, including subcontractor's and their employees, provided by the Contractor.

**4. SELF-INSURANCE**

The State of Nebraska is self-insured for any loss and purchases excess insurance coverage pursuant to Neb. Rev. Stat. § 81-8,239.01 (Reissue 2008). If there is a presumed loss under the provisions of this agreement, Contractor may file a claim with the Office of Risk Management pursuant to Neb. Rev. Stat. §§ 81-8,829 – 81-8,306 for review by the State Claims Board. The State retains all rights and immunities under the State Miscellaneous (Section 81-8,294), Tort (Section 81-8,209), and Contract Claim Acts (Section 81-8,302), as outlined in Neb. Rev. Stat. § 81-8,209 et seq. and under any other provisions of law and accepts liability under this agreement to the extent provided by law.

5. The Parties acknowledge that Attorney General for the State of Nebraska is required by statute to represent the legal interests of the State, and that any provision of this indemnity clause is subject to the statutory authority of the Attorney General.

**K. ATTORNEY'S FEES**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

In the event of any litigation, appeal, or other legal action to enforce any provision of the contract, the Parties agree to pay all expenses of such action, as permitted by law and if order by the court, including attorney's fees and costs, if the other Party prevails.

**L. ASSIGNMENT, SALE, OR MERGER**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

Either Party may assign the contract upon mutual written agreement of the other Party. Such agreement shall not be unreasonably withheld.

The Contractor retains the right to enter into a sale, merger, acquisition, internal reorganization, or similar transaction involving Contractor's business. Contractor agrees to cooperate with the State in executing amendments to the contract to allow for the transaction. If a third party or entity is involved in the transaction, the Contractor will remain responsible for performance of the contract until such time as the person or entity involved in the transaction agrees in writing to be contractually bound by this contract and perform all obligations of the contract.

**M. CONTRACTING WITH OTHER NEBRASKA POLITICAL SUB-DIVISIONS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

The Contractor may, but shall not be required to, allow agencies, as defined in Neb. Rev. Stat. §81-145, to use this contract. The terms and conditions, including price, of the contract may not be amended. The State shall not be contractually obligated or liable for any contract entered into pursuant to this clause. A listing of Nebraska political subdivisions may be found at the website of the Nebraska Auditor of Public Accounts.

**N. FORCE MAJEURE**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

Neither Party shall be liable for any costs or damages, or for default resulting from its inability to perform any of its obligations under the contract due to a natural or manmade event outside the control and not the fault of the affected Party ("Force Majeure Event"). The Party so affected shall immediately make a written request for relief to the other Party, and shall have the burden of proof to justify the request. The other Party may grant the relief requested; relief may not be unreasonably withheld. Labor disputes with the impacted Party's own employees will not be considered a Force Majeure Event.

**O. CONFIDENTIALITY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

All materials and information provided by the Parties or acquired by a Party on behalf of the other Party shall be regarded as confidential information. All materials and information provided or acquired shall be handled in accordance with federal and state law, and ethical standards. Should said confidentiality be breached by a Party, the Party shall notify the other Party immediately of said breach and take immediate corrective action.

It is incumbent upon the Parties to inform their officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a (i)(1), which is made applicable by 5 U.S.C. 552a (m)(1), provides that any officer or employee, who by virtue of his/her employment or official position has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.



**P. EARLY TERMINATION**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
		ZDR	

The contract may be terminated as follows:

1. The State and the Contractor, by mutual written agreement, may terminate the contract at any time.
2. The State, in its sole discretion, may terminate the contract for any reason upon thirty (30) calendar day's written notice to the Contractor. Such termination shall not relieve the Contractor of warranty or other service obligations incurred under the terms of the contract. In the event of termination the Contractor shall be entitled to payment, determined on a pro rata basis, for products or services satisfactorily performed or provided.
3. The State may terminate the contract immediately for the following reasons:
  - a. if directed to do so by statute;
  - b. Contractor has made an assignment for the benefit of creditors, has admitted in writing its inability to pay debts as they mature, or has ceased operating in the normal course of business;
  - c. a trustee or receiver of the Contractor or of any substantial part of the Contractor's assets has been appointed by a court;
  - d. fraud, misappropriation, embezzlement, malfeasance, misfeasance, or illegal conduct pertaining to performance under the contract by its Contractor, its employees, officers, directors, or shareholders;
  - e. an involuntary proceeding has been commenced by any Party against the Contractor under any one of the chapters of Title 11 of the United States Code and (i) the proceeding has been pending for at least sixty (60) calendar days; or (ii) the Contractor has consented, either expressly or by operation of law, to the entry of an order for relief; or (iii) the Contractor has been decreed or adjudged a debtor;
  - f. a voluntary petition has been filed by the Contractor under any of the chapters of Title 11 of the United States Code;
  - g. Contractor intentionally discloses confidential information;
  - h. Contractor has or announces it will discontinue support of the deliverable; and,
  - i. In the event funding is no longer available.

**Q. CONTRACT CLOSEOUT**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
		ZDR	

Upon contract closeout for any reason the Contractor shall within 30 days, unless stated otherwise herein:

1. Transfer all completed or partially completed deliverables to the State;
2. Transfer ownership and title to all completed or partially completed deliverables to the State;
3. Return to the State all information and data, unless the Contractor is permitted to keep the information or data by contract or rule of law. Contractor may retain one copy of any information or data as required to comply with applicable work product documentation standards or as are automatically retained in the course of Contractor's routine back up procedures;
4. Cooperate with any successor Contractor, person or entity in the assumption of any or all of the obligations of this contract;
5. Cooperate with any successor Contractor, person or entity with the transfer of information or data related to this contract;
6. Return or vacate any state owned real or personal property; and,
7. Return all data in a mutually acceptable format and manner.

Nothing in this Section should be construed to require the Contractor to surrender intellectual property, real or personal property, or information or data owned by the Contractor for which the State has no legal claim.

### III. CONTRACTOR DUTIES

#### A. INDEPENDENT CONTRACTOR / OBLIGATIONS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
		ZDR	

It is agreed that the Contractor is an independent contractor and that nothing contained herein is intended or should be construed as creating or establishing a relationship of employment, agency, or a partnership.

The Contractor is solely responsible for fulfilling the contract. The Contractor or the Contractor's representative shall be the sole point of contact regarding all contractual matters.

The Contractor shall secure, at its own expense, all personnel required to perform the services under the contract. The personnel the Contractor uses to fulfill the contract shall have no contractual or other legal relationship with the State; they shall not be considered employees of the State and shall not be entitled to any compensation, rights or benefits from the State, including but not limited to, tenure rights, medical and hospital care, sick and vacation leave, severance pay, or retirement benefits.

By-name personnel commitments made in the Contractor's proposal shall not be changed without the prior written approval of the State. Replacement of these personnel, if approved by the State, shall be with personnel of equal or greater ability and qualifications.

All personnel assigned by the Contractor to the contract shall be employees of the Contractor or a subcontractor, and shall be fully qualified to perform the work required herein. Personnel employed by the Contractor or a subcontractor to fulfill the terms of the contract shall remain under the sole direction and control of the Contractor or the subcontractor respectively.

With respect to its employees, the Contractor agrees to be solely responsible for the following:

1. Any and all pay, benefits, and employment taxes and/or other payroll withholding;
2. Any and all vehicles used by the Contractor's employees, including all insurance required by state law;
3. Damages incurred by Contractor's employees within the scope of their duties under the contract;
4. Maintaining Workers' Compensation and health insurance that complies with state and federal law and submitting any reports on such insurance to the extent required by governing law; and
5. Determining the hours to be worked and the duties to be performed by the Contractor's employees.
6. All claims on behalf of any person arising out of employment or alleged employment (including without limit claims of discrimination alleged against the Contractor, its officers, agents, or subcontractors or subcontractor's employees)

If the Contractor intends to utilize any subcontractor, the subcontractor's level of effort, tasks, and time allocation should be clearly defined in the bidder's proposal. The Contractor shall agree that it will not utilize any subcontractors not specifically included in its proposal in the performance of the contract without the prior written authorization of the State.

The State reserves the right to require the Contractor to reassign or remove from the project any Contractor or subcontractor employee.

Contractor shall insure that the terms and conditions contained in any contract with a subcontractor does not conflict with the terms and conditions of this contract.

The Contractor shall include a similar provision, for the protection of the State, in the contract with any Subcontractor engaged to perform work on this contract.

**B. EMPLOYEE WORK ELIGIBILITY STATUS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of an employee.

If the Contractor is an individual or sole proprietorship, the following applies:

1. The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at <http://das.nebraska.gov/materiel/purchasing.html>.  
The completed United States Attestation Form should be submitted with the RFP response.
2. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

**C. COMPLIANCE WITH CIVIL RIGHTS LAWS AND EQUAL OPPORTUNITY EMPLOYMENT / NONDISCRIMINATION (Statutory)**

The Contractor shall comply with all applicable local, state, and federal statutes and regulations regarding civil rights laws and equal opportunity employment. The Nebraska Fair Employment Practice Act prohibits Contractors of the State of Nebraska, and their Subcontractors, from discriminating against any employee or applicant for employment, with respect to hire, tenure, terms, conditions, compensation, or privileges of employment because of race, color, religion, sex, disability, marital status, or national origin (Neb. Rev. Stat. §48-1101 to 48-1125). The Contractor guarantees compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of contract. The Contractor shall insert a similar provision in all Subcontracts for services to be covered by any contract resulting from this RFP.

**D. COOPERATION WITH OTHER CONTRACTORS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

Contractor may be required to work with or in close proximity to other contractors or individuals that may be working on same or different projects. The Contractor shall agree to cooperate with such other contractors or individuals, and shall not commit or permit any act which may interfere with the performance of work by any other contractor or individual. Contractor is not required to compromise Contractor's intellectual property or proprietary information unless expressly required to do so by this contract.



**E. PERMITS, REGULATIONS, LAWS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

The contract price shall include the cost of all royalties, licenses, permits, and approvals, whether arising from patents, trademarks, copyrights or otherwise, that are in any way involved in the contract. The Contractor shall obtain and pay for all royalties, licenses, and permits, and approvals necessary for the execution of the contract. The Contractor must guarantee that it has the full legal right to the materials, supplies, equipment, software, and other items used to execute this contract.

**F. OWNERSHIP OF INFORMATION AND DATA / DELIVERABLES**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
		ZDR	

The State shall have the unlimited right to publish, duplicate, use, and disclose all information and data developed or obtained by the Contractor on behalf of the State pursuant to this contract.

The State shall own and hold exclusive title to any deliverable developed as a result of this contract. Contractor shall have no ownership interest or title, and shall not patent, license, or copyright, duplicate, transfer, sell, or exchange, the design, specifications, concept, or deliverable.

**G. INSURANCE REQUIREMENTS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

The Contractor shall throughout the term of the contract maintain insurance as specified herein and provide the State a current Certificate of Insurance/Acord Form (COI) verifying the coverage. The Contractor shall not commence work on the contract until the insurance is in place. If Contractor subcontracts any portion of the Contract the Contractor must, throughout the term of the contract, either:

1. Provide equivalent insurance for each subcontractor and provide a COI verifying the coverage for the subcontractor;
2. Require each subcontractor to have equivalent insurance and provide written notice to the State that the Contractor has verified that each subcontractor has the required coverage; or,
3. Provide the State with copies of each subcontractor's Certificate of Insurance evidencing the required coverage.

The Contractor shall not allow any Subcontractor to commence work until the Subcontractor has equivalent insurance. The failure of the State to require a COI, or the failure of the Contractor to provide a COI or require subcontractor insurance shall not limit, relieve, or decrease the liability of the Contractor hereunder.

In the event that any policy written on a claims-made basis terminates or is canceled during the term of the contract or within one (1) year of termination or expiration of the contract, the contractor shall obtain an extended discovery or reporting period, or a new insurance policy, providing coverage required by this contract for the term of the contract and One (1) year following termination or expiration of the contract.

If by the terms of any insurance a mandatory deductible is required, or if the Contractor elects to increase the mandatory deductible amount, the Contractor shall be responsible for payment of the amount of the deductible in the event of a paid claim.

Notwithstanding any other clause in this Contract, the State may recover up to the liability limits of the insurance policies required herein.

**1. WORKERS' COMPENSATION INSURANCE**

The Contractor shall take out and maintain during the life of this contract the statutory Workers' Compensation and Employer's Liability Insurance for all of the contractors' employees to be engaged in work on the project under this contract and, in case any such work is sublet, the Contractor shall require the Subcontractor similarly to provide Worker's Compensation and Employer's Liability Insurance for all of the Subcontractor's employees to be engaged in such work. This policy shall be written to meet the statutory requirements for the state in which the work is to be performed, including Occupational Disease. **The policy shall include a waiver of subrogation in favor of the State. The COI shall contain the mandatory COI subrogation waiver language found hereinafter.** The amounts of such insurance shall not be less than the limits stated hereinafter. For employees working in the State of Nebraska, the policy must be written by an entity authorized by the State of Nebraska Department of Insurance to write Workers' Compensation and Employer's Liability Insurance for Nebraska employees.

**2. COMMERCIAL GENERAL LIABILITY INSURANCE AND COMMERCIAL AUTOMOBILE LIABILITY INSURANCE**

The Contractor shall take out and maintain during the life of this contract such Commercial General Liability Insurance and Commercial Automobile Liability Insurance as shall protect Contractor and any Subcontractor performing work covered by this contract from claims for damages for bodily injury, including death, as well as from claims for property damage, which may arise from operations under this contract, whether such operation be by the Contractor or by any Subcontractor or by anyone directly or indirectly employed by either of them, and the amounts of such insurance shall not be less than limits stated hereinafter.

The Commercial General Liability Insurance shall be written on an **occurrence basis**, and provide Premises/Operations, Products/Completed Operations, Independent Contractors, Personal Injury, and Contractual Liability coverage. **The policy shall include the State, and others as required by the contract documents, as Additional Insured(s). This policy shall be primary, and any insurance or self-insurance carried by the State shall be considered secondary and non-contributory. The COI shall contain the mandatory COI liability waiver language found hereinafter.** The Commercial Automobile Liability Insurance shall be written to cover all Owned, Non-owned, and Hired vehicles.

<b>REQUIRED INSURANCE COVERAGE</b>		
<b>COMMERCIAL GENERAL LIABILITY</b>		
General Aggregate		\$2,000,000
Products/Completed Operations Aggregate		\$2,000,000
Personal/Advertising Injury		\$1,000,000 per occurrence
Bodily Injury/Property Damage		\$1,000,000 per occurrence
Medical Payments		\$10,000 any one person
Damage to Rented Premises (Fire)		\$300,000 each occurrence
Contractual		Included
XCU Liability (Explosion, Collapse, and Underground Damage)		Included
Independent Contractors		Included
Abuse & Molestation		Included
<i>If higher limits are required, the Umbrella/Excess Liability limits are allowed to satisfy the higher limit.</i>		
<b>WORKER'S COMPENSATION</b>		
Employers Liability Limits		\$500K/\$500K/\$500K
Statutory Limits- All States		Statutory - State of Nebraska
USL&H Endorsement		Statutory
Voluntary Compensation		Statutory
<b>COMMERCIAL AUTOMOBILE LIABILITY</b>		
Bodily Injury/Property Damage		\$1,000,000 combined single limit
Include All Owned, Hired & Non-Owned Automobile liability		Included
Motor Carrier Act Endorsement		Where Applicable
<b>UMBRELLA/EXCESS LIABILITY</b>		
Over Primary Insurance		\$5,000,000 per occurrence
<b>PROFESSIONAL LIABILITY</b>		
All Other Professional Liability (Errors & Omissions)		\$1,000,000 Per Claim / Aggregate
<b>COMMERCIAL CRIME</b>		
Crime/Employee Dishonesty Including 3rd Party Fidelity		\$1,000,000
<b>CYBER LIABILITY</b>		
Breach of Privacy, Security Breach, Denial of Service, Remediation, Fines and Penalties		\$10,000,000
<b>MANDATORY COI SUBROGATION WAIVER LANGUAGE</b>		
"Workers' Compensation policy shall include a waiver of subrogation in favor of the State of Nebraska."		
<b>MANDATORY COI LIABILITY WAIVER LANGUAGE</b>		
"Commercial General Liability & Commercial Automobile Liability policies shall name the State of Nebraska as an Additional Insured and the policies shall be primary and any insurance or self-insurance carried by the State shall be considered secondary and non-contributory as additionally insured."		

If the mandatory COI subrogation waiver language or mandatory COI liability waiver language on the COI states that the waiver is subject to, condition upon, or otherwise limit by the insurance policy, a copy of the relevant sections of the policy must be submitted with the COI so the State can review the limitations imposed by the insurance policy.

**3. EVIDENCE OF COVERAGE**

The Contractor shall furnish the Contract Manager, with a certificate of insurance coverage complying with the above requirements prior to beginning work at:

Agency: Nebraska Game and Parks Commission  
Attn: Contract Manager:  
Address: 2200 N 33<sup>rd</sup> Street  
City, State, Zip: Lincoln, NE 68503

These certificates or the cover sheet shall reference the RFP number, and the certificates shall include the name of the company, policy numbers, effective dates, dates of expiration, and amounts and types of coverage afforded. If the State is damaged by the failure of the Contractor to maintain such insurance, then the Contractor shall be responsible for all reasonable costs properly attributable thereto.

Reasonable notice of cancellation of any required insurance policy must be submitted to the contract manager as listed above when issued and a new coverage binder shall be submitted immediately to ensure no break in coverage.

**4. DEVIATIONS**

The insurance requirements are subject to limited negotiation. Negotiation typically includes, but is not necessarily limited to, the correct type of coverage, necessity for Workers' Compensation, and the type of automobile coverage carried by the Contractor.

**H. ANTITRUST**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

The Contractor hereby assigns to the State any and all claims for overcharges as to goods and/or services provided in connection with this contract resulting from antitrust violations which arise under antitrust laws of the United States and the antitrust laws of the State.

**I. CONFLICT OF INTEREST**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

By submitting a proposal, bidder certifies that there does not now exist a relationship between the bidder and any person or entity which is or gives the appearance of a conflict of interest related to this RFP or project.

The bidder certifies that it shall not take any action or acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of its services hereunder or which creates an actual or an appearance of conflict of interest.

The bidder certifies that it will not knowingly employ any individual known by bidder to have a conflict of interest.

The Parties shall not knowingly, for a period of two years after execution of the contract, recruit or employ any employee or agent of the other Party who has worked on the RFP or project, or who had any influence on decisions affecting the RFP or project.



J. STATE PROPERTY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

The Contractor shall be responsible for the proper care and custody of any State-owned property which is furnished for the Contractor's use during the performance of the contract. The Contractor shall reimburse the State for any loss or damage of such property; normal wear and tear is expected.

K. SITE RULES AND REGULATIONS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

The Contractor shall use its best efforts to ensure that its employees, agents, and Subcontractors comply with site rules and regulations while on State premises. If the Contractor must perform on-site work outside of the daily operational hours set forth by the State, it must make arrangements with the State to ensure access to the facility and the equipment has been arranged. No additional payment will be made by the State on the basis of lack of access, unless the State fails to provide access as agreed to in writing between the State and the Contractor.

L. ADVERTISING

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

The Contractor agrees not to refer to the contract award in advertising in such a manner as to state or imply that the company or its services are endorsed or preferred by the State. Any publicity releases pertaining to the project shall not be issued without prior written approval from the State.

M. NEBRASKA TECHNOLOGY ACCESS STANDARDS (Statutory)

Contractor shall review the Nebraska Technology Access Standards, found at <http://nitc.nebraska.gov/standards/2-201.htm> and ensure that products and/or services provided under the contract are in compliance or will comply with the applicable standards to the greatest degree possible. In the event such standards change during the Contractor's performance, the State may create an amendment to the contract to request the contract comply with the changed standard at a cost mutually acceptable to the parties.

**N. DISASTER RECOVERY/BACK UP PLAN**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

The Contractor shall have a disaster recovery and back-up plan, of which a copy should be provided upon request to the State, which includes, but is not limited to equipment, personnel, facilities, and transportation, in order to continue services as specified under the specifications in the contract in the event of a disaster.

**O. DRUG POLICY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

Contractor certifies it maintains a drug free work place environment to ensure worker safety and workplace integrity. Contractor agrees to provide a copy of its drug free workplace policy at any time upon request by the State.

#### IV. PAYMENT

##### A. PROHIBITION AGAINST ADVANCE PAYMENT (Statutory)

Payments shall not be made until contractual deliverable(s) are received and accepted by the State.

##### B. TAXES (Statutory)

The State is not required to pay taxes and assumes no such liability as a result of this solicitation. Any property tax payable on the Contractor's equipment which may be installed in a state-owned facility is the responsibility of the Contractor.

##### C. INVOICES

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

Invoices for payments must be submitted by the Contractor to the agency requesting the services with sufficient detail to support payment. Send itemized invoice to the Nebraska Game and Parks Commission, 2200 N 33<sup>rd</sup> Street, Lincoln, NE 68503. The terms and conditions included in the Contractor's invoice shall be deemed to be solely for the convenience of the parties. No terms or conditions of any such invoice shall be binding upon the State, and no action by the State, including without limitation the payment of any such invoice in whole or in part, shall be construed as binding or estopping the State with respect to any such term or condition, unless the invoice term or condition has been previously agreed to by the State as an amendment to the contract.

##### D. INSPECTION AND APPROVAL

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

Final inspection and approval of all work required under the contract shall be performed by the designated State officials.

The State and/or its authorized representatives shall have the right to enter any premises where the Contractor or Subcontractor duties under the contract are being performed, and to inspect, monitor or otherwise evaluate the work being performed. All inspections and evaluations shall be at reasonable times and in a manner that will not unreasonably delay work.

##### E. PAYMENT

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

State will render payment to Contractor when the terms and conditions of the contract and specifications have been satisfactorily completed on the part of the Contractor as solely determined by the State. (Neb. Rev. Stat. Section 73-506(1)) Payment will be made by the responsible agency in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. §81-2401 through 81-2408). The State may require the Contractor to accept payment by electronic means such as ACH deposit. In no event shall the State be responsible or liable to pay for

any services provided by the Contractor prior to the Effective Date of the contract, and the Contractor hereby waives any claim or cause of action for any such services.

**F. LATE PAYMENT (Statutory)**

The Contractor may charge the responsible agency interest for late payment in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. §81-2401 through 81-2408).

**G. SUBJECT TO FUNDING / FUNDING OUT CLAUSE FOR LOSS OF APPROPRIATIONS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

The State's obligation to pay amounts due on the Contract for a fiscal years following the current fiscal year is contingent upon legislative appropriation of funds. Should said funds not be appropriated, the State may terminate the contract with respect to those payments for the fiscal year(s) for which such funds are not appropriated. The State will give the Contractor written notice thirty (30) calendar days prior to the effective date of termination. All obligations of the State to make payments after the termination date will cease. The Contractor shall be entitled to receive just and equitable compensation for any authorized work which has been satisfactorily completed as of the termination date. In no event shall the Contractor be paid for a loss of anticipated profit.

**H. RIGHT TO AUDIT (First Paragraph is Statutory)**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
ZDR			

The State shall have the right to audit the Contractor's performance of this contract upon a 30 days' written notice. Contractor shall utilize generally accepted accounting principles, and shall maintain the accounting records, and other records and information relevant to the contract (Information) to enable the State to audit the contract. The State may audit and the Contractor shall maintain, the Information during the term of the contract and for a period of five (5) years after the completion of this contract or until all issues or litigation are resolved, whichever is later. The Contractor shall make the Information available to the State at Contractor's place of business or a location acceptable to both Parties during normal business hours. If this is not practical or the Contractor so elects, the Contractor may provide electronic or paper copies of the Information. The State reserves the right to examine, make copies of, and take notes on any Information relevant to this contract, regardless of the form or the Information, how it is stored, or who possesses the Information. Under no circumstance will the Contractor be required to create or maintain documents not kept in the ordinary course of contractor's business operations, nor will contractor be required to disclose any information, including but not limited to product cost data, which is confidential or proprietary to contractor.

The Parties shall pay their own costs of the audit unless the audit finds a previously undisclosed overpayment by the State. If a previously undisclosed overpayment exceeds one-half of one (.5%) of the total contract billings, or if fraud, material misrepresentations, or non-performance is discovered on the part of the Contractor, the Contractor shall reimburse the State for the total costs of the audit. Overpayments and audit costs owed to the State shall be paid within ninety days of written notice of the claim. The Contractor agrees to correct any material weaknesses or condition found as a result of the audit.



# REQUESTED CONTRACT MODIFICATIONS

## SECTION II

### G. Breach

Either Party may terminate the contract, in whole or in part, if the other Party breaches its duty to perform its obligations under the contract in a timely and proper manner. Termination requires written notice of default and a thirty (30) calendar day (or longer at the non-breaching Party's discretion considering the gravity and nature of the default) cure period. Said notice shall be delivered by Certified Mail, Return Receipt Requested, or in person with proof of delivery. Allowing time to cure a failure or breach of contract does not waive the right to immediately terminate the contract for the same or different contract breach which may occur at a different time. In case of default of the Contractor, the State may contract the service from other sources and hold the Contractor responsible for any excess cost occasioned thereby. ~~Contractor's liability shall not exceed the total amount of fully paid invoices related to the terminated project within the previous twenty-four (24) months.~~

The State's failure to make payment shall not be a breach, and the Contractor shall retain all available statutory remedies and protections.

### J. Indemnification

Sections 1 and 3-5 remain unmodified.

#### 2. INTELLECTUAL PROPERTY

The Contractor agrees it will, at its sole cost and expense, defend, indemnify, and hold harmless the indemnified parties from and against any and all claims, to the extent such claims arise out of, result from, or are attributable to, the actual or alleged infringement or misappropriation of any patent, copyright, trade secret, trademark, or confidential information of any third party by the Contractor or its employees, Subcontractors, consultants, representatives, and agents; provided, however, the State gives the Contractor prompt notice in writing of the claim ~~and Contractor controls the defense the alleged infringement.~~ The Contractor may not settle any infringement claim that will affect the State's use of the Licensed Software without the State's prior written consent, which consent ~~may~~ **shall not** be **unreasonably** withheld ~~for any reason.~~

If a judgment or settlement is obtained or reasonably anticipated against the State's use of any intellectual property for which the Contractor has indemnified the State, the Contractor shall, ~~at its~~ **option and expense:** (a) procure for Customer the right to continue using the affected Vendor Reserved Technology; (b) replace or modify the affected Vendor Reserved Technology so as not to infringe; or (c) accept the return of such Deliverable, terminate this agreement and Customer's license in and to the affected Vendor Reserved Technology as set forth in the Professional Services Agreement and refund the value of the License Fees associated with such Deliverable (as such License Fees are set forth in the Statement of Work) computed according to a thirty-six (36) month straight-line amortization schedule beginning on the Effective Date. Fees associated with customization and support services shall not be subject to refund. ~~at the Contractor's sole cost and expense, promptly modify the item or items which were determined to be infringing, acquire a license or licenses on the State's behalf to provide the necessary rights to the State to eliminate the infringement, or provide the State with a non-infringing substitute that provides the State the same functionality. At the State's election, the actual or anticipated judgment may be treated as a breach of warranty by the Contractor, and the State may receive the remedies provided under this RFP.~~

## P. Early Termination

Sections 1 and 3 remain unmodified.

The State, in its sole discretion, may terminate the contract for any reason upon thirty (30) calendar day's written notice to the Contractor. Such termination shall not relieve the Contractor of warranty or other service obligations incurred under the terms of the contract. In the event of termination the Contractor shall be entitled to payment, for work completed by the Contractor as determined by the amount of hours already completed in the design, development, testing and management of the customized deliverable(s), even if such deliverables have not yet been deployed. Hardware warranties and annual support services are pre-paid and not proratable, determined on a pro-rata basis, for products or services satisfactorily performed or provided.

Note on this modification: Much of the work to be completed on this project involves custom professional services. Such professional services (design, software development, etc.) are completed in early phases of the project before a deliverable can be produced and delivered. If for any reason the contract was terminated early, before final deliverables were complete, Nanonation would still be entitled to be compensated for the work completed up to the point of termination.

## Q. Contract Closeout

Upon contract closeout for any reason the Contractor shall within 30 days, unless stated otherwise herein:

1. Transfer all completed or partially completed deliverables to the State, excluding any Vendor Reserved Technology as defined in the Professional Services Agreement;
2. Transfer ownership and title to all completed or partially completed deliverables to the State, excluding any Vendor Reserved Technology as defined in the Professional Services Agreement;
3. Return to the State all information and data, unless the Contractor is permitted to keep the information or data by contract or rule of law. Contractor may retain one copy of any information or data as required to comply with applicable work product documentation standards or as are automatically retained in the course of Contractor's routine back up procedures;
4. Cooperate with any successor Contractor, person or entity in the assumption of any or all of the obligations of this contract. Any such time spent by the Contractor shall be billable at the Contractor's standard hourly rate;
5. Cooperate with any successor Contractor, person or entity with the transfer of information or data related to this contract. Any such time spent by the Contractor shall be billable at the Contractor's standard hourly rate;
6. Return or vacate any state owned real or personal property; and,
7. Return all data in a mutually acceptable format and manner.

Nothing in this Section should be construed to require the Contractor to surrender intellectual property, real or personal property, or information or data owned by the Contractor for which the State has no legal claim.

## SECTION III

### Q. Independent Contractor / Obligations

All other parts of this section remain unchanged.

The State reserves the right to require the Contractor to reassign or remove from the project any Contractor or subcontractor employee. If such a reassignment takes place, the State acknowledges that it can have an impact on the timeline for delivery of deliverables and services and that any delays caused by the replacement and transitioning of an employee will not constitute a breach of this contract.

## F. Ownership of Information and Data / Deliverables

The State shall have the unlimited right to publish, duplicate, use, and disclose all information and data developed or obtained by the Contractor on behalf of the State pursuant to this contract, so long as the State has purchased a fully paid license for each endpoint that incorporates a Deliverable and maintains currency on any associated annual hosting and support contracts required for the use of such Deliverable. The foregoing does not in any way grant the State the right to resell, lease, reverse engineer, decompile, disassemble or otherwise attempt to derive the source code for any Deliverable or Vendor Reserved Technology, nor modify, change, revise or create derivative works from any Deliverable or Vendor Reserved Technology without the express written consent of Contractor.

The State shall own and hold exclusive title to any deliverable developed as a result of this contract. Contractor shall have no ownership interest or title, and shall not patent, license, or copyright, duplicate, transfer, sell, or exchange, the design, specifications, concept, or deliverable, excluding any Vendor Reserved Technology as defined in the Professional Services Agreement.

## SECTION IV

### A. Prohibition Against Advance Payment (Statutory)

Payments shall not be made until contractual deliverable(s) are received and accepted by the State. Any project executed under this contract will be broken into phases, each phase including a deliverable milestone, such as "design mockups", "beta version software", etc., with an invoice issued for work associated with that completed deliverable and payment due in compliance with the State of Nebraska Prompt Payment Act.





# **PROFESSIONAL SERVICES AGREEMENT**



## PROFESSIONAL SERVICES AGREEMENT

**THIS PROFESSIONAL SERVICES AGREEMENT** (the "Agreement") is made as of \_\_\_\_\_ (the "Effective Date") by and between Nanonation Incorporated, a Delaware corporation ("Vendor"), and the party identified below ("Customer").

<b>Name of Customer:</b>	
<b>Customer Contact Information:</b>	
Name:	Contact:
Address:	Title:
	Phone:
	Fax:
	E-Mail:
<b>Customer Billing Information:</b> (if different from above)	
Name: _____	PO #: _____
Bill to: _____	Phone: _____
Address: _____	Fax: _____
	E-Mail: _____

Customer desires to engage Vendor to perform certain professional services, as described in a mutually agreed to Statement of Work (as defined herein) entered into between the parties pursuant to this Agreement. This Agreement sets forth the terms and conditions under which Vendor agrees to provide such professional services to Customer in exchange for the mutual promises and other good and valuable consideration set forth herein.

**CUSTOMER HAS READ AND AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT, INCLUDING THOSE TERMS CONTAINED ON THE FOLLOWING PAGES HEREOF.**

**IN WITNESS WHEREOF**, the parties by their authorized representatives have entered into this Agreement as of the Effective Date. All copies of this Agreement signed by both parties shall be deemed originals.

<b>NANONATION INCORPORATED</b>	<b>CUSTOMER:</b>
Signed: _____	Signed: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

**1. DEFINITIONS.** For the purposes of this Agreement and the Statement of Work, the following terms shall have the following meanings:

**"Customer Reserved Technology"** means all Intellectual Property Rights, including any technology, software and hardware, that was either previously owned, developed or created by, or licensed to, Customer or its subcontractors prior to the Effective Date and provided to Vendor for use in the performance of the Services or incorporation into the Deliverables, all as further described in *Exhibit B*.

**"Deliverable(s)"** means all Intellectual Property Rights, including without limitation, all inventions, ideas, processes, formulae, software (including source and object codes), hardware, data, programs, improvements, discoveries, developments, designs and techniques, whether or not patentable or copyrightable, and all other works or work product, resulting from the performance of Vendor under this Agreement and the Statement of Work.

**"Vendor Reserved Technology"** means any and all Intellectual Property Rights, including any technology, inventions, ideas, processes, formulae, software (including source and object codes), hardware, data, programs, discoveries, developments, designs and techniques, whether or not patentable or copyrightable, and all other works or work product, supplied by Vendor or its subcontractors in performance of the Services or incorporated into the Deliverables, that was either previously owned, developed or created by, or licensed to, Vendor or its subcontractors prior to the Effective Date, or that was developed or created by Vendor or its subcontractors outside of their performance under this Agreement or the Statement of Work, all as further described in *Exhibit C*.

**"Intellectual Property Rights"** means any and all known or hereafter existing worldwide copyrights, trademarks, service marks, trade secrets, patents, patent applications, know-how, moral rights, contract rights, and other proprietary rights, and all registrations, applications, renewals, extensions, and combinations of the foregoing.

## **2. VENDOR SERVICES.**

**2.1 Services.** All Services to be performed pursuant to this Agreement shall be set forth in a written, mutually agreed to, statement of work signed by both parties in the form set forth in *Exhibit A* (the "Statement of Work"), which is expressly made part of this Agreement and made subject to the terms and conditions hereof. The Statement of Work shall describe the nature of each engagement, the scope of the Services, the nature of the Deliverables to be provided, the relevant fees and charges, and the targeted start and end dates for the Services. Subject to the terms and conditions of this Agreement, Vendor shall use commercially reasonable efforts to provide the work or services, including the provision of any Deliverables, set forth in the Statement of Work (collectively and individually, the "Services"). All Services shall be deemed accepted upon completion, and all Deliverables shall be deemed accepted upon delivery.

**2.2 Subcontractors.** Vendor may, at its sole discretion, delegate the performance of any portion of the Services to any of its affiliates or to a subcontractor of Vendor's choosing. Vendor shall require any such subcontractor to enter into a nondisclosure agreement at least as restrictive as the terms of this Agreement. Vendor shall remain responsible for the performance of all Services delegated to its subcontractors.

**2.3 Relationship of the Parties.** Vendor is an independent contractor for Customer, and nothing in this Agreement shall be construed as creating an employer-employee relationship, a partnership, or a joint venture between the parties. Neither party is an agent of the other nor is authorized to make any representation, contract, or commitment on behalf of the other party. Vendor assumes no obligation or responsibility for Customer's business or operations, other than Vendor's performance of its obligations hereunder.

**2.4 Services for Others.** Customer recognizes that Vendor personnel providing Services to Customer under this Agreement may perform similar services from time to time for other persons or entities, and this Agreement shall not prevent Vendor from using such personnel (or equipment) for the purpose of performing such similar services for such third parties during the term of this Agreement, *provided that* Vendor complies with its obligations regarding Customer's Confidential Information.

**2.5 Site Access.** Customer shall provide Vendor with reasonable remote access to any Deliverable for purposes of performing support services, as requested by Customer. Vendor reserves the right to inspect all equipment and cabling acquired from a source other than Vendor. Customer shall remain solely responsible for the provision and maintenance of necessary apparatus, including, but not limited to, telephone lines, modems, high-speed network access, hardware and computer software, all as reasonably requested by Vendor. Vendor shall not be responsible for any loss of data, loss of downtime or corruption of Customer's other software program files, or any other loss associated with the provision of remote dial-in services by Vendor, provided that such loss is beyond the reasonable control of Vendor, whether arising in contract, tort, negligence, strict liability, products liability or otherwise.

**3. MODIFICATIONS.** Any changes, additions or deletions to the Services and applicable Deliverables requested by either Customer or Vendor (each, a "Services Modification") shall comply with this Section 3. Customer shall propose any Services Modification through written requests to Vendor. Promptly after receipt of Customer's request, Vendor shall either reject the requested Services Modification in writing or submit a proposal to Customer describing the change and any effect on price, schedules, or other anticipated effects of the proposed Services Modification, and the parties will negotiate in good faith the adoption of Customer's requested Services Modification. If Vendor desires a modification to any Services or Deliverables, Vendor shall propose a Services Modification

in writing to Customer. Such proposal shall describe the change and any effect on price, schedules, or other anticipated effects of the proposed Services Modification. Promptly after receipt of Vendor's request, Customer shall either reject or accept the requested Services Modification in writing within three (3) business days.

#### **4. FEES, EXPENSES, AND PAYMENT.**

**4.1 Service Fees.** In exchange for the Services and Deliverables to be provided by Vendor under this Agreement and the Statement of Work, Customer shall pay Vendor the fees and other charges set forth in the Statement of Work (the "Fees") when due.

**4.2 Expenses.** Customer shall reimburse Vendor for all expenses identified as reimbursable in the Statement of Work when due, and for all reasonable, documented, and necessary expenses, including, without limitation, reasonable travel and living expenses, incurred by Vendor in the course of its performance under this Agreement and the Statement of Work (the "Expenses").

**4.3 Payment.** Unless otherwise stated in the Statement of Work, Vendor shall invoice Customer for all Fees due under the Statement of Work at the time the parties execute the Statement of Work, and for any hourly-based Fees and Expenses incurred during each month of the Agreement upon the completion of each such month. Each invoice will state the basis for any fees or expenses included thereon. Customer shall pay all amounts set forth on Vendor's invoices in immediately available funds within thirty (30) days of the date of invoice. Amounts not paid when due shall be subject to a late charge of one percent (1.0%) per month (12% per year) or any applicable legal maximum, whichever is greater. Late charges are intended as liquidated damages, and reasonable estimates of the amounts necessary to compensate Vendor for costs and losses associated with delays in payment, and not as a penalty.

**4.4 Taxes.** Customer shall directly pay, or reimburse Vendor for, all taxes, assessments, fees and other governmental charges of any kind (including without limitation sales, use, excise, value-added, business license and gross receipts taxes) (collectively, the "Taxes") that may be imposed upon the Services, Deliverables, or any amounts paid to Vendor under this Agreement or the Statement of Work. Notwithstanding the foregoing, neither party shall have any obligation for any Tax upon the other party's real, personal or intangible property, or upon the other party's net income.

#### **4.5 Records, Reporting, and Audit.**

(a) Vendor shall maintain records of the Services performed under this Agreement and the Statement of Work and such records as are necessary to substantiate any reimbursable Expenses and additional Expenses being charged to Customer, in accordance with Vendor's standard consulting principles.

(b) Unless otherwise set forth in the Statement of Work, Vendor will periodically provide to

Customer a summary progress report of all Services performed under the Statement of Work (each, a "Progress Report"). Any Progress Report and any other information received by Customer in any such examination shall be maintained as Confidential Information under the terms of this Agreement.

(c) Customer shall have the right, upon reasonable prior written notice to Vendor, and at a mutually agreeable time and place (but no more than twice per calendar year during the term of this Agreement) to examine such records for the purposes of verifying the amounts of reimbursable Expenses and additional Expenses charged to Customer. Such records and any other information received by Customer in any such examination shall be maintained as Confidential Information under the terms of this Agreement and any person or entity conducting such examination shall have agreed in writing to be bound by terms pertaining to the disclosure of such information at least as restrictive as those found in this Agreement.

#### **5. OWNERSHIP AND LICENSING.**

**5.1 Deliverables.** Subject to the grant of license in Section 5.2, Vendor shall possess exclusive ownership interest in any Deliverables produced or developed by Vendor while performing any Services under this Agreement or the Statement of Work. Customer agrees to and hereby assigns, all right, title and interest in and to any such Deliverables, and all Intellectual Property Rights therein or relative thereto, to Vendor. At Vendor's request and expense, Customer shall execute and deliver such instruments and take such other action as may be reasonably requested by Vendor to perfect or protect Vendor's rights in the Deliverables.

#### **5.2 Vendor License Grant.**

(a) **Grant of License.** Unless otherwise expressly and specifically agreed by the parties in writing in the Statement of Work and subject to the full satisfaction of all Customer payment obligations to Vendor associated with each Deliverable, Vendor hereby grants to Customer a perpetual (unless terminated under Section 9.2), non-exclusive, royalty-free, fully-paid, non-transferable, non-sublicensable, worldwide license to use, perform, display and reproduce for its own internal business purposes any Deliverable or Vendor Reserved Technology incorporated into any Deliverable produced under this Agreement. Any such Deliverable or Vendor Reserved Technology licensed to Customer shall be considered Confidential Information subject to the terms of Section 6 of this Agreement.

(b) **Restrictions.** Customer acknowledges that any Deliverable or Vendor Reserved Technology incorporated into any Deliverable, and the respective structure, organization and source code of any Deliverable or Vendor Reserved Technology, constitute valuable trade secrets and proprietary assets of Vendor and its subcontractors and suppliers. Accordingly, Customer agrees not to: (i) sublicense, lease, sell, rent, loan or otherwise transfer (except in connection with a permitted

assignment under Section 11.1) any Deliverable or Vendor Reserved Technology to any third party; (ii) reverse engineer, decompile, disassemble or otherwise attempt to derive the source code for any Deliverable or Vendor Reserved Technology; (iii) otherwise use or copy any Deliverable or Vendor Reserved Technology except as expressly allowed herein; (iv) modify, change, revise or create derivative works from any Deliverable or Vendor Reserved Technology without the express written consent of Vendor; or (v) remove any copyright or proprietary legends from any of the Deliverables or Vendor Reserved Technology.

**(c) Vendor Reserved Technology.** Subject to the grant of license in Section 5.2(a), Vendor shall retain exclusive ownership interest in all Vendor Reserved Technology and any other proprietary materials or content that it supplies to Customer during performance under this Agreement or the Statement of Work, whether or not such Vendor Reserved Technology is incorporated into any Deliverables.

**5.3 Customer License Grant.** Customer hereby grants to Vendor an unrestricted, perpetual, irrevocable, nonexclusive, royalty-free, fully-transferable, fully-paid, worldwide license under Customer's Intellectual Property Rights to use, perform, display, reproduce, modify, adapt, distribute, sublicense (including without limitation through multiple tiers), prepare derivative works, make, have made and sell, for any purpose, any Customer Reserved Technology or other Customer Intellectual Property Rights or proprietary information provided to Vendor and solely for incorporation into any Deliverable(s) produced under this Agreement. Subject to the grant of license in this section, Customer shall retain exclusive ownership interest in all Customer Reserved Technology and any other Intellectual Property Rights, proprietary materials or content that it supplies to Vendor during performance under this Agreement or the Statement of Work.

**5.4 Hardware.** In the event Customer purchases hardware from Vendor associated with any Deliverable, title to such hardware shall pass to Customer at the time of such purchase.

## **6. CONFIDENTIALITY.**

**6.1 Confidentiality.** Each party may provide to the other, and each party may come into possession of information relating to the other party's business that is considered confidential (the "Confidential Information"). Confidential Information shall include, without limitation, all Deliverables, all Vendor Reserved Technology, all Customer Reserved Technology, all information marked confidential, all trade secrets of the parties (as defined under the applicable state trade secret law), and all information relating to each party's business plans and operations, products, costs, marketing statistics, all customer information, statistics, reports, data, lists, security assessments and analysis, future plans, business affairs, process information, technical information, finances, marketing plan and pricing strategy. Notwithstanding the

foregoing, the term Confidential Information shall not include information that (a) is publicly known at the time of its disclosure, (b) is lawfully received by the receiving party from a third party not under an obligation of confidentiality to the disclosing party, (c) is published or otherwise made known to the public by the disclosing party, or (d) was generated independently by the receiving party before disclosure by the disclosing party.

**6.2 Restrictions.** Neither party shall disclose any of the other party's Confidential Information to any person, or permit any person to use, examine or reproduce Confidential Information without the prior written consent of the other party, unless such Confidential Information has become public knowledge through means other than breach of this Agreement or unless disclosure is required by a valid subpoena, court order or applicable law. Each party shall exercise at least the same degree of care to protect the confidentiality of the other party's Confidential Information that it exercises to protect the confidentiality of its own similar confidential information, but in no event less than reasonable care. As long as a party meets this standard of care, that party shall have no additional obligations or liability regarding confidentiality.

**6.3 Limited Rights of Disclosure.** Anything to contrary notwithstanding, Vendor may, without the prior written consent of Customer, (a) disclose and make available Customer's Confidential Information, on a confidential and restricted basis, to its employees and independent contractors who have a reasonable need to know or have access to such information and material in connection with the Services, and (b) use Customer's Confidential Information for any proper purpose related to the Services.

**6.4 Notice of Breach.** Each party will immediately notify the other party of any theft or unauthorized disclosure, reproduction or use of any Confidential Information, or any part of such information, of which such party has knowledge.

**6.5 Injunctive Relief.** Each party acknowledges that any violation of this Section 6 may result in irreparable harm to the other party and that such other party may have no adequate remedy at law. The parties agree that in addition to a right to terminate this Agreement upon a breach of confidentiality each party shall have the right to seek equitable relief by the way of injunction to restrain such violation and to such further relief it may be entitled at law or in equity.

**6.6 Advertising.** Notwithstanding the foregoing, Vendor may publicly acknowledge the existence of its relationship with Customer and, without revealing the specific terms of this Agreement, may acknowledge this Agreement and use Customer's name within its advertising, marketing and promotional materials.

## **7. WARRANTIES AND LIABILITY.**

**7.1 Warranties.** Vendor represents and warrants that:

(a) The Services shall be performed in a professional manner;

(b) The Deliverables will be provided according to any specific standards expressly described in the Statement of Work, and if no standards are set forth in the Statement of Work, according to generally accepted industry standards; and

(c) For a period of ninety (90) days from the delivery date of any Deliverable, Vendor warrants that the any custom-developed software code included in any Deliverable shall substantially achieve the requirements for such software set forth in the Statement of Work under which such software is developed. For any failure of such custom-developed software code to meet the foregoing warranty, Vendor shall replace or correct such software. If any modifications are made to any such software by Customer during the warranty period without the express written consent of Vendor, if the media is subjected to accident, abuse, or improper use, or if Customer violates the terms of this Agreement, then this warranty shall immediately terminate. In addition, this warranty shall not apply if any such software is used on or in conjunction with hardware or software other than the unmodified version of hardware and software with which such software was designed to be used as described in the Statement of Work.

**7.2 Limited Remedies.** In the event that Customer identifies in writing to Vendor any alleged deficiencies in the Services or Deliverables with respect to the warranties set forth in Section 7.1, Vendor may, at its sole discretion and as Customer's sole and exclusive remedy for any alleged breach: (a) re-perform or modify the Services or Deliverables in a manner that resolves the alleged deficiency forming the basis for the breach of warranty claim, or (b) replace the media upon which the Deliverables are provided in a manner that resolves the alleged deficiency forming the basis for the breach of warranty claim.

**7.3 Disclaimer.** THE WARRANTIES SET FORTH IN THIS SECTION 7 ARE THE SOLE AND EXCLUSIVE WARRANTIES MADE BY VENDOR TO CUSTOMER UNDER THIS AGREEMENT OR THE STATEMENT OF WORK. VENDOR SPECIFICALLY DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY KIND WITH REGARD TO ANY SUBJECT MATTER OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF NON-INFRINGEMENT, TITLE, FITNESS FOR A PARTICULAR PURPOSE, FUNCTIONALITY OR MERCHANTABILITY, WHETHER EXPRESS, IMPLIED OR STATUTORY.

**7.4 Limitation of Warranties and Liability.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE STATEMENT OF WORK, OR ANY EXHIBIT: (A) IN NO EVENT SHALL VENDOR'S TOTAL AGGREGATE LIABILITY TO CUSTOMER ARISING FROM OR RELATING TO THIS AGREEMENT OR THE STATEMENT OF WORK EXCEED THE TOTAL AMOUNT PAID TO VENDOR BY CUSTOMER UNDER THE STATEMENT OF WORK DURING THE SIX (6) MONTH PERIOD

IMMEDIATELY PRECEDING THE EVENT(S) GIVING RISE TO SUCH LIABILITY, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR OTHERWISE (IT BEING UNDERSTOOD THAT VENDOR'S LIABILITY TO CUSTOMER MAY BE FURTHER LIMITED BY OTHER PROVISIONS OF THIS AGREEMENT); (B) IN NO EVENT SHALL VENDOR HAVE ANY LIABILITY FOR THE PERFORMANCE OR NON-PERFORMANCE OF ANY THIRD PARTY OR THIRD PARTY PRODUCTS (INCLUDING HARDWARE AND SOFTWARE), OTHER THAN A VENDOR SUBCONTRACTOR; AND (C) WITHOUT LIMITING CUSTOMER'S RIGHTS TO RECOVER DIRECT DAMAGES, VENDOR SHALL NOT BE LIABLE TO CUSTOMER FOR ANY LOST CODE, INFORMATION OR MATERIALS, LOST PROFITS OR REVENUE, BUSINESS INTERRUPTION, COMPUTER OR SYSTEM DOWNTIME OR UNAVAILABILITY, OR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES, EVEN IF VENDOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## **8. INDEMNITY.**

**8.1 Indemnity by Vendor.** Subject to the limitations set forth in Section 7.4, Vendor shall, at its own expense, indemnify, defend and hold Customer harmless from and against any and all claims, costs, fees (including reasonable attorneys' fees), damages, liabilities and expenses arising from property damage, personal injury, or death caused by the willful misconduct or willful omission of any Vendor personnel while performing under this Agreement or the Statement of Work or while on Customer's premises.

**8.2 Indemnity by Customer.** Customer shall, at its own expense, indemnify, defend and hold Vendor harmless from and against any and all claims, costs, fees (including reasonable attorneys' fees), damages, liabilities and expenses to the extent such claim arises out of an allegation that Vendor's use while performing Services hereunder, or incorporation into any Deliverable, of any Customer-Reserved Technology, software, hardware, customer content, information or materials infringes or misappropriates any third party Intellectual Property Rights.

**8.3 Infringement by Vendor Reserved Technology.** If any Deliverable that incorporates any Vendor Reserved Technology is or in Vendor's opinion is likely to become the subject of any claim, action, suit or proceeding for infringement of a third party's Intellectual Property Rights because of the Vendor Reserved Technology, then, to the extent such potential infringement arises from the Vendor Reserved Technology incorporated into such Deliverable, Vendor may, at its option and expense: (a) procure for Customer the right to continue using the affected Vendor Reserved Technology; (b) replace or modify the affected Vendor Reserved Technology so as not to infringe; or (c) accept the return of such Deliverable, terminate this agreement and Customer's license in and to the affected Vendor Reserved Technology as set forth in Section 5 and



refund the value of the License Fees associated with such Deliverable (as such License Fees are set forth in the Statement of Work) computed according to a thirty-six (36) month straight-line amortization schedule beginning on the Effective Date. Fees associated with customization and support services shall not be subject to refund. Any of the foregoing options elected by Vendor shall represent Customer's sole available remedy for any such infringement action brought by a third party.

**8.4 Indemnification Procedures.** The obligation of either party to indemnify the other party hereunder is predicated upon the party to be indemnified: (a) providing the indemnifying party prompt written notice of any such claim; (b) allowing the indemnifying party to control the defense and any settlement of any such claim (except that the indemnified party's prior written approval will be required for any settlement that reasonably can be expected to require a material affirmative obligation or, or result in any ongoing material liability to, the indemnified party); and (c) reasonably cooperating with the indemnifying party, at the indemnifying party's expense, in the defense and/or settlement of such claim.

**8.5 Limitation on Indemnity Actions.** THIS SECTION 8 STATES EACH PARTY'S SOLE AND EXCLUSIVE OBLIGATION AND LIABILITY, AND SOLE AND EXCLUSIVE RIGHTS AND REMEDIES, WITH RESPECT TO ANY CLAIMS OF INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS RELATING TO THE VENDOR RESERVED TECHNOLOGY AND ANY DELIVERABLE.

## **9. TERM AND TERMINATION.**

**9.1 Term.** The term of this Agreement shall commence on the Effective Date and shall continue for one (1) year (the "Initial Term"), or until terminated by either party pursuant to this Section 9. The Agreement will automatically renew for additional one (1) year terms (each a "Renewal Term") at the end of the Initial Term or any Renewal Term, unless either party provides written notice of its intent not to renew to the other party at least thirty (30) days prior to the end of the Initial Term or the then current Renewal Term. As applicable, the Initial Term and any Renewal Term shall be automatically extended until the completion of all projects set forth in the Statement of Work entered into under this Agreement.

**9.2 Termination for Cause.** Either party may suspend performance and terminate this Agreement or the Statement of Work immediately upon written notice at any time if:

(a) The other party is in material breach of any material warranty, term, condition or covenant of this Agreement or the Statement of Work and fails to cure such breach within thirty (30) days after receipt of written notice thereof; or

(b) The other party is adjudicated insolvent or bankrupt, or if any proceedings are instituted by either party or against it, if not dismissed within ninety (90) days of filing, seeking relief, reorganization or arrangement under

any laws relating to insolvency, or upon any assignment for the benefit of its creditors, or upon the appointment of a receiver, liquidator or trustee of any of its property or assets, or upon the dissolution or winding up of its business.

## **9.3 Effect of Termination.**

(a) Upon the termination or expiration of this Agreement or the Statement of Work, Customer shall pay Vendor all outstanding Fees and Expenses incurred and approved by Vendor at the time of termination.

(b) In the event of termination or expiration of this Agreement for any reason, Sections 4, 5, 6, 7, 8, 9 and 11 shall survive termination or expiration; if termination is for Customer's breach of this Agreement, then Sections 7.1 and 8.1 shall not survive.

(c) Customer shall return to Vendor any Vendor Reserved Technology existing and delivered in whatever form in its possession at the termination or expiration of this Agreement.

## **10. SUPPORT/MAINTENANCE**

**10.1 Updates and Upgrades.** Vendor will provide to Customer Updates and Upgrades to any Deliverable within a reasonable time if and when such Updates and Upgrades become available. For purposes of this Agreement, "Updates" means a software release containing error corrections and any correction and updates to the associated documentation. "Upgrades" means a software release containing new enhancements, features or functionality and the associated documentation.

**10.2 Support.** Vendor will provide Customer with technical support ("Support") to include: (a) assistance related to questions on the installation and operational use of any Deliverable; (b) assistance in identifying and verifying the causes of suspected errors in any Deliverable; and (c) providing workarounds for identified Deliverable errors or malfunctions, where reasonably available to Customer. Customer will ensure that only persons properly trained in the operation and usage of the Deliverable will utilize the Support.

**10.3 Error Corrections.** During the term of this Agreement, Vendor will use its best efforts to correct any reproducible error in the Deliverable with a level of effort commensurate with the severity of the error.

**10.4 Limitations.** Vendor shall not be responsible for correcting any errors on a Deliverable caused by (a) Customer's failure to implement all Updates and Upgrades issued by Vendor, (b) changes to the operating system or environment that adversely affects the Deliverable, (c) any alterations of or additions to a Deliverable made by parties other than Vendor, (d) use of the Deliverable in a manner for which it was not designed, or (e) accident, negligence or misuse of a Deliverable. Support for earlier versions or for errors not covered under this Agreement may be obtained at Vendor's current rates.

## **11. GENERAL.**

**11.1 Assignment.** Except as set forth in Section 2.2, neither party may transfer, directly or indirectly, by operation of law or otherwise, this Agreement or its rights and obligations hereunder without the prior written consent of the other party. Any attempt to do so in contravention to this Section 11.1 shall be void and of no force or effect. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of each party's respective successors and permitted assigns.

**11.2 Counterparts.** This Agreement may be executed in counterparts, each of which will be considered an original, but all of which together will constitute the same instrument.

**11.3 Entire Agreement.** This Agreement, together with the Statement of Work, constitutes the entire agreement between the parties with respect to the Services and all other subject matter hereof, and supersedes all prior oral and written agreements between the parties regarding the subject matter of this Agreement. This Agreement shall not be modified except by a written agreement signed by authorized representatives of both parties.

**11.4 Force Majeure.** If the performance of this Agreement or any obligation hereunder (other than the payment of money) is prevented, restricted or interfered with by any act or condition whatsoever beyond the reasonable control of the affected party, the party so affected will be excused from such performance to the extent of such prevention, restriction or interference.

**11.5 Governing Law.** This Agreement will be governed by and interpreted in accordance with the laws of the State of Nebraska without reference to its choice of law rules. Any action or proceeding arising from or relating to this Agreement shall be brought solely in the state and federal courts for the county of Omaha, Nebraska, and each party irrevocably submits to the jurisdiction and venue of any such court in any such action or proceeding.

**11.6 Insurance.** Vendor shall procure and maintain for itself and its employees all insurance coverage as required by Federal or State law, including worker's compensation insurance. Vendor also agrees to maintain general liability insurance with a minimum coverage of one million dollars (\$ 1,000,000) per occurrence. Upon written request, Vendor shall furnish to Customer a certificate of insurance evidencing such coverage. Nothing in this

Agreement shall be deemed to preclude Vendor from selecting a new insurance carrier or obtaining new or amended policies at any time, *provided that* the above coverage is maintained.

**11.7 Nonsolicitation of Personnel.** The parties agree that during the term of this Agreement and for a period of one (1) year after expiration or termination for any reason, neither party shall solicit, negotiate with or offer employment to (whether as an employee, officer, director, partner, consultant, contractor or otherwise), directly or indirectly, any personnel of the other party that were directly involved with Customer's engagement hereunder.

**11.8 Notices.** All notices and requests in connection with this Agreement shall be deemed given as of the day they are received either by facsimile, messenger, delivery service, or in the United States of America mails, postage prepaid, certified or registered, return receipt requested. All notices and requests shall be given at the address specified in the first paragraph, or at such other address as a party shall specify in writing.

**11.9 No Third Party Beneficiaries.** Nothing in this Agreement is intended to confer any rights, benefits, remedies, obligations or liabilities on any third party (including without limitation any employees or agents of either party) other than the parties or their respective successors and permitted assigns.

**11.10 No Waiver.** No delay or omission by either party hereto to exercise any right, power or remedy occurring upon any noncompliance or default by the other party with respect to any of the terms of this Agreement shall impair any such right, power or remedy or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions or agreements to be performed by the other shall not be construed to be a waiver of any succeeding breach thereof or of any covenant, condition or agreement herein contained. No waiver of a breach on one occasion shall be deemed a waiver on another occasion.

**11.11 Severability.** If any provision of this Agreement is deemed unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect.

**EXHIBIT A**  
**STATEMENT OF WORK**

(Attached)

**EXHIBIT B**  
**CUSTOMER RESERVED TECHNOLOGY**

As defined and referenced in the Agreement, the parties agree to recognize the following “Customer Reserved Technology”:

- Logos, trademarks, artwork, graphical images, and other media content produced, licensed and/or provided by the Customer.
- Proprietary business information, systems and processes owned or licensed by the Customer
- Direct software interfaces provided by Customer to support specific business operations required by the Statement of Work
- Know-how and information relating to specific operational, data processing, human resources management, merchandizing and products of the Customer

Limitations & Exclusions

In performing the services identified in the Statement of Work and under the terms of this agreement, Vendor may utilize and incorporate Customer Reserved Technology into its deliverable as required and approved by the Customer. Since the deliverable is necessarily embodied in one or more compiled software applications and/or custom web services, recognition of Customer Reserved Technology does not grant any rights, ownership interest or further license to use Vendor Reserved Technology, or the software product, beyond the terms of this agreement.

Notwithstanding the foregoing, “Customer Reserved Technology” shall not include:

- (a) Software developed independently by Vendor for general use in the kiosks, digital signage and other interactive media applications
- (b) Information, business processes and software systems generally known and available to the public prior to the execution of this agreement
- (c) Specific workflows, software methods, media techniques and business methods known or developed by the Vendor prior to execution of this agreement

**EXHIBIT C**  
**VENDOR RESERVED TECHNOLOGY**

As defined and referenced in the Agreement, the parties agree to recognize the following “Vendor Reserved Technology”:

- Software developed independently by Vendor for general use in kiosks, digital signage and other interactive media applications
- Administrative, management and reporting tools developed by the Vendor for general use in kiosks, digital signage and other interactive media applications
- Digital media production, compression and compositing techniques developed and/or used by the Vendor
- Media distribution, software applications and/or web services developed independently by the Vendor irrespective of the work performed under this agreement

Unless otherwise covered under Customer Reserved Technologies or other terms of this agreement and its exhibits, Vendor shall retain full ownership interest in and all rights to its core software, source code and client/server technologies generally used in the normal course of its business and in fulfillment of other professional services and software license engagements.





## **WARRANTY INFORMATION - HARDWARE**

## Microsoft Limit Warranty Information.

Limited Warranty IMPORTANT—PLEASE READ THIS LIMITED WARRANTY CAREFULLY TO UNDERSTAND YOUR RIGHTS AND OBLIGATIONS! “Hardware Device” means the Microsoft® hardware product. “You” or “Your” means either an individual or a single legal entity. “Software” means the software supplied by Microsoft for use with the applicable Hardware Device and includes any associated media (including copies), printed materials and any “online” or electronic documentation or authorized upgrades or supplements from Microsoft for such software.

**A. WARRANTIES.** 1. Express Warranty. Subject to the terms and conditions of this Limited Warranty and in lieu of any other (if any) express warranties, Microsoft warrants that under normal use and service, on the date of acquisition as shown on Your receipt or similar proof of payment and for the next i) 90 days for the Software and ii) period of time stated below for the applicable Hardware Device (hereafter each defined as the “Warranty Period”), that the Software and Hardware Device will substantially conform with the accompanying Microsoft packaging and documentation. As to any defects discovered after the Warranty Period, there is no warranty or condition of any kind.

Warranty Period: Microsoft Product: Ninety (90) days Xbox 360 Accessories for Windows; Microsoft LifeChat ZX-6000 Two (2) years LifeCam VX-500; LifeCam VX-700; LifeCam VX-800; Microsoft Optical Mouse 200; Microsoft Wired Keyboard 200; Comfort Optical Mouse 3000; Compact Optical Mouse 500; Wheel Mouse Optical; Wired Desktop 800; Wireless Mobile Mouse 1000; Wireless Mobile Mouse 3000; Wireless Mouse 1000; Wired Desktop 200; Wireless Desktop 800; Wireless Keyboard 800; Microsoft Compact Mouse 100; Microsoft Optical Mouse 100; all other Microsoft headsets (excluding Xbox 360 wired or wireless headset accessories) Three (3) years Microsoft Fingerprint Reader; Microsoft Presenter 3000; Microsoft Notebook Cooling Shuttle; Microsoft Notebook Cooling Base; all other Microsoft webcams (excluding the Microsoft Xbox Live Vision Camera); all other Microsoft keyboard and mouse desktop sets, keyboards, and mice Five (5) years IntelliMouse® Optical; Wireless IntelliMouse Explorer; IntelliMouse Explorer for Bluetooth; Wireless IntelliMouse Explorer with Fingerprint Reader

This Limited Warranty does not cover, and no warranty of any kind is provided with respect to any subjective or aesthetic aspects of the Hardware Device or Software. The express warranty stated above is the only express warranty made to You and is provided in lieu of all other express or implied warranties and conditions (except for any non-disclaimable implied warranties that exist), including any created by any other documentation or packaging. No information or suggestions (oral or in a record) given by Microsoft, its agents, affiliates, suppliers; employees, or agents, shall create a warranty or condition or expand the scope of this Limited Warranty.

**2. Limitation on Duration of Implied Warranties.** If You are a Consumer You may also have an implied warranty and/or condition under the laws of some jurisdictions, which is hereby limited to the duration of the Warranty Period. Some jurisdictions do not allow limitations on how long an implied warranty or condition lasts, so the foregoing limitation may not apply to You.

**B. EXCLUSIVE REMEDY.** Device to Your place of acquisition (or, if that place will not accept the return, to Microsoft) with a copy of Your receipt or other bona fide proof of payment during the Warranty Period, Microsoft will, at its option and as Your exclusive remedy for breach of this Limited Warranty and any implied warranties: repair or replace all or part of the defective Software or the defective Hardware Device; or make payment to You for the allowable damages that You incurred in reasonable reliance, but only up to the amount You paid (if any) for the Software and/or the Hardware Device less reasonable depreciation based on actual use. The above remedy is subject to the following: any repaired or replaced Software or Hardware Device will be new or refurbished or serviceably used, comparable in function and performance to the original Hardware

Device (or Software), and may include third party items; any Software or Hardware Device repaired or replaced under this Limited Warranty will be warranted for the remainder of the original Warranty Period or 30 days from the date of shipment of the item back to You, whichever is longer. If an upgrade to Software is delivered with a new limited warranty, then the terms of that new limited warranty will apply only to the Software as upgraded, but will not apply to the original Hardware Device; except as otherwise required by legislation in Your jurisdiction, costs associated with transport (including packaging) for warranty service shall be at Your expense; and Microsoft does not provide any warranties regarding any other services provided under this Limited Warranty and disclaims all duties (if any) of workmanlike effort or of lack of negligence regarding such services.

**C. EXCLUSION OF OTHER DAMAGES.** TO THE FULL EXTENT ALLOWED BY LAW, MICROSOFT AND ITS SUPPLIERS, AFFILIATES, AND AGENTS ARE NOT LIABLE FOR ANY: (i) CONSEQUENTIAL OR INCIDENTAL DAMAGES; (ii) DAMAGES OR LOSS OF ANY NATURE WHATSOEVER RELATING TO LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA OR PRIVACY OR CONFIDENTIALITY, ANY INABILITY TO USE ALL OR PART OF THE HARDWARE DEVICE OR SOFTWARE, PERSONAL INJURY, OR ANY FAILURE TO MEET ANY DUTY (INCLUDING BUT NOT LIMITED TO ANY DUTY OF NEGLIGENCE, GOOD FAITH OR OF WORKMANLIKE EFFORT); OR (iii) INDIRECT, SPECIAL, OR PUNITIVE DAMAGES ARISING OUT OF OR RELATING IN ANY WAY TO THE SOFTWARE OR HARDWARE DEVICE. THE FOREGOING APPLIES EVEN IF MICROSOFT OR ANY SUPPLIER, AFFILIATE, OR AGENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES; AND EVEN IN THE EVENT OF FAULT, TORT (INCLUDING NEGLIGENCE), STRICT OR PRODUCT LIABILITY, MISREPRESENTATION OR OTHER REASON. Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusions may not apply to You.

**D. EXCLUSIONS FROM COVERAGE.** This Limited Warranty shall not apply and Microsoft has no liability under this Limited Warranty if the Software or Hardware Device: is used for commercial purposes (including rental or lease) or purposes beyond the scope of the Software license; is modified or tampered with; is damaged by Acts of God, power surge, misuse, abuse, negligence, accident, wear and tear, mishandling, misapplication, or other causes unrelated to defects in the Hardware Device or the Software; is damaged by programs, data, viruses, or files, or during shipments or transmissions; is not used in accordance with the accompanying documentation and use instructions; or is repaired, modified or altered by other than a Microsoft authorized repair center and the unauthorized center causes or contributes to any defect or damage.

**2** This Limited Warranty does not include any warranty regarding legal rights or abilities, such as any warranty regarding title, quiet enjoyment, or lack of infringement.

**E. REGISTRATION.** You need not register Your acquisition of the Software and Hardware Device for the Limited Warranty to be effective.

**F. BENEFICIARY.** To the extent allowed by applicable law, the Limited Warranty is only made to You, the first licensed user of the Software or purchaser of the Hardware Device, and there are no third-party beneficiaries of the Limited Warranty. Except as required by law, this Limited Warranty is not intended for and does not apply to anyone else, including anyone to whom You make any transfer as authorized in the Agreement.

**G. FURTHER INFORMATION.** Microsoft is the warrantor under this Limited Warranty. To receive instructions for obtaining performance of this Limited Warranty, You must contact the Microsoft subsidiary serving Your country, or write to: Microsoft Sales Information Center, One Microsoft Way, Redmond, WA 98052-6399, USA, or visit Microsoft at [www.microsoft.com](http://www.microsoft.com). You must also:

1. Submit proof of payment in the form of a bona fide, dated receipt, or invoice (or a copy) evidencing that You are the beneficiary of this Limited Warranty and that Your request for a remedy is made within the Warranty Period;
2. Follow Microsoft's shipping and other instructions if it determines that all or part of Your Hardware Device or Software requires return. To

obtain the Limited Warranty performance, You must take or deliver the item in either its original packaging or packaging that provides an equal degree of protection to the location specified by Microsoft. Except as otherwise required by legislation in Your jurisdiction, costs associated with transport (including packaging) for warranty service shall be at Your expense. 3. Delete or remove any private or confidential files or data prior to sending the item to Microsoft. Failure to follow the above instructions may result in delays, cause You to incur additional charges, or may void Your warranty. This Limited Warranty gives You specific legal rights and You may also have other rights which vary from jurisdiction to jurisdiction. Where any term of this Limited Warranty is prohibited by such laws, it shall be null and void, but the remainder of the Limited Warranty shall remain in full force and effect if its allocation of risks is not materially disturbed. H. GOVERNING LAW; EXCLUSIVE FORUM. If You acquired the Hardware Device and/or Software in the United States of America, all parts of this Agreement (including the Limited Warranty) shall be construed under and controlled by the laws of the State of Washington, U.S.A., and You irrevocably consent to exclusive jurisdiction and venue in the federal courts sitting in King County, WA unless no federal subject matter jurisdiction exists, in which case You irrevocably consent to exclusive jurisdiction and venue in the Superior Court of King County, WA. If You acquired the Hardware Device in Canada, except where expressly prohibited by local laws, the laws in force in the Province of Ontario, Canada apply and each of the parties hereto irrevocably consents to the jurisdiction of the courts of the Province of Ontario and further agrees to commence any litigation which may arise hereunder in the courts located in the Judicial District of York, Province of Ontario. If You acquired this Hardware Device outside of the countries listed above, then local laws may apply.

# Samsung Warranty Information

## *Warranty Service Policy & Procedures*

SAMSUNG offers warranty service for all our different mix of products. Below is a description of the services offered for the various product groups :

SAMSUNG products carry a full warranty for the period specified. Some SAMSUNG product carry different warranty periods due to the nature of the product's design, manufacture or expected use, the warranty applies from the date of purchase by the first customer.

## *General Terms & Conditions*

1. The warranty is valid only when the warranty card is properly completed, and upon presentation of the proof of purchase consisting of original invoice or sales slip indicating the date of purchase, dealer's name, model and serial no. of the product. SAMSUNG reserves the right to refuse warranty if this information has been removed or changed after the original purchase of the product from the dealer.
2. SAMSUNG's obligations are limited to repair of the defect or replacement the defective part or at its discretion replacement of the product itself.
3. Warranty repairs must be carried out by a SAMSUNG Authorized Service Centre. Warranty cover will be void, even if a repair has been attempted by any unauthorized service centre. SAMSUNG shall not be liable for reimbursements, claims and damages that may result from the unauthorized repair of the product.
4. Repair or replacement under the terms of this warranty does not provide right to extension or renewal of the warranty period. Repair or direct replacement of the product under the terms of this warranty may be full filled with functionally equivalent service exchange units.
5. The warranty is not applicable to cases other than defects in material, design and workmanship. The warranty does not cover the following :  
Periodic checks, maintenance, repair and replacement of parts due to normal wear and tear. Abuse or misuse, including but not solely limited to the failure to use this product for its normal purposes or in accordance with SAMSUNG's instructions on usage and maintenance. Defects resulting from usage of the product in conjunction with accessories that are not approved by SAMSUNG for use with this product.  
Failure of the product arising from incorrect installation or use not consistent



with the instructions and technical or safety standards prescribed in the product user manual.

Accidents, Acts of God, lightning, water, fire, public disturbances, improper ventilation, voltage fluctuations or any cause beyond the control of SAMSUNG.

Unauthorized modifications carried out to the product in order to comply with local or international technical standards in countries for which this SAMSUNG product was not originally designed.

Damage of the battery caused by overcharging or failure to use in accordance with the specific instructions of core outlined in the product user manual. The serial no. on the product has been altered, deleted, removed or made illegible. The batteries are charged by chargers other than those approved by SAMSUNG.

Any of the seals on the battery enclosure or cells are broken or show evidence of tampering.

6. This warranty does not affect the consumers' statutory rights nor the consumers' rights against the dealer related to their purchase / sales agreement.

7. This warranty is not transferable. This warranty will be the purchasers' sole and exclusive remedy and neither SAMSUNG nor its service centres listed in this warranty document shall be liable for any incidental or consequential damages or breach of any express or implied warranty of this product.

DISCLAIMER : SAMSUNG shall not be liable for the loss of any saved / stored data in products that are either repaired or replaced.

The above policies are for warranty service and the customer will be responsible for any costs associated with non-warranty conditions.

SAMSUNG reserves the right to make final decisions regarding problem determination and the appropriate service option. Exchange units assume the remaining warranty of the original product. Please refer to your SAMSUNG Limited Warranty Statement for complete terms and conditions, as some models have other terms and conditions. Some limitations and restrictions apply and these programmes are subject to change without prior notice.

#### *Warranty Guide*

1. This warranty is confined to the first purchaser of the product only.

2. Repair or replacement will be carried out through the Company's Service Centres (Refer the list) or it's Authorised Service Centres or it's Dealer's Service Centres.

3. In the event of repairs / replacement of any part/s of the unit, this warranty will thereafter continue and remain in force for the unexpired period of the warranty. Moreover, the time taken for repair / replacement and in transit

whether under the warranty or otherwise shall not be excluded from the warranty period.

4. The company or its authorised service centre / service dealer, reserves the right to retain any part/s or component/s replaced at its discretion in the event of a defect noticed in the equipment during the warranty period.

5. Any change of address shall be intimated to concerned service centre for continuation or warranty.

6. Warranty for the unexpired period shall continue after the product is inspected by the concerned service centre and the product is found free from transit damage.

7. The customer shall have to pay a visiting charge towards inspection, as applicable.

8. In case of any transit damage, the product shall be repaired by the concerned service centre on charges and warranty for unexpired period to continue.

9. The warranty does not cover demonstration / installation of the product purchased.

10. The warranty does not cover accessories external to the system.

11. The company's obligation under this warranty shall be limited to repairing or providing replacement of part/s, which are found to be defective.

12. Repairs during warranty period shall be carried on "Carry In" basis.

Wherein for service the purchaser shall bring the product to the Service Centre with whom the set is registered for warranty service. The warranty does not cover cost of transportation of system from place of installation to the Service Centre.

13. The concerned Service Centre will advise the customer whether to effect the repair at site or its Service Centre.

14. Any part/s of the system replaced by the company at its discretion shall be with a functionally operative part.

*This Warranty is not Applicable in any of the Following Cases :*

1. The warranty card is not duly filled and mailed back to the service centre for registration by the purchaser.

2. The completed warranty card is not presented to authorized personnel at the time of repair.

3. The product is not purchased from an Authorized SAMSUNG dealer.

4. The product is not used according to instructions given in the instruction manual.

5. Defects caused by improper use as determined by the company personnel.

6. Modification or alteration of any nature is made in the electrical circuitry / or physical construction of the set.

7. Installation / repair work is carried out by persons / agency other than

authorized by the company.

8. Site (premises where the product is kept) conditions that do not confirm to the recommended operating conditions of the machine.

9. The original serial number is removed, obliterated or altered from the machine or cabinet.

10. Defects due to cause beyond control like lightning, abnormal voltage, acts of God or while in transit

# Elo Warranty Information

The following [limited warranties](#) information is provided on Elo Touch Solutions products. The warranty period begins on the date when the Elo product is first shipped to the Elo Touch Solutions customer. For information on returns, see [Customer Service](#) for your region.

<b>Controllers (when sold as components)</b>	(except COACh)	5 years
<b>Interactive Digital Signage (IDS)</b>	All IDS displays, IDS Computer Modules and I-Series Windows	3 years
	I-Series All-in-One Android	2 years
<b><a href="#">Tablets</a></b>	Elo Tablet (ETT10A1)	18 months
	<b><a href="#">Elo Tablet Battery</a></b>	12 months
<b>Touchscreen computers</b>	X-Series, E-Series, PayPoint, B-Series, C-Series, and D-Series	3 years
<b>Touchscreen monitors</b>	LCD	3 years
	AccuTouch®	5 years
<b>Touchscreens (when sold as components)</b>	AccuTouch - Zero Bezel	3 years
	IntelliTouch®	5 years
	IntelliTouch - Zero Bezel	3 years

	TouchPro®	2 years
<b>Peripherals and Options</b> (field-installable)	Magnetic Stripe Readers (MSR)	
	Rear-Facing Customer Displays (RFCD)	
	Biometric Fingerprint Readers (FPR)	
	Barcode Scanners	
	Webcams	1 year
	HDD/SSD Kits	
	Memory	
	PCI-Expansion Card Kits (for All-in-One Touchcomputers)	

Elo also offers an [Extended Warranty](#) option.



# Dell Warranty Information

## Introduction

Dell-branded hardware products come with either a 90-day limited warranty, a one-year limited warranty, a two-year limited warranty, a three-year limited warranty, or a four-year limited warranty. The information below is a description of Dell's 90-day, one-year, two-year, three-year, and four-year limited warranties for systems purchased in the United States. The limited warranty covering your system will be noted on your invoice and included in the documentation accompanying your system.

*NOTE: This information applies to the United States only, unless specifically stated otherwise.*

- ▶ [90-Day Limited Warranty](#)
- ▶ [One-Year Limited Warranty](#)
- ▶ [Two-Year Limited Warranty](#)
- ▶ [Three-Year Limited Warranty](#)
- ▶ [Four-Year Limited Warranty](#)
- ▶ ["Total Satisfaction" Return Policy](#)

## 90-Day Limited Warranty (United States Only)

Dell, Inc. ("Dell") manufactures its hardware products from parts and components that are new or equivalent to new in accordance with industry-standard practices. Dell warrants that the hardware products it manufactures will be free from defects in materials and workmanship. The limited warranty term is 90-days beginning on the date of invoice, as further described in the following text.

Damage due to shipping the products to you is covered under this limited warranty. Otherwise, this limited warranty does not cover damage due to external causes, including accident, abuse, misuse, problems with electrical power, servicing not authorized by Dell, usage not in accordance with product instructions, failure to perform required preventive maintenance, and problems caused by use of parts and components not supplied by Dell.

This limited warranty does not cover any items that are in one or more of the following categories: software; external devices (except as specifically noted); accessories or parts added to a Dell system after the system is shipped from Dell; accessories or parts added to a Dell system through Dell's system integration department; accessories or parts that are not installed in the Dell factory; or products purchased through the Software & Peripheral department. Monitors, keyboards, and mice that are Dell branded or that are included on Dell's standard price list are covered under this limited warranty; all other monitors, keyboards, and mice (including those products purchased through the Software & Peripherals department) are not covered.

During the ninety-day period beginning on the invoice date, Dell will repair or replace products covered under this limited warranty that are returned to Dell's facility. To request limited warranty service, you must contact Dell's Customer Technical Support within the limited warranty period. Refer to the chapter titled "Getting Help" or "Contacting Dell" in your documentation to find the appropriate telephone number for obtaining customer assistance. If limited warranty service is required, Dell will issue a Return Material Authorization Number. You must ship the products back to Dell in their original or equivalent packaging, prepay shipping charges, and insure the shipment or accept the risk of loss or damage during shipment. Dell will ship the repaired or replacement products to you freight prepaid if you use an address in the continental United States, where applicable. Shipments to other locations will be made freight collect.

*NOTE: Before you ship the product(s) to Dell, back up the data on the hard-disk drive(s) and any other storage device(s) in the product(s). Remove any removable media, such as diskettes, CDs, or PC Cards. Dell does not accept liability for lost data or software.*

Dell owns all parts removed from repaired products. Dell uses new and reconditioned parts made by various manufacturers in performing limited warranty repairs and building replacement products. If Dell repairs or replaces a product, its limited warranty term is not extended.

THIS LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE (OR JURISDICTION TO JURISDICTION). DELL'S RESPONSIBILITY FOR MALFUNCTIONS AND DEFECTS IN HARDWARE IS LIMITED TO REPAIR AND REPLACEMENT AS SET FORTH IN THIS LIMITED WARRANTY STATEMENT. ALL EXPRESS AND IMPLIED WARRANTIES FOR THE PRODUCT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF AND CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE LIMITED IN DURATION TO THE LIMITED WARRANTY PERIOD SET FORTH ABOVE AND NO WARRANTIES, WHETHER EXPRESS OR IMPLIED, WILL APPLY AFTER SUCH PERIOD. SOME STATES (OR JURISDICTIONS) DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

DELL DOES NOT ACCEPT LIABILITY BEYOND THE REMEDIES SET FORTH IN THIS LIMITED WARRANTY STATEMENT OR LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION ANY LIABILITY FOR PRODUCTS NOT BEING AVAILABLE FOR USE OR FOR LOST DATA OR SOFTWARE. SOME STATES (OR JURISDICTIONS) DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE EXCLUSION OR LIMITATION MAY NOT APPLY TO YOU.

These provisions apply to Dell's 90-day limited warranty only. For provisions of any on-site service contract covering your system, refer to the separate on-site service contract that you will receive.

#### **One-Year Limited Warranty (United States Only)**

Dell, Inc. ("Dell") manufactures its hardware products from parts and components that are new or equivalent to new in accordance with industry-standard practices. Dell warrants that the hardware products it manufactures will be free from defects in materials and workmanship. The limited warranty term is one year beginning on the date of invoice, as further described in the following text.

Damage due to shipping the products to you is covered under this limited warranty. Otherwise, this limited warranty does not cover damage due to external causes, including accident, abuse, misuse, problems with electrical power, servicing not authorized by Dell, usage not in accordance with product instructions, failure to perform required preventive maintenance, and problems caused by use of parts and components not supplied by Dell.

This limited warranty does not cover any items that are in one or more of the following categories: software; external devices (except as specifically noted); accessories or parts added to a Dell system after the system is shipped from Dell; accessories or parts added to a Dell system through Dell's system integration department; accessories or parts that are not installed in the Dell factory; or products purchased through the Software & Peripherals department. Monitors, keyboards, and mice that are Dell branded or that are included on Dell's standard price list are covered under this limited warranty; all other monitors, keyboards, and mice (including those products purchased through the Software & Peripherals department) are not covered.

During the one-year period beginning on the invoice date, Dell will repair or replace products returned to Dell's facility. To request limited warranty service, you must contact Dell's Customer Technical Support within the limited warranty period. Refer to the chapter titled "Getting Help" or "Contacting Dell" in your documentation to find the appropriate telephone number for obtaining customer assistance. If limited warranty service is required, Dell will issue a Return Material Authorization Number. You must ship the products back to Dell in their original or equivalent packaging, prepay shipping charges, and insure the shipment or accept the risk of loss or damage during shipment. Dell will ship the repaired or replacement products to you freight prepaid if you use an address in the continental United States, where applicable. Shipments to other locations will be made freight collect.

*NOTE: Before you ship the product(s) to Dell, back up the data on the hard-disk drive(s) and any other storage device(s) in the product(s). Remove any removable media, such as diskettes, CDs, or PC Cards. Dell does not accept liability for lost data or software.*

Dell owns all parts removed from repaired products. Dell uses new and reconditioned parts made by various manufacturers in performing limited warranty repairs and building replacement products. If Dell repairs or replaces a product, its limited warranty term is not extended.

THIS LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE (OR JURISDICTION TO JURISDICTION). DELL'S RESPONSIBILITY FOR MALFUNCTIONS AND DEFECTS IN HARDWARE IS LIMITED TO REPAIR AND REPLACEMENT AS SET FORTH IN THIS LIMITED WARRANTY STATEMENT. ALL EXPRESS AND IMPLIED WARRANTIES FOR THE PRODUCT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF AND CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE LIMITED IN DURATION TO THE LIMITED WARRANTY PERIOD SET FORTH ABOVE AND NO WARRANTIES, WHETHER EXPRESS OR IMPLIED, WILL APPLY AFTER SUCH PERIOD. SOME STATES (OR JURISDICTIONS) DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

DELL DOES NOT ACCEPT LIABILITY BEYOND THE REMEDIES SET FORTH IN THIS LIMITED WARRANTY STATEMENT OR LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION ANY LIABILITY FOR PRODUCTS NOT BEING AVAILABLE FOR USE OR FOR LOST DATA OR SOFTWARE. SOME STATES (OR JURISDICTIONS) DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE EXCLUSION OR LIMITATION MAY NOT APPLY TO YOU.

These provisions apply to Dell's one-year limited warranty only. For provisions of any on-site service contract covering your system, refer to the separate on-site service contract that you will receive.

#### **Two-Year Limited Warranty (United States Only)**

Dell, Inc. ("Dell") manufactures its hardware products from parts and components that are new or equivalent to new in accordance with industry-standard practices. Dell warrants that the hardware products it manufactures will be free from defects in materials and workmanship. The limited warranty term is two years beginning on the date of invoice, as further described in the following text.

Damage due to shipping the products to you is covered under this limited warranty. Otherwise, this limited warranty does not cover damage due to external causes, including accident, abuse, misuse, problems with electrical power, servicing not authorized by Dell, usage not in accordance with product instructions, failure to perform required preventive maintenance, and problems caused by use of parts and components not supplied by Dell.

This limited warranty does not cover any items that are in one or more of the following categories: software; external devices (excepted as specifically noted); accessories or parts added to a Dell system after the system is shipped from Dell; accessories or parts added to a Dell system through Dell's system integration department; accessories or parts that are not installed in the Dell factory; or products purchased through the Software & Peripherals department. Monitors, keyboards, and mice that are Dell branded or that are included on Dell's standard price list are covered under this limited warranty; all other monitors, keyboards, and mice (including those products purchased through the Software & Peripherals department) are not covered. Product batteries for portable computers are covered only during the initial one-year period of this limited warranty.

#### **Limited Warranty Coverage During Year One (United States Only)**

During the one-year period beginning on the invoice date, Dell will repair or replace products covered under this limited warranty that are returned to Dell's facility. To request limited warranty service, you must contact Dell's Customer Technical Support within the limited warranty period. Refer to the chapter titled "Getting Help" or "Contacting Dell" in your documentation to find the appropriate telephone number for obtaining customer assistance. If limited warranty service is required, Dell will issue a Return Material Authorization Number. You must ship the products back to Dell in their original or equivalent packaging, prepay shipping charges, and insure the shipment or accept the risk of loss or damage during shipment. Dell will ship the repaired or replacement products to you freight

prepaid if you use an address in the continental United States, where applicable. Shipments to other locations will be made freight collect.

*NOTE: Before you ship the product(s) to Dell, back up the data on the hard-disk drive(s) and any other storage device(s) in the product(s). Remove any removable media, such as diskettes, CDs, or PC Cards. Dell does not accept liability for lost data or software.*

Dell owns all parts removed from repaired products. Dell uses new and reconditioned parts made by various manufacturers in performing limited warranty repairs and building replacement products. If Dell repairs or replaces a product, its limited warranty term is not extended.

#### **Limited Warranty Coverage During Year Two (United States Only)**

During the second year of this limited warranty, Dell will provide, on an exchange basis and subject to Dell's Exchange Policy in effect on the date of the exchange, replacement parts for the Dell hardware product(s) covered under this limited warranty when a part requires replacement. You must report each instance of hardware failure to Dell's Customer Technical Support in advance to obtain Dell's concurrence that a part should be replaced and to have Dell ship the replacement part. Dell will ship parts (freight prepaid) if you use an address in the continental United States, where applicable. Shipments to other locations will be made freight collect. Dell will include a prepaid shipping container with each replacement part for your use in returning the replaced part to Dell. Replacement parts are new or reconditioned. Dell may provide replacement parts made by various manufacturers when supplying parts to you. The limited warranty term for a replacement part is the remainder of the limited warranty term.

You will pay Dell for replacement parts when the replaced part is not returned to Dell. The process for returning replaced parts, and your obligation to pay for replacement parts if you do not return the replaced parts to Dell, will be in accordance with Dell's Exchange Policy in effect on the date of the exchange. You will pay Dell for replacement parts when the replaced part is not returned to Dell. If Dell elects to exchange a system or component, the exchange will be made accordance with Dell's Exchange Policy in effect on the date of the exchange. In any instance in which Dell issues a Return Material Authorization Number, Dell must receive the product(s) for repair prior to the expiration of the limited warranty period in order for the repairs to be covered by the limited warranty.

You accept full responsibility for your software and data. Dell is not required to advise or remind you of appropriate backup and other procedures.

#### **General**

THIS LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE (OR JURISDICTION TO JURISDICTION). DELL'S RESPONSIBILITY FOR MALFUNCTIONS AND DEFECTS IN HARDWARE IS LIMITED TO REPAIR AND REPLACEMENT AS SET FORTH IN THIS LIMITED WARRANTY STATEMENT. ALL EXPRESS AND IMPLIED WARRANTIES FOR THE PRODUCT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF AND CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE LIMITED IN DURATION TO THE LIMITED WARRANTY PERIOD SET FORTH ABOVE AND NO WARRANTIES, WHETHER EXPRESS OR IMPLIED, WILL APPLY AFTER SUCH PERIOD. SOME STATES (OR JURISDICTIONS) DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

DELL DOES NOT ACCEPT LIABILITY BEYOND THE REMEDIES SET FORTH IN THIS LIMITED WARRANTY STATEMENT OR LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION ANY LIABILITY FOR PRODUCTS NOT BEING AVAILABLE FOR USE OR FOR LOST DATA OR SOFTWARE. SOME STATES (OR JURISDICTIONS) DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE EXCLUSION OR LIMITATION MAY NOT APPLY TO YOU.

These provisions apply to Dell's two-year limited warranty only. For provisions of any on-site service contract covering your system, refer to the separate on-site service contract that you will receive.

#### **Three-Year Limited Warranty (United States Only)**

Dell, Inc. ("Dell") manufactures its hardware products from parts and components that are new or equivalent to new in accordance with industry-standard practices. Dell warrants that the hardware products it manufactures will be free from defects in materials and workmanship. The limited warranty term is three years beginning on the date of invoice, as further described in the following text.

Damage due to shipping the products to you is covered under this limited warranty. Otherwise, this limited warranty does not cover damage due to external causes, including accident, abuse, misuse, problems with electrical power, servicing not authorized by Dell, usage not in accordance with product instructions, failure to perform required preventive maintenance, and problems caused by use of parts and components not supplied by Dell.

This limited warranty does not cover any items that are in one or more of the following categories: software; external devices (except as specifically noted); accessories or parts added to a Dell system after the system is shipped from Dell; accessories or parts added to a Dell system through Dell's system integration department; accessories or parts that are not installed in the Dell factory; or products purchased through the Software & Peripherals department. Monitors, keyboards, and mice that are Dell branded or that are included on Dell's standard price list are covered under this limited warranty; all other monitors, keyboards, and mice (including those products purchased through the Software & Peripherals department) are not covered. Product batteries for portable computers are covered only during the initial one-year period of this limited warranty.

#### **Limited Warranty Coverage During Year One (United States Only)**

During the one-year period beginning on the invoice date, Dell will repair or replace products covered under this limited warranty that are returned to Dell's facility. To request limited warranty service, you must contact Dell's Customer Technical Support within the limited warranty period. Refer to the chapter titled "Getting Help" or "Contacting Dell" in your documentation to find the appropriate telephone number for obtaining customer assistance. If limited warranty service is required, Dell will issue a Return Material Authorization Number. You must ship the products back to Dell in their original or equivalent packaging, prepay shipping charges, and insure the shipment or accept the risk of loss or damage during shipment. Dell will ship the repaired or replacement products to you freight prepaid if you use an address in the continental United States, where applicable. Shipments to other locations will be made freight collect.

*NOTE: Before you ship the product(s) to Dell, back up the data on the hard-disk drive(s) and any other storage device(s) in the product(s). Remove any removable media, such as diskettes, CDs, or PC Cards. Dell does not accept liability for lost data or software.*

Dell owns all parts removed from repaired products. Dell uses new and reconditioned parts made by various manufacturers in performing limited warranty repairs and building replacement products. If Dell repairs or replaces a product, its limited warranty term is not extended.

#### **Limited Warranty Coverage During Years Two and Three (United States Only)**

During the second and third years of this limited warranty, Dell will provide, on an exchange basis and subject to Dell's Exchange Policy in effect on the date of the exchange, replacement parts for the Dell hardware product(s) covered under this limited warranty when a part requires replacement. You must report each instance of hardware failure to Dell's Customer Technical Support in advance to obtain Dell's concurrence that a part should be replaced and to have Dell ship the replacement part. Dell will ship parts (freight prepaid) if you use an address in the continental United States, where applicable. Shipments to other locations will be made freight collect. Dell will include a prepaid shipping container with each replacement part for your use in returning the replaced part to Dell. Replacement parts are new or reconditioned. Dell may provide replacement parts made by various manufacturers when supplying parts to you. The limited warranty term for a replacement part is the remainder of the limited warranty term.

You will pay Dell for replacement parts when the replaced part is not returned to Dell. The process for returning replaced parts, and your obligation to pay for replacement parts if you do not return the replaced parts to Dell, will be in accordance with Dell's Exchange Policy in effect on the date of the exchange. You will pay Dell for replacement parts when the replaced part is not returned to Dell. If Dell elects to exchange a system or component, the exchange will be made accordance with Dell's Exchange Policy in effect on the date of the exchange. In any instance in which Dell issues a Return Material Authorization Number, Dell must receive the product(s) for repair prior to the expiration of the limited warranty period in order for the repairs to be covered by the limited warranty.



You accept full responsibility for your software and data. Dell is not required to advise or remind you of appropriate backup and other procedures.

## **General**

THIS LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE (OR JURISDICTION TO JURISDICTION. DELL'S RESPONSIBILITY FOR MALFUNCTIONS AND DEFECTS IN HARDWARE IS LIMITED TO REPAIR AND REPLACEMENT AS SET FORTH IN THIS LIMITED WARRANTY STATEMENT. ALL EXPRESS AND IMPLIED WARRANTIES FOR THE PRODUCT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF AND CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE LIMITED IN DURATION TO THE LIMITED WARRANTY PERIOD SET FORTH ABOVE AND NO WARRANTIES, WHETHER EXPRESS OR IMPLIED, WILL APPLY AFTER SUCH PERIOD. SOME STATES (OR JURISDICTIONS) DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

DELL DOES NOT ACCEPT LIABILITY BEYOND THE REMEDIES SET FORTH IN THIS LIMITED WARRANTY STATEMENT OR LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION ANY LIABILITY FOR PRODUCTS NOT BEING AVAILABLE FOR USE OR FOR LOST DATA OR SOFTWARE. SOME STATES (OR JURISDICTIONS) DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE EXCLUSION OR LIMITATION MAY NOT APPLY TO YOU.

These provisions apply to Dell's three-year limited warranty only. For provisions of any on-site service contract covering your system, refer to the separate on-site service contract that you will receive.

## **Four-Year Limited Warranty (United States Only)**

Dell, Inc. ("Dell") manufactures its hardware products from parts and components that are new or equivalent to new in accordance with industry-standard practices. Dell warrants that the hardware products it manufactures will be free from defects in materials and workmanship. The limited warranty term is four years beginning on the date of invoice, as further described in the following text.

Damage due to shipping the products to you is covered under this limited warranty. Otherwise, this limited warranty does not cover damage due to external causes, including accident, abuse, misuse, problems with electrical power, servicing not authorized by Dell, usage not in accordance with product instructions, failure to perform required preventive maintenance, and problems caused by use of parts and components not supplied by Dell.

This limited warranty does not cover any items that are in one or more of the following categories: software; external devices (except as specifically noted); accessories or parts added to a Dell system after the system is shipped from Dell; accessories or parts added to a Dell system through Dell's system integration department; accessories or parts that are not installed in the Dell factory; or products purchased through the Software & Peripherals department. Monitors, keyboards, and mice that are Dell branded or that are included on Dell's standard price list are covered under this limited warranty; all other monitors, keyboards, and mice (including those products purchased through the Software & Peripherals department) are not covered. Product batteries for portable computers are covered only during the initial one-year period of this limited warranty.

## **Limited Warranty Coverage During Year One (United States Only)**

During the one-year period beginning on the invoice date, Dell will repair or replace products covered under this limited warranty that are returned to Dell's facility. To request limited warranty service, you must contact Dell's Customer Technical Support within the limited warranty period. Refer to the chapter titled "Getting Help" or "Contacting Dell" in your documentation to find the appropriate contact information for obtaining customer assistance. If limited warranty service is required, Dell will issue a Return Material Authorization Number. You must ship the products back to Dell in their original or equivalent packaging, prepay shipping charges, and insure the shipment or accept the risk of loss or damage during shipment. Dell will ship the repaired or replacement products to you freight prepaid if you use an address in the continental U.S., where applicable. Shipments to other locations will be made freight collect.

*NOTE: Before you ship the product(s) to Dell, back up the data on the hard-disk drive(s) and any other storage device(s) in the product(s). Remove any removable media, such as diskettes, CDs, or PC Cards. Dell does not accept liability for lost data or software.*

Dell owns all parts removed from repaired products. Dell uses new and reconditioned parts made by various manufacturers in performing limited warranty repairs and building replacement products. If Dell repairs or replaces a product, its limited warranty term is not extended.

#### **Limited Warranty Coverage During Years Two, Three, and Four (United States Only)**

During the second, third, and fourth years of this limited warranty, Dell will provide, on an exchange basis and subject to Dell's Exchange Policy in effect on the date of the exchange, replacement parts for the Dell hardware product(s) covered under this limited warranty when a part requires replacement. You must report each instance of hardware failure to Dell's Customer Technical Support in advance to obtain Dell's concurrence that a part should be replaced and to have Dell ship the replacement part. Dell will ship parts (freight prepaid) if you use an address in the continental United States, where applicable. Shipments to other locations will be made freight collect. Dell will include a prepaid shipping container with each replacement part for your use in returning the replaced part to Dell. Replacement parts are new or reconditioned. Dell may provide replacement parts made by various manufacturers when supplying parts to you. The limited warranty term for a replacement part is the remainder of the limited warranty term.

You will pay Dell for replacement parts when the replaced part is not returned to Dell. The process for returning replaced parts, and your obligation to pay for replacement parts if you do not return the replaced parts to Dell, will be in accordance with Dell's Exchange Policy in effect on the date of the exchange. If Dell elects to exchange a system or component, the exchange will be made accordance with Dell's Exchange Policy in effect on the date of the exchange. In any instance in which Dell issues a Return Material Authorization Number, Dell must receive the product(s) for repair prior to the expiration of the limited warranty period in order for the repairs to be covered by the limited warranty.

You accept full responsibility for your software and data. Dell is not required to advise or remind you of appropriate backup and other procedures.

#### **General**

THIS LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE (OR JURISDICTION TO JURISDICTION). DELL'S RESPONSIBILITY FOR MALFUNCTIONS AND DEFECTS IN HARDWARE IS LIMITED TO REPAIR AND REPLACEMENT AS SET FORTH IN THIS LIMITED WARRANTY STATEMENT. ALL EXPRESS AND IMPLIED WARRANTIES FOR THE PRODUCT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF AND CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE LIMITED IN DURATION TO THE LIMITED WARRANTY PERIOD SET FORTH ABOVE AND NO WARRANTIES, WHETHER EXPRESS OR IMPLIED, WILL APPLY AFTER SUCH PERIOD. SOME STATES (OR JURISDICTIONS) DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

DELL DOES NOT ACCEPT LIABILITY BEYOND THE REMEDIES SET FORTH IN THIS LIMITED WARRANTY STATEMENT OR LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION ANY LIABILITY FOR PRODUCTS NOT BEING AVAILABLE FOR USE OR FOR LOST DATA OR SOFTWARE. SOME STATES (OR JURISDICTIONS) DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE EXCLUSION OR LIMITATION MAY NOT APPLY TO YOU.

These provisions apply to Dell's four-year limited warranty only. For provisions of any on-site service contract covering your system, refer to the separate on-site service contract that you will receive.

#### **"Total Satisfaction" Return Policy (United States Only)**

If you are an end-user customer who bought new products directly from a Dell company, you may return them to Dell within 30 days of the date of invoice for a refund or credit of the product purchase price. If you are an end-user customer who bought reconditioned or refurbished products from a Dell company, you may return them to Dell within 30 days of the date of invoice for a refund or credit of the product purchase price. In either case, the refund or credit will not include any shipping and handling charges shown on your invoice. If you are an organization that bought the products under a written agreement with Dell, the agreement may contain different terms for the return of products than specified by this policy.

To return products, you must call Dell Customer Service to receive a Credit Return Authorization Number. Refer to the chapter titled "Getting Help" in your system's troubleshooting documentation to find the appropriate telephone number for obtaining customer assistance. To expedite the processing of your refund or credit, Dell expects you to return the products to Dell in their original packaging within five days of the date that Dell issues the Credit Return Authorization Number. You must also prepay shipping charges and insure the shipment or accept the risk of loss or damage during shipment. You may return software for a refund or credit only if the sealed package containing the diskette(s) or CD(s) is unopened. Returned products must be in as-new condition, and all of the manuals, diskette(s), CD(s), power cables, and other items included with a product must be returned with it. For customers who want to return, for refund or credit only, either applications software or an operating system that has been installed by Dell, the whole system must be returned, along with any media and documentation that may have been included in the original shipment.

This "Total Satisfaction" Return Policy does not apply to items purchased from our Software & Peripherals division. For those items, please instead refer to the Software & Peripherals division's then-current return policy. The "Total Satisfaction" Return Policy also does not apply to Dell | EMC storage products.

# **Peerless AV Warranty Information.**

## **LIMITED WARRANTY**

Peerless Industries, Inc. ("Peerless-AV") warrants to original end-users that each Peerless-AV® mounting product will be free from defects in material and workmanship, under normal use, for the applicable warranty period (from date of the original installation of the product) set forth in the table below. The Limited Lifetime Warranty is applicable in North America only. At its option, Peerless-AV will repair or replace, or refund the purchase price of, any product which fails to conform with this warranty.

**Any implied warranty of merchantability or fitness for a particular purpose shall be limited to the period of the express warranty set forth below.**

**In no event shall Peerless-AV be liable for incidental or consequential damages, whether or not secured by a security device which may be included with the product.**

Some states do not allow limitations on how long an implied warranty lasts, or the exclusion of incidental or consequential damages, so the above limitation and/or the above exclusion may not apply to you.

This warranty does not cover damage caused by incorrect selection, installation or the failure to follow Peerless-AV instructions or warnings when installing, using or storing the product.

This warranty gives specific legal rights, and you may also have other rights which vary from state to state. To make a warranty claim in North America, contact Peerless-AV customer care at 1-800-865-2112. See complete global warranty information for regions outside North America at [www.peerless-av.com/en-uk/customer-care/warranties-returns](http://www.peerless-av.com/en-uk/customer-care/warranties-returns).

<b>Product</b>	<b>Warranty Period</b>
Indoor Mounts (Limited LIFETIME Warranty)	LIFETIME
Indoor Mounts (Limited 5 Year Warranty)	5 years
Outdoor Mounts	5 years
Kiosk Enclosures	5 years
Carts and Stands	5 years
Projectors	5 years
Furniture	1 year
Cables	25 years
Cleaning Products	1 year
Power Products	1 year
Electronic Products and components	1 year
Xtreme Displays, UltraView TVs	2 years
Interactive	2 years



# Bouncepad Warranty Information

## Warranty and Returns

All Bouncepad products are covered by a 12 month warranty; full terms and conditions are detailed in section 5 of our business terms.

If a product is defective, Bouncepad will provide a replacement or complete refund.

Products may be returned within 30 days of purchase for a replacement or refund, pending a condition check upon return. Products must be returned in an 'as new' condition, including all original parts, accessories and packaging.

Products with custom colour or faceplate branding cannot be returned unless defective.

Any completely custom projects are subject to terms laid out in their specific agreements.

# Phidget Warranty Information

## Product Warranty

All Phidgets products are warranted to be free of defects in material or workmanship under normal use and service for a period of one year from the date of shipment. This warranty does not include damage resulting from accident or misuse. The warranty is also void if the product is modified. This warranty is in lieu of all other warranties expressed or implied including the implied warranties of merchantability of fitness for a particular purpose, whether arising by law, custom or conduct, and the rights and remedies provided under this warranty are exclusive and in lieu of any other rights or remedies. In no event shall Phidgets Incorporated be liable for consequential damages.