

**RFP NUMBER 5885 Z1**  
**FOR**  
**HOSTED VOICE OVER INTERNET PROTOCOL (VOIP)**  
**TELEPHONY SERVICE**

Prepared For:  
Nancy Storant/Annette Walton  
State of Nebraska

**COST PROPOSAL**  
**ORIGINAL**

Prepared By:  
Doug Carlson, Client Executive  
[Doug.Carlson@siriuscom.com](mailto:Doug.Carlson@siriuscom.com)  
402-965-2332

August 20, 2018





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## TRANSMITTAL LETTER

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August 17, 2018

Nancy Storant/Annette Walton  
State Purchasing Bureau  
1526 K Street, Suite 130  
Lincoln, NE 68508

Re: RFP 5885 Z1 for Hosted Voice Over Internet Protocol (VoIP) Telephony Service

Dear Ma'am:

Thank you for your interest in Sirius and Cisco solutions.

**Cisco Leadership:** Cisco is a worldwide market leader in data center technologies and products, with solutions that bring together core networking functions including unified computing, routing, switching, wireless mobility, security, LAN/WAN optimization, collaboration and voice solutions.

**Sirius Experience:** Sirius is a national integrator of technology-based business solutions that span the data center and lines of business, built on products and services from the world's top technology companies like Cisco. Sirius solutions are installed, configured, and supported by our dedicated teams of highly certified experts. Sirius partners with Cisco to help our clients create intelligent, integrated UC environments that adapt to current and future business needs. As a Cisco Gold Certified Partner with advanced specializations, Sirius provides IT solutions and systems integration to help organizations solve complex business challenges, so they can meet their business objectives. Sirius designs flexible data center, collaboration, and networking and security solutions to support all server and storage environments. Sirius also has a team of technical consultants who are well versed on unified fabric, borderless networks, and security and collaboration solutions. Our certified experts are uniquely qualified to deliver guidance for maximizing efficiencies and productivity throughout the data center, from UC environment to endpoint, to help you save money, reduce complexity and manage risk.

Sirius acknowledges Addendum One, Questions and Answers, Attachment E – Line Counts, Revised Cost Proposal Option A, and Revised Cost Proposal Option B, issued on August 03, 2018.

If you have any questions regarding this proposal, please feel free to contact Doug Carlson, Client Executive directly, at [Doug.Carlson@siriuscom.com](mailto:Doug.Carlson@siriuscom.com) or 402-965-2332. We are eager to earn your business and thank you for the opportunity to present this proposal. Please visit [www.siriuscom.com](http://www.siriuscom.com) to learn more about our products and services.

Sincerely,

A handwritten signature in blue ink that reads "Bonnie M. Cerrito".

Bonnie M. Cerrito  
Senior Vice President, Contracts and Financial Services  
Sirius Computer Solutions, Inc.



## FORM A – BIDDER CONTACT SHEET

**Form A  
Bidder Contact Sheet  
Request for Proposal Number 5885 Z1**

Form A should be completed and submitted with each response to this Request for Proposal. 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:	Sirius Computer Solutions, Inc.
Bidder Address:	10100 Reunion Place, Suite 500 San Antonio, TX 78216
Contact Person & Title:	Bonnie M. Cerrito, Senior Vice President of Contracts
E-mail Address:	Bonnie.cerrito@siriuscom.com
Telephone Number (Office):	210-369-8000
Telephone Number (Cellular):	N/A
Fax Number:	866-313-0960

Each bidder shall 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:	Sirius Computer Solutions, Inc.
Bidder Address:	10100 Reunion Place, Suite 500 San Antonio, TX 78216
Contact Person & Title:	Doug Carlson, Client Executive
E-mail Address:	Doug.carlson@siriuscom.com
Telephone Number (Office):	402-965-2332
Telephone Number (Cellular):	N/A
Fax Number:	866-313-0960

See attached Form A Contact Sheet:



Form A Bidder  
Contact Sheet\_Final.doc

**Form A**  
**Bidder Contact Sheet**  
**Request for Proposal Number 5885 Z1**

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E-mail Address:	<a href="mailto:Doug.carlson@siriuscom.com">Doug.carlson@siriuscom.com</a>
Telephone Number (Office):	402-965-2332
Telephone Number (Cellular):	N/A
Fax Number:	866-313-0960



## PRICING SUMMARY

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This section describes the requirements to be addressed by bidders in preparing the State's Cost Sheet. The bidder must use the State's Cost Sheet. The bidder should submit the State's Cost Sheet in accordance with Section I Submission of Proposal.

THE STATE'S COST SHEET AND ANY OTHER COST DOCUMENT SUBMITTED WITH THE PROPOSAL SHALL NOT BE CONSIDERED CONFIDENTIAL OR PROPRIETARY AND IS CONSIDERED A PUBLIC RECORD IN THE STATE OF NEBRASKA AND WILL BE POSTED TO A PUBLIC WEBSITE.

This section describes the requirements to be addressed by bidders in preparing the Cost Proposal. The bidder must submit the Cost Proposal in a section of the proposal that is a separate section or is packaged separately as specified in this RFP from the Technical Proposal section. For Option A: OCIO-Hosted, see Attachment A; for Option B: Carrier-Hosted, see Attachment B.

**Sirius response:** Sirius is submitting its response under Option A: OCIO Hosted. The Sirius solution is architected utilizing Cisco Unified Communications, proposed by Sirius as Unified Communications as a Service (UCaaS). The UCaaS solution will be hosted in OCIO's two data centers located in Lincoln and Omaha. The solution includes the user types (Basic, Standard, Premium, Analog and Voicemail) as identified by the State of Nebraska in this RFP. The pricing is a simple monthly rate which includes the features outlined by each user type.

The total monthly service fee will be invoiced based on the measured number of phones in service across all State agencies, entities and affiliates. In the Sirius proposed fees, there are no minimum user commitments, no minimum service terms, no installation fees nor termination fees.

## COST SHEET

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This summary shall present the total fixed price to perform all of the requirements of the RFP. The bidder must include details in the State's Cost Sheet supporting any and all costs.

Option A: OCIO-Hosted, see Cost Proposal Option A; Option B: Carrier-Hosted, see Cost Proposal Option B.

The State reserves the right to review all aspects of cost for reasonableness and to request clarification of any proposal where the cost component shows significant and unsupported deviation from industry standards or in areas where detailed pricing is required.

### **Sirius response:**



5885 Z1 Revised  
Cost Proposal Optic

**Revised Cost Proposal**  
**Option A: OCIO Hosted Solution**  
**RFP 5885 Z1**

It is the intent of the State of Nebraska to procure a VOIP service that is all inclusive.

The State requires that any costs for the following components be included in the Monthly Line Rate for Basic, Monthly Line Rate for Standard, Monthly Line Rate for Premium and Monthly Line Rate for Analog. The State will not incur or pay for any additional costs for any component listed below.

1. VOIP Line
2. VOIP telephone set
3. All licensing necessary to provide the proposed service.
4. All software necessary to provide the proposed services.
5. All network equipment with the exception of Switches and Routers already in use by the State for transportation of network services.
6. Any session border controllers, gateway equipment, software, or licensing necessary to connect the bidder's equipment to the State Provided PSTN trunks.
7. Any equipment, software, or licensing necessary to convert VOIP to Analog.
8. Maintenance fees for any items listed above.



**Revised Cost Proposal**  
**Option A: OCIO Hosted Solution**  
**RFP 5885 Z1**

It is the intent of the State of Nebraska to procure a VOIP service that is all inclusive.

The State requires that any costs for the following components be included in the Line Installation Costs:

1. All programming of VOIP line in Contractors core equipment
2. All programming or configuration of telephone set
3. Delivery of telephone set to site
4. Unboxing and assembly of telephone set at site
5. Labeling of telephone set and keys
6. Connecting telephone set to Ethernet jack and workstation if applicable
7. Testing telephone set

Additionally, the State will not incur or pay for any additional costs to procure the service as proposed by the Bidder that are not included in this cost proposal in the following sections.

Failure to include all costs as requested in the following sections may result in Bid Rejection. If no cost is necessary, the Bidder must enter \$0.00 in that section indicating that the feature or service is provided at no additional cost to the State.

**Revised Cost Proposal**  
**Option A: OCIO Hosted Solution**  
**RFP 5885 Z1**

Feature	Basic Estimated Quantity - 6170	Standard Estimated Quantity - 3229	Premium Estimated Quantity- 1235	Analog Estimated Quantity - 150
Transfer	X	X	X	
Three way calling	X	X	X	
Call Forward/ No Answer	X	X	X	
Call Forward / Busy	X	X	X	
Call Forward Universal	X	X	X	
Call Pickup Group		X	X	
Directed Call Pickup		X	X	
Call Park		X	X	
Conferencing (Min. 6 Party)		X	X	
Last Call Return	X	X	X	
Message Waiting Indicator	X	X	X	
Hold	X	X	X	
Auto Dial Keys			X	
Speed Dial List			X	
Follow Me Feature		X	X	
Caller ID Logs		X	X	
Add-on Compatible			X	
Busy Lamp Field			X	
Multi-Line Ability			X	
Display		X	X	
Headset Compatible		X	X	
<b>Monthly Recurring Line Rate Initial Term (5 yrs)</b>	\$10.49	\$10.49	\$11.49	\$15.00
<b>Non-Recurring Line Installation Cost</b>	\$29.00 / onsite	\$29.00 / onsite	\$29.00 / onsite	\$29.00 / onsite

**Revised Cost Proposal**  
**Option A: OCIO Hosted Solution**  
**RFP 5885 Z1**

The State will not incur any additional costs over and above the rates listed below for Announcement Only Mailbox, and Auto Attendant.

**Additional Required Costs**

	Installation Initial Contract Period (5 yrs)	Monthly Rate Initial Contract Period (5 yrs)
<b>Announcement Only Mailbox</b>	\$0	\$1.00
<b>Auto Attendant</b>	\$0 - included	\$0 - included

**Optional Costs**

	Installation Initial Contract Period (5 yrs)	Monthly Rate Initial Contract Period (5 yrs)
<b>ACD/UCD</b>	\$0 - included	\$0 - included
<b>Any Additional Optional Items.</b>	\$ <insert rate>	\$ <insert rate>
<b>Any Additional Optional Services.</b>	\$ <insert rate>	\$ <insert rate>
<b>Non-recurring Line Installation where the State would install the Telephone Set.</b>	\$0*	Not applicable**

*Bidder may include additional lines above as needed*

*\*Sirius will ship phones to site contact pre-labeled with instructions and user information for the end user to simply plug the phone in so that it will self-register and become operational*

*\*\*Monthly Recurring Rates above for Basic, Standard & Premium users will apply*

**Revised Cost Proposal**  
**Option A: OCIO Hosted Solution**  
**RFP 5885 Z1**

Optional Labor Rates

Please list all Job Titles that pertain to this Contract where the State of Nebraska would be charged an Hourly Rate.

<b>Description by Job Title</b>	<b>Initial Contract Period (5 yrs) Rate Per Hour</b>
<b>Jr. Network Engineer</b>	\$110
<b>Network Engineer</b>	\$175
<b>Sr. Network Engineer</b>	\$215
<b>Project Manager</b>	\$195

*Bidder may include additional lines above as needed*



## PRICES

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Prices quoted shall be net, including transportation and delivery charges fully prepaid by the bidder, F.O.B. destination named in the RFP. No additional charges will be allowed for packing, packages, or partial delivery costs. When an arithmetic error has been made in the extended total, the unit price will govern.

**Sirius response:** Sirius acknowledges.

## SIRIUS SERVICES

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Prior to performing any Services, the State of Nebraska and Sirius will need to agree upon a written Statement of Work, SOW (Professional Services), Services Work Order, SOW (Master Managed Services Agreement) and a Master Managed Services Agreement in order for services to be performed. Provided below for your review.



SOW - Technical  
Services with TERMS



SWO-CUSTOMER  
NAME\_99999 Service



Managed Services  
Master Agreement Te



**Master Managed Services Agreement  
Number \_\_\_\_-MMSA**

This MASTER MANAGED SERVICES AGREEMENT (this "**Agreement**") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ by and between \_\_\_\_\_ a \_\_\_\_\_ corporation, having its principal place of business at \_\_\_\_\_, on behalf of itself and its Affiliates defined herein ("**Customer**"), and **Sirius Computer Solutions, Inc.**, a Texas Corporation, having a place of business at 10100 Reunion Place, Suite 500, San Antonio, TX 78216, on behalf of itself and its Affiliates defined herein ("**Provider**").

**1. General / Services.** Customer hereby retains Provider to perform the managed services (the "**Services**") as described in a services work order (each, an "**SWO**"), to be executed by both parties from time-to-time, pursuant to this Agreement. Services may include services furnished to Customer or services furnished to a client of Customer and subcontracted to Provider; *provided, however*, that in the latter case the privity of contract shall be between Customer and Provider, and Customer shall be responsible for payment of all charges in connection with such Services. If any provision of this Agreement conflicts with a provision of a SWO, then the provision of the SWO shall prevail. Provider shall perform the Services in accordance with the terms and conditions of this Agreement and the SWO. Provider or any of its Affiliates may enter into an SWO with Customer or any of its Affiliates from time-to-time pursuant to an SWO entered into between such parties. Such SWOs shall incorporate the terms and conditions of this Agreement and shall automatically (without notice to or consent of Customer) become the obligation of Customer, the same as if Customer had entered into such SWOs itself, as well as the obligation of Customer's Affiliate (which obligation shall be joint and several). Customer hereby warrants that any SWO entered into by its Affiliate shall have been duly authorized by all necessary corporate action and constitutes a legally binding obligation of such Affiliate and Customer enforceable in accordance with its terms and conditions. The term "**Affiliate**" shall mean all entities affiliated through common ownership including, without limitation, its parent and related companies and subsidiaries.

**2. Employees.** All personnel assigned by Provider to perform the Services will be employees of Provider or Provider's Affiliate, or subcontractors of Provider, and Provider will pay all salaries and expenses of, and all federal, social security, federal and state unemployment taxes, and any other payroll or withholding taxes relating to such employees. Provider will be considered, for all purposes, an independent contractor, and it will not, directly or indirectly, act as an agent, servant, or employee of Customer, or make any commitments or incur any liabilities on behalf of Customer without Customer's prior written consent.

**3. Payment / Taxes.** In consideration of Provider's performance of the Services, Customer shall pay Provider the fees set forth in, and in accordance with, the respective SWO. Provider will invoice Customer each month or at the conclusion of the engagement, whichever occurs earlier. Customer shall pay each undisputed invoice within thirty (30) days following date of invoice. If full payment is not received within such thirty (30) day period, then Customer shall pay interest on said unpaid balance in an amount equal to the lower of 1.5% per month or the highest rate permitted by law. If so provided in an SWO, Customer shall reimburse Provider for out-of-pocket expenses that Provider incurs in performing the Services described therein. The fees quoted by Provider do not include any federal, state, or local property, license, privilege, sales, use, excise, gross receipts, value added, or other taxes that may now or hereafter be applicable to, measured by, or imposed upon, or with respect to, any transaction, any property (including without limitation its sale, its value, or its use), or any services related to this Agreement. Customer agrees to pay Provider for any such taxes that Provider, or Provider's subcontractors or suppliers, are required to pay, excluding any taxes relating to Provider's income. All tax refunds are subject to the relevant taxing jurisdictions' statute of limitations. Where a SWO lists more than one Customer site, Provider shall start invoicing for the Services that are recurring as each site is readied, but the term of the SWO shall not commence until the first day of the month immediately following the date the last site is readied for the Services.

**4. Customer Responsibilities.**

- a. Before Provider begins performing the Services, Customer may be required to: (1) install and mount necessary hardware in racks and provide power and internet connection to equipment used in connection with the Services as listed in the SWO; (2) maintain power and, where required, a full-time, dedicated internet connection, allowing Provider to access such equipment and Customer's network for the purpose of monitoring and managing it; (3) allow Provider, or its authorized representative, reasonable and free access to Customer's network and facilities; (4) provide Provider administrator-level password access for such and any other equipment in the network, and (5) comply with all reasonable requests of Provider necessary for the performance of the Services hereunder. Customer shall, at its expense, perform all necessary checks and tests on the covered equipment. Customer shall not be required to furnish specialized equipment or know-how. Customer agrees to pay Provider, at Provider's then-current rates, plus any reasonable actual out-of-pocket expenses, for any rework or additional work resulting from modification of the Services requested by Customer (and accepted by Provider) or any act or omission of Customer, including providing inaccurate information to Provider. Provider shall seek Customer's approval in advance of incurring such costs if it knows costs will be incurred as a result of such act or omission of Customer. Customer is responsible for obtaining all approvals required by any third parties in order for Provider to perform any of the Services. Provider shall not be in default of this Agreement to the extent it cannot perform the Services either because such approvals have not been obtained or any third party otherwise prevents Provider from performing the Services.
- b. Customer is responsible for the design, architecture, structure, hardware, software and other components of its networks and information systems with respect to which Provider is providing Services, including without limitation all application software and all data security and privacy. Provider's responsibilities are strictly limited to the provision in a professional and workmanlike manner of those Services specifically designated in one or more SWOs, consistent with the scope of service and performance standards set forth therein. Customer understands that Provider has no control over the Internet or other private or public telecommunication channels, and Provider is not responsible for any interruption or lack of availability of the Internet or any other private or public telecommunication channels.
- c. Customer shall be solely responsible for providing all production support, adaptive maintenance, and software development for Customer's data and application systems. Customer shall provide, install, repair, and maintain, at its sole expense, all Customer provided hardware, software and personal property that may be needed for the Services. Additional or replacement Customer provided hardware, software, and personal property, including upgrades, will be added by Customer, at Customer's sole expense, as necessary to permit Provider to perform the Services in accordance with the performance standards set forth in the applicable SWO. In the event Customer upgrades or adds to the computing environment, or Customer's processing requirements, workload or utilization of the system require any such change, upgrade or supplement, the fees shall be equitably adjusted by Provider to reflect any additional fees and expenses relating to any such change, upgrade or supplement. Any changes will be agreed to by both parties and executed via a change order.
- d. Customer shall: (i) provide a suitable environment for the operation of any Provider provided hardware, software, or personal property (collectively, "**the Solution**") at a Customer location and take all reasonable precautions to protect the Solution and provide physical support for Provider for the maintenance of the Solution; (ii) not alter the Solution; and (iii) pay for any repairs to or replacements of the Solution caused by Customer's misuse, negligence or violation of this Agreement. Customer shall be responsible for, agrees to procure insurance coverage on, and hereby assumes the entire risk and liability with respect to the Solution being lost, damaged, destroyed, and stolen as of the date such Solution arrives at the Customer's location. Such insurance coverage shall: (a) be issued by insurers with a "General Policyholders Rating" of at least A-, VIII, as set forth in "Best's Insurance Guide,"; (b) include coverage of personal property specifically insuring such Solution for its full replacement cost, without consideration for depreciation; (c) include broad form "All Risks" of physical damage coverage; (d) list Provider (and, upon written request, any Assignee, as defined hereunder) as loss payee under the personal property insurance policy; and (e) list Provider (and, upon written request, any Assignee) as an additional insured under a commercial general liability policy with limits no less than \$1,000,000 per occurrence. Upon reasonable advance notice to Customer, Provider shall have reasonable access to Customer's facilities for the purpose of allowing a Provider representative to maintain the Solution; provided, that a representative of Customer may accompany Provider's representative and be present during the performance of any such maintenance. Upon the expiration or termination of this Agreement or an SWO, as applicable, and upon reasonable advance notice to Customer, Provider shall be permitted to enter Customer's facilities and remove any Solution.
- e. Either Provider or Customer may initiate an upgrade or reconfiguration of system components, hardware or software, consistent with the terms and requirements of an SWO; provided that Provider shall not be responsible for any failures or delays that are caused by any activity of Customer. Should Provider advise Customer that



additional computing resources are needed and Customer determines that additional computing resources are not needed, Customer will not hold Provider responsible for any service level agreement (“SLA”) or associated penalty resulting from a missed SLA that might directly or indirectly be the result of not adding additional resources to the computing environment, its financial penalty, or grounds for breach as defined herein. Customer shall provide all reasonable and necessary cooperation in the implementation of any upgrade or reconfiguration initiated by Provider. Customer shall be solely responsible for payment of any cost resulting from upgrades; the cost of the upgrade or reconfiguration shall be agreed upon prior to being implemented.

**5. Exclusions.** The Services do not include: (1) repair or replacement of any hardware or software (unless specifically stated in a SWO), electrical work, or repair of damage resulting from operator error, accident, vandalism, electrical or environmental issues, or maintenance provided by a party other than Provider or its authorized representatives; nor (2) support due to configuration changes made by Customer or any party other than Provider or its authorized representatives. Except as expressly stated in an SWO, Provider is not selling, licensing, or otherwise providing to Customer any software, hardware, third party maintenance or other products or property under this Agreement. Provider may use, in the provision of Services to Customer, one or more items of hardware, software, third party maintenance or other personal property, all of which shall be owned exclusively by, and remain under the exclusive control of, Provider, even if such hardware, software or other personal property is located on Customer premises or integrated with Customer or third party property during the term of this Agreement. Customer may not use any hardware, software, or personal property provided by Provider under this Agreement for any purpose other than the performance of Services under this Agreement.

**6. Confidential Information.** Each party acknowledges that certain information that it shall acquire from the other party is of a special and unique character and shall, provided such materials are clearly marked as such, constitute “**Confidential Information.**” Each party agrees: (a) to exercise the same degree of care and protection with respect to the other party’s Confidential Information that it exercises with respect to its own Confidential Information, but in no event less than reasonable care; and (b) not to directly or indirectly disclose, copy, distribute, republish or allow any third party to have access to any Confidential Information of the other party. Notwithstanding the above: (a) Provider may disclose Customer’s Confidential Information to Provider’s Affiliates, employees, subcontractors and authorized representatives who have a need to know; (b) Customer may disclose Provider’s Confidential Information to its employees, subcontractors and authorized representatives who have a need to know; (c) either party may disclose Confidential Information if so required by law (including court order or subpoena), provided that the owner of the Confidential Information may: (i) seek to have the appropriate court or governmental body seal the record that shall contain such Confidential Information; and (ii) assume responsibility for responding to and defending such requests for disclosure; and (d) Provider may use its knowledge management platform, currently Microsoft SharePoint, for the collaboration, communication, storage and exchange of Customer’s Confidential Information only to the extent necessary to perform its responsibilities under the applicable SWO. Unless otherwise authorized, upon the earlier of termination of this Agreement or request of the disclosing party, the receiving party shall promptly destroy or return to the other party that other party’s Confidential Information. In addition, neither party hereto shall be liable for the reproduction, disclosure or use of any Confidential Information if such information is: (a) publicly available or later becomes available other than through a breach of this Agreement; (b) known to Provider, Customer or their respective employees, agents or representatives prior to such disclosure or is independently developed by Provider, Customer or their respective employees, agents or representatives subsequent to such disclosure; or (c) subsequently lawfully obtained by Provider, Customer or their respective employees, agents or representatives from a third party without obligations of confidentiality. Notwithstanding anything contained herein to the contrary, neither party shall, without the prior written consent of the other party, disclose to a third party the terms of this Agreement or any SWO, including the nature of the Services to be performed by Provider and the fees charged for such Services. The parties shall, upon learning of: (a) any unauthorized disclosure or use of the other party’s Confidential Information; or (b) any requirement that a party disclose the other party’s Confidential Information by operation of law, regulation or other legal process, notify such party promptly and in writing, and cooperate fully with such other party to protect such party’s Confidential Information.

**7. Warranties.** Provider warrants that the Services will be performed in a professional and workman-like manner. Provider does not warrant or guarantee in any form the results or achievements of the Service it provides except as otherwise specifically stated in an SWO. EXCEPT FOR THE EXPRESS WARRANTIES STATED HEREIN, PROVIDER DISCLAIMS ALL WARRANTIES, INCLUDING ALL IMPLIED WARRANTIES OF NONINFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE, AND THE STATED EXPRESS WARRANTIES ARE IN LIEU OF ALL OBLIGATIONS OR LIABILITIES ON THE PART

OF PROVIDER ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THE SERVICES. ORAL STATEMENTS OR STATEMENTS CONTAINED IN GENERAL ADVERTISING PAMPHLETS OR OTHER PRINTED MATERIAL DO NOT CONSTITUTE WARRANTIES, AND CUSTOMER AGREES THAT IT IS NOT ENTERING INTO THIS AGREEMENT IN RELIANCE UPON ANY SUCH STATEMENTS.

**8. Limitation of Liability.** IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR ANY OTHER NON-DIRECT DAMAGES INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR FUTURE REVENUES, COST OF CAPITAL, LOSS OF BUSINESS REPUTATION OR OPPORTUNITY OR ANY CLAIM OR DEMAND AGAINST THE OTHER PARTY BY ANY THIRD PARTY, HOWEVER CAUSED, WHETHER UNDER THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EVEN IF SAID PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL PROVIDER BE LIABLE FOR LOSS, CORRUPTION OF, OR DAMAGE TO DATA. PROVIDER'S TOTAL LIABILITY TO CUSTOMER FOR ANY CAUSE WHATSOEVER ARISING OUT OF OR CONNECTED WITH A SWO IS LIMITED TO THE AMOUNT PAID OR PAYABLE TO PROVIDER FOR THE SERVICES DURING THE SIX (6) MONTHS PRECEDING THE EVENT OR CIRCUMSTANCES GIVING RISE TO SUCH LIABILITY, REGARDLESS OF THE FORM OF ACTION OR WHETHER SUCH ACTION IS BASED ON CONTRACT LAW, TORT LAW (INCLUDING NEGLIGENCE, STRICT LIABILITY OR OTHERWISE), OR OTHER LEGAL THEORY.

Customer acknowledges that there is no such thing as a totally secure, impenetrable network, and, further, that the Services are limited to providing a reasonable level of proactive protection and ongoing security monitoring and reporting. PROVIDER WILL IN NO WAY BE HELD RESPONSIBLE OR LIABLE FOR DAMAGES, MONETARY OR OTHERWISE, BY CUSTOMER, OR ANY OTHER AFFECTED PARTY, IN THE EVENT OF SECURITY BREACHES OR NETWORK SECURITY-RELATED OUTAGES, DAMAGES, OR LOSSES AND PROVIDER EXPRESSLY DISCLAIMS ANY REPRESENTATIONS AND WARRANTIES WITH REGARD TO THE PROVISION OF ANY SERVICES RELATING TO SYSTEMS OR DATA SECURITY OR PRIVACY.

Provider is not responsible and has no obligation to Customer or any third party under this Agreement for any claims based on any manufacture, use, sale, offer for sale, reproduction, distribution, derivation, display, performance, modification, or other activity with respect to any hardware, software or other personal property (whether tangible or intangible) obtained, owned, possessed, licensed, or used by Customer, including but not limited to any hardware, software, or other personal property of Customer or any third party with respect to which Provider provides Services under this Agreement, or which is relied on, used, or integrated into operations by Provider in the performance of Services. If a third party brings or threatens a claim against Provider based on any contention that any hardware, software or other personal property of Customer or any other third party infringes on or misappropriates that third party's patent, copyright, trade secret, trademark or other proprietary right, excluding any claims based on and solely to the extent of Provider's unauthorized use or misuse of such hardware, software or other personal property, Customer will indemnify and defend Provider and its officers, directors, employees, and representatives from and against that claim at Customer's expense and pay all costs, damages, and attorney fees incurred by Provider in connection with such claim, provided that Provider (i) promptly notifies Customer in writing of the claim; and (ii) allows Customer to control, with Provider's reasonable cooperation, the defense of such claim and any related settlement negotiations; provided further that any failure or delay by Provider in providing such notice shall not relieve Customer from its obligation to indemnify under this Agreement except to the extent such failure or delay actually and materially causes prejudice to Customer. Customer shall not settle any such claim in a manner that would result in an admission of liability or a payment obligation on the part of Provider without the prior express written permission of Provider.

**9. Non-solicitation.** During the term of this Agreement and for a period of one (1) year following termination hereof, each party hereby agrees that neither such party nor any of its Affiliates will, directly or indirectly, solicit to employ or employ any of the current employees or independent contractors of the other party and its Affiliates (or subcontractors or independent contractors) who are involved in the performance of Services under this Agreement, without obtaining the prior written consent of the other party. Notwithstanding the foregoing, solicitation of a party's current employees, subcontractors or independent contractors who are not involved in the performance of Services under this Agreement by means of a general media solicitation or trade publication or advertisement shall not constitute a breach of this provision. This provision will survive the expiration or termination of this Agreement.

**10. Termination for Bankruptcy or Non-Payment.** In the event that Customer fails to pay any amount when due

after five (5) business days' written notice from Provider for protection under bankruptcy laws, makes an assignment for the benefit of creditors, appoints or suffers appointment of a receiver or trustee over its property, files a petition under any bankruptcy or insolvency act or has any such petition filed against it which is not discharged within thirty (30) days of the filing thereof, then Provider may terminate this Agreement and any SWOs hereunder effective immediately upon written notice to Customer.

**11. Effect of Termination and Expiration.**

- a. Upon termination pursuant to this Section, all rights and obligations of the parties under the SWO will immediately terminate, except as otherwise set forth in this Agreement.
- b. No termination under this Section will waive, release or otherwise affect any payment obligations incurred by either party in accordance with the terms of this Agreement prior to such termination, except insofar as such payment obligations are reduced by the terms of any applicable Service Level Agreement between the parties.
- c. Upon termination of an SWO in accordance with this Section, Customer shall pay a termination fee for the remaining (terminated) period thereof. Termination fees are calculated for each remaining month of the SWO, and also includes any equipment costs and software services, rents and license fees for facilities, connectivity services, infrastructure and backup services, application hosting services, and any miscellaneous third party services which may apply to the terminated SWO. Specific fees may be stated in the SWO.
- d. Upon any expiration or early termination of an SWO, Customer will return to Provider and relinquish all use of any equipment, software, IP addresses or address blocks and any other property assigned to Customer by Provider in connection with the Services.
- e. Upon any expiration or early termination of this Agreement, Provider will work cooperatively with Customer, at the Customer's expense, to transfer Customer control over any domain names owned by Customer.

**12. Dispute Resolution.** With the exception of disputes involving breach of confidentiality, infringement of a party's intellectual property, or other types of potential irreparable harm for which injunctive relief through the courts is sought by either party, all disputes arising under the terms of this Agreement or the grounds for termination thereof shall be resolved as follows:

- a. The senior management of both parties shall meet to attempt to resolve such dispute.
- b. If senior management cannot resolve the dispute, either party may make a written demand for formal dispute resolution and specify therein the scope of the dispute.

For any action arising out of or relating to this Agreement, EACH PARTY WAIVES ALL RIGHTS TO A TRIAL BY JURY. Customer agrees to pay any of Provider's legal expenses incurred by Provider in the enforcement of defenses of this Agreement.

**13. Notices.** All notices required herein shall be given in writing and shall be delivered in person, by courier, or mailed with first class postage prepaid, to the address as indicated above. In regards to Provider, such notice shall be sent to the attention of its Contracts Department.

**14. Entire Agreement / Governing Law.** This Agreement, including each SWO executed hereunder shall constitute the entire agreement between the parties respecting the subject matter hereof and supersedes all prior proposals, agreements, negotiations, representations, writings and all other communications, whether written or oral, between the parties. This Agreement shall be governed, enforced, and construed in accordance with the laws of the State of Texas, as may be appropriate for subject matter jurisdiction. No cause of action may be asserted against either party that accrued more than 1 year prior to the time the facts giving rise to the cause of action are discovered or should have been discovered.

**15. Assignment.** Neither party may assign this Agreement or an SWO without the prior written consent of the other party except that either party may assign this Agreement to a successor entity due to a merger, consolidation, or sale of its stock or substantially all of its assets so long as the successor entity is no less creditworthy than the assignor. The changing party must notify the other party within a reasonable time prior to the change being effective of the successor's legal, financial, and operations contacts. Neither party shall unreasonably withhold consent should the other party desire to assign or delegate its rights and obligations under this Agreement or SWO to one or more of its Affiliates or to a successor entity as part of a merger, sale or consolidation involving transfer of all or substantially all of such party's stock or assets upon notice to the other party. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. Notwithstanding this Section 15, Provider may (a) assign this Agreement and any SWO, including rights to payments, to an Affiliate of Provider;

and (b) assign any SWO and its rights thereunder without notice to an assignee (“Assignee”). Notwithstanding anything to the contrary in this Agreement, Customer agrees that the right of any Assignee to receive the fees or other amounts payable under the applicable SWO shall not be subject to any defense, counterclaim or offset. Customer shall abide by any such assignment and make payment as directed, and agrees to acknowledge such assignment to Assignee upon written request.

**16. No Waiver of Performance.** Failure by either party at any time to require performance by the other party or to claim a breach of any provision of this Agreement or SWO will not be construed as a waiver of any subsequent breach. No modification or waiver of any provision of this Agreement shall be effective unless made in writing signed by an authorized representative of the party whom enforcement is sought.

**17. Electronic Signature.** For the purpose of executing this Agreement and an SWO, the parties agree that .pdf signatures sent via email shall serve as original signatures; provided that, as soon as practicable thereafter, the parties shall cause the exchange of counter-signed originals.

**18. Force Majeure.** Each party shall be excused from performance under this Agreement and an SWO and shall have no liability to the other party for any period it is prevented from performing any of its obligations, in whole or in part, as a result of delays caused by the other party or by an act of God, war, civil disturbance, court order, third party performance or nonperformance, strikes, work stoppages or other cause beyond its reasonable control, and such nonperformance shall not be a default under, or grounds for termination of, this Agreement. Notwithstanding the foregoing, if any of the foregoing circumstances prevent, hinder or delay performance of either party’s obligations hereunder for more than thirty (30) calendar days, the party not prevented from performing may, at its option, terminate this Agreement and an SWO without liability or penalty as of a date specified by such party in a written notice of termination to the other party.

**19. Proprietary Materials.**

- a. Each party is and shall remain the owner of all right, title and interest in and to such party’s proprietary materials, and all copies thereof, and in and to all of the related trade secrets, copyrights, patents and all other proprietary rights. Neither party shall obtain any right or license in and to the other party’s proprietary materials.
- b. All materials or reports, expressed in a tangible medium, uniquely and specifically designed or developed by Provider for Customer under an SWO and identified on the applicable SWO as a “Deliverable” (the “**Deliverables**”) shall be deemed to be “work made for hire” belonging exclusively to Customer. Provider agrees that all rights, title and interests of Customer in and to the Deliverables shall be and are assigned to Customer as its sole and exclusive property. To the extent that Provider utilizes any of its pre-existing intellectual property in connection with the performance of Services hereunder, such pre-existing intellectual property shall remain the property of Provider; provided, however, that to the extent Provider incorporates into the Deliverables any of its pre-existing intellectual property designed or developed by Provider (or a third-party), Provider hereby grants to Customer a non-exclusive, royalty free, fully paid, perpetual, irrevocable license, without right to sublicense, to utilize its pre-existing intellectual property for internal business purposes only.
- c. Customer retains ownership of all licenses of software and all hardware deployed at Customer site that Customer has directly purchased. Provider retains ownership of all licenses of software and all hardware deployed at Customer site that is inherent in providing services under this Agreement.

**20. Migration and Transfer Assistance.**

- a. In the event migration services are required in order for Provider to provide the Services under a particular SWO, Provider will plan and manage the migration of Customer’s then current data processing capabilities to the target environment in accordance with the scope of the applicable SWO. Customer will pay for the migration services and any associated fees as detailed in the SWO. Customer shall cooperate with Provider in accomplishing all aspects of the migration, including the commitment of the resources necessary to complete the migration during and in defining the rules for and assisting in the performance of all aspects of the migration.
- b. In the event that any SWO is terminated, regardless of the reason for such termination, or upon the expiration of any SWO, Provider will reasonably cooperate in good faith and at Customer’s expense, with Customer to assist with the orderly transition of the Services provided by Provider under such SWO to another service provider or to Customer. At Customer’s request, Provider shall, for up to one (1) month following expiration or termination of the SWO, provide available staff and resources to actively and reasonably assist Customer in the transition process, at an hourly fee (plus expenses) to be agreed upon by the parties.

**21. Miscellaneous.**

In the event that any SWO is determined to be a security agreement, Customer hereby (i) grants to Provider a security interest in the Solution subject thereto to secure the payment and performance of Customer's obligations thereunder; and (ii) authorizes Provider to cause the SWO, or any statement or other instrument relating to the SWO showing the interest of Customer in the Solution, including Uniform Commercial Code financing statements, to be filed or recorded and re-filed or re-recorded, and Customer grants Provider the right to execute Customer's name to any such statement or instrument. In the event any of the terms of this Agreement become or are declared to be illegal or otherwise unenforceable by any court of competent jurisdiction, such terms shall be null and void and shall be deemed deleted from this Agreement. All remaining terms of this Agreement shall remain in full force and effect. Section and Article headings are for reference purposes only and shall not affect the interpretation or meaning of this Agreement. Any obligations and duties that by their nature extend beyond the expiration or earlier termination of this Agreement shall survive expiration or termination of this Agreement and the completion of performance and termination of any Services.

**IN WITNESS WHEREOF**, each party has caused this Agreement to be executed below by its duly authorized representative effective the day and year first above written.

\_\_\_\_\_

**SIRIUS COMPUTER SOLUTIONS, INC.**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature

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

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

\_\_\_\_\_  
Title/Date Signed

\_\_\_\_\_  
Title/Date Signed



## PURCHASE AUTHORIZATION

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Until Sirius receives and accepts a Purchase Order or this Purchase Authorization for the solution proposed, pricing provided in this Proposal is subject to change based on manufacturer's pricing schedule.

All of the information provided in this Proposal is considered confidential and proprietary between Sirius and State of Nebraska. Information enclosed in this Proposal may not be disclosed, disseminated, or otherwise revealed to any party outside of State of Nebraska or any party within State of Nebraska who is not privileged to receive such information.

Your contract number(s), currently on file, is/are as follows:

Agreement Type: Customer Agreement and Amendment 1

Agreement Number: 29875-CA

Customer acknowledges and agrees that the Passport Advantage ("PPA") Software Subscription and Support proposed hereunder may not be cancelled, returned, or refunded. This no-return policy applies whether the software subscription is new or a renewal.

This Proposal is subject to the terms and conditions of the above referenced Agreement(s). Acceptance of this Proposal by an authorized representative of State of Nebraska will be deemed the equivalent of a Client Purchase Order, which will authorize Sirius to order the Products and Services listed in this Proposal.

Customer acknowledges and agrees that the Passport Advantage ("PPA") Software Subscription and Support proposed hereunder may not be cancelled, returned, or refunded. This no-return policy applies whether the software subscription is new or a renewal.

The provision of the maintenance services contained on this proposal will be controlled by the terms and conditions of the applicable manufacturer and/or maintenance provider (hereinafter the "Provider"), and may be subject to auto-renewal if so provided in the applicable terms and conditions. Sirius does not guarantee any rights of termination during the term of the maintenance services contained on this proposal or any renewal term, and all refund calculations are determined solely by the applicable Provider. In the event any or all of these maintenance services are terminated in accordance with the terms and conditions of the applicable Provider, Sirius will (1) pass through to Customer all applicable credits paid to Sirius by the applicable Provider, net any related costs, or (2) hold such applicable credits on account for future purchases by Customer. If the maintenance services contained on this proposal cover multiple hardware or software components, any discounts provided in this proposal may vary between such components, and all pricing information is confidential and proprietary information of the applicable Provider.

If the attached Statement of Work is not signed by State of Nebraska within thirty (30) days of the date of the SOW, this shall constitute a rejection by State of Nebraska of Sirius' offer for services. Customer shall not be entitled to any refunds of the price paid hereunder in the event the Customer rejects Sirius' offer for the proposed services.



**Accepted by:**  
**State of Nebraska**

**Approved by:**  
**Sirius Computer Solutions, Inc.**

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Signature of Authorized Representative

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

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

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Title of Authorized Representative

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Title of Authorized Representative

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Date Signed

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Date Signed

Ship to address:

Bill to address:

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