



STATEWIDE CONTRACT
State of Utah, Division of Purchasing & General Services

AMENDMENT # 3 to CONTRACT # AR1479

TO BE ATTACHED TO AND MADE A PART OF the above numbered contract between the State of Utah, Division of Purchasing & General Services, referred to as STATE, and, Pacific Star Communications, referred to as Contractor.

THE PARTIES AGREE TO AMEND THE CONTRACT AS FOLLOWS:

May 24, 2002 (original starting date of contract)

May 31, 2006 (current ending date)

May 31, 2007 **new ending date**

Other changes to the contract include:

Effective Date of Amendment: March 1, 2006

The State of Utah Terms and Conditions still apply to the Contract. All other conditions and terms in the original contract remain the same.

IN WITNESS WHEREOF, the parties sign and cause the amendment to be executed.

CONTRACTOR



Contractor's signature

Jeff W. Sinclair – Vice President, Sales
Type or Print Name and Title

Feb 23, 2006
Date

STATE



Douglas G. Richins

FEB 23 2006
Date

STATE OF UTAH
STATEWIDE CONTRACT AR1479

1. CONTRACTING PARTIES: This Statewide Contract is between the **Division of Purchasing and General Services**, an agency of the State of Utah, and the following CONTRACTOR:

Pacific Star Communications
Name
15714 SW 72nd Avenue
Address
Portland, OR 97224
City State Zip

LEGAL STATUS OF CONTRACTOR
 Sole Proprietor
 Non-Profit Corporation
 For-Profit Corporation
 Partnership
 Government Agency

Federal Tax ID# 93-1291906 Vendor # 68749D Commodity Codes: 20464, 20621, 20623

Vendor Contact Person: Jeff Sinclair Vendor Phone #: 503-403-3000

Vendor Fax #: 503-403-3001 Vendor email address: jsinclair@pacstar.com

2. GENERAL PURPOSE OF CONTRACT: The general purpose of this Contract is to provide:
Data Communications Equipment and Associated OEM Maintenance & Training

3. CONTRACT PERIOD: Effective date May 24, 2002 Termination date May 31, 2004 unless terminated early or extended in accordance with the terms and conditions of this contract.
Renewal option: Renewable for one or two year terms up to four additional years

4. PRICING AS PER ATTACHMENT A (Addendum 1)
PAYMENT TERMS: Net 30 days
DAYS REQUIRED FOR DELIVERY: stock to 30 days
MINIMUM ORDER: \$100
FREIGHT TERMS: F.O.B. Destination, Freight Prepaid

5. ATTACHMENT A: Addendum 1
ATTACHMENT B: WSCA Standard Terms and Conditions
ATTACHMENT C: N/A
Any conflicts between Attachment A and other Attachments will be resolved in favor of Attachment A.

6. DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:
a. All other governmental laws, and regulations applicable to the goods and/or services authorized by this contract.
b. Utah State Procurement Code, Procurement Rules, RFP LW1907, and CONTRACTOR'S proposal response to RFP LW1907 dated 07-17-01.

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.
CONTRACTOR **STATE OF UTAH**

Signature on file
Contractor's signature

Signature on file
Douglas G. Richins
Director, Division of Purchasing

Type or Print Name and Title

Date

Date

ATTACHMENT A ADDENDUM 1

This Addendum serves to clarify terms and conditions of the contract between the State of Utah, referred to as STATE, and Pacific Star Communications, referred to as Contractor. The State of Utah is acting as the Lead State for the procurement process resulting in **WSCA Contracts for Data Communications Equipment, associated OEM Maintenance and Training.**

A. Manufacturer Product Line(s)

This contract authorizes the Contractor to provide the following manufacturer's Data Communications Equipment, Maintenance, and Training, as listed by category. No other equipment or maintenance will be covered under this contract, unless identified in an amendment to the contract. Products covered under this agreement are:

Routers: N/A

Switches: N/A

LAN/WAN Wireless: N/A

CSU/DSU: Kentrox, LLC*; Larscom

*Note: Kentrox, LLC acquired ADC. All references to ADC in the Response to the bid are now identified as Kentrox, LLC.

B. State of Utah/WSCA Contract Manager

Lois Wiesemann
State of Utah
Division of Purchasing and General Services
State Office Building, Capitol Hill
Room 3150
Salt Lake City, UT 84114-1061

email: loisw@utah.gov
Voice: (801) 538-3144
Fax: (801) 538-3882

C. Remittance Address

Pacific Star Communications
15714 SW 72nd Avenue
Portland, OR 97224

D. Special Terms and Conditions

The parties agree to amend the terms and conditions as follows:

1. Order of Precedence
The order of precedence for the contract terms will be as follows:
 1. Addendum 1
 2. WSCA Terms and Conditions
 3. Contractor's Proposal Response to RFP LW1907
 4. RFP LW1907

2. Included Documents

The documents listed in Number 1 are included in the contract. It is agreed that any reference to the “Entire Agreement” includes these documents.

3. Public Information

The contract, including the price lists and the Response to the RFP, will be considered public documents and will be subject to government records policies in each state. The Contractor gives the STATE express permission to make copies of the information specified to provide to other STATE government entities that may use the contract, and to the public, in accordance with general STATE policies, including copies of said information that may be identified as confidential, proprietary, or copyrighted.

4. Arbitration

The STATE will not accept mandatory, binding arbitration. If there are any references to binding arbitration in the Contractor’s Response to the RFP, they will be null and void. The parties may agree, on a case by case basis, to voluntary arbitration to resolve contract issues.

5. Contract Period

The contract period, including renewal options, is listed on the STATE OF UTAH - Statewide Contract cover page. Renewals will be agreed to upon written authorization from both parties. All references to automatic renewals will be null and void.

6. Governing Law

This procurement shall be governed and the resulting price agreement construed in accordance with the laws of the State of Utah. The construction and effect of any Participating Addendum or order against the price agreement shall be governed by and construed in accordance with the laws of the Purchasing Entity’s State. Venue for any claim, dispute or action concerning the construction and effect of the price agreement shall be in the Lead State. Venue for any claim, dispute or action concerning an order placed against the price agreement or the effect of a Participating Addendum or shall be in the Purchasing Entity’s State.

7. Revisions to the WSCA Standard Terms and Conditions

The WSCA Standard Terms and Conditions will be revised as follows:

A. There are no changes to the WSCA Standard Terms and Conditions.

Any additional changes listed by the Contractor in the Response to the RFP will be null and void.

8. Revisions to Contractor's Response to the RFP

Note: The changes below may be listed in multiple locations throughout the response. The changes will apply to all instances of similar terms.

The Contractor's Response to the RFP will be revised as follows:

A. In the KENTROX Support Agreement (submitted as ADC Support Agreement), the GENERAL Clause (located on Pages 25-26 and may be identified in other sections of the Response to the RFP), will be revised as follows:

Delete the first sentence which reads: "ADC [now KENTROX] DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED WITH REGARD TO THE PRODUCTS, SERVICES AND MATERIALS PROVIDED HEREUNDER, INCLUDING ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR INTENDED USE ARISING OUT OF OR IN CONNECTION WITH PERFORMANCE OF THIS AGREEMENT."

B. In the Kentrox Support Agreement, the General Clause, second paragraph, second sentence (located on Page 26 and in other sections of the Response to the RFP) will be revised as follows: "Any terms and conditions in any purchase order or other instrument issued by Customer in connection with this Agreement which are in addition to or are inconsistent with the terms and conditions of this Agreement shall not become a part of this Agreement and shall not be binding on KENTROX, LLC and Contractor, unless added to the contract in writing and approved by both parties."

C. Any inconsistencies between the Contractor's Response to the RFP, including the KENTROX, LLC Support Agreement, and other terms in the contract will be resolved by the order of precedence listed in Addendum 1, D.1. The governing laws and the entire agreement clause will be governed by Addendum 1, D.6. and D.2. respectively.

9. State of Utah Only Requirement

Attachment C from the RFP will apply to the State of Utah only. This term is as follows:

E-PROCUREMENT: The State of Utah has awarded an e-procurement system contract that has a transaction fee of 1% per order with a ceiling of \$500 for any one order of products/services. There are expected cost savings to the Contractors with implementation of the system. The successful vendor must agree to terms as described in the following subparagraphs:

a. The Contractor must agree to integrate its catalog of products/services into the e-procurement system. Once implemented, the Contractor must pay the transaction fees for orders placed against the contract. In the event, the Contractor fails to make payments, the State may: (i) eliminate the Contractor from the system in accordance with an escalation and review process developed by the State and its e-procurement vendor and (ii) terminate the State contract and award the contract to the next acceptable bidder.

b. At the time that the Contractor will be required to offer products/services through the e-procurement system, the State will negotiate an equitable adjustment in unit prices to account for the expected supplier fees on orders placed on the system. The State will negotiate a single pricing structure for contract purchases and (i) prohibit discounting off-system purchases or otherwise offering discriminatory pricing or preferences for orders placed off-system; and (ii) require the Contractor to manually track and report the ordering volume of off-system purchases of supplies/services.

E. Contractor Requirements

1. Contractor Responsibility

Contractor is solely responsible for fulfillment of the responsibilities under the terms and conditions of the contract. The procuring agencies will issue purchase orders and make payments to only the named contractors.

2. Servicing Subcontractors

If using servicing subcontractors for the performance of local marketing, maintenance and/or technical support services in accordance with the terms and conditions of the contract. Servicing subcontractors may not directly accept purchase orders or payments for products or services from procuring agencies under the terms and conditions of the contract. The authorized procuring agency has the option of choosing whether to purchase the associated OEM maintenance and/or training to support the equipment purchased.

3. WSCA Administration Fee

The contractor must pay a WSCA administration fee of one tenth of one percent (.10%) in accordance with the terms and conditions of the contract. The WSCA administration fee is not negotiable.

4. Usage Reporting Requirement

Contractor must submit quarterly usage reports to the contract manager. Initiation and submission of the quarterly report is the responsibility of the contractor without prompting or notification by the contract manager. The due dates of each quarterly contract usage report are April 30, July 31, October 31 and January 31. Quarterly usage reports must contain total dollar usage figures for each WSCA member-state (and non-member state), per product category, per manufacturer, respectively. Usage figures must be provided per maintenance option.

5. Change in Contractor Representatives

The State of Utah/WSCA reserves the right to require a change(s) in contractor representatives if the assigned representative(s) is not, in the opinion of the State of Utah's contract manager, meeting its needs adequately.

6. Website Development and Maintenance

Contractor must maintain said website and keep the information current and correct on a timely basis.

7. Rollout and Marketing

Contractor may conduct a marketing effort as described in Contractor's proposal.

8. Right to Publish

Contractor must secure prior approval from the contract manager for permission to release any information that pertains to the potential work or activities relating to this contract. Failure to adhere to this requirement may result in termination of the contract for cause.

9. Contractor's Scope of Equipment and Services
Contractor may only fill contract orders from the scope of equipment and services under contract. Any sale made under this contract by the Contractor of equipment, products or services not explicitly covered by the scope of equipment, products and related services described in Section E may result in contract termination for cause.
10. E-Rate Requirement
Contractor must participate in the Federal Communication Commission's E-rate discount program established under authority of the Federal Telecommunications Commission Act of 1996. Participation in, and implementation of, this program must be provided without the addition of any service or administration fee by the contractor.
11. Freight Terms of Sale F.O.B. Destination, Freight Prepaid
Contractor will ship all products F.O.B. destination, freight included in the product price. Contractor may not include freight charges on invoicing. Failure to comply with this requirement may result in contract termination for cause.

Whenever a procuring agency does not accept any product and returns it to the contractor, all related documentation furnished by the contractor shall be returned also. The contractor shall bear all risk of loss or damage with respect to returned products except for loss or damage directly attributable to the negligence of the procuring agency. Contractor is responsible for the pick-up of returned equipment.

12. Price Guarantee Period
Percentage discount depth from list is not subject to a "price increase request" that would result in a less attractive discount; discounts may only be adjusted by the contractor to reflect a deeper discount(s). The discount is applied to manufacturers current published list price schedule(s).

Maintenance and any training related costs are guaranteed for two years.

13. Product Revision Requests
Contractor must submit updated price list(s) upon publication, or any other product model changes, addition of new products, product upgrades or services in a timely manner.

Contractor agrees to delete obsolete and discontinued products from the contract price list(s) on a timely basis. Major product model changes will be incorporated into the contract as soon as possible after product introduction, to be offered at the same rate of discount for the appropriate price list and its discount.

14. Maintenance of Current Price List with Discount(s) Applied
Manufacturer's price list(s) must be tailored for WSCA with the WSCA contract discount(s) applied; this must be created and maintained by the contractor on an Internet website hosted by the contractor, at no additional charge(s) to the State of Utah or WSCA. This website will be listed as a link from the WSCA website.

F. Contract Scope of Equipment and Related Services

Any sale by the Contractor of equipment, products or services not explicitly covered by the scope of equipment, products and related services described below may result in contract termination for cause.

1. Discounts of Manufacturers Price List

a. Pricing Discounts:

Kentrox, LLC List Prices per pricing spreadsheet based on current Kentrox commercial price list dated March of 2002. Net discount offered on Kentrox Products is 34% off list price.

LARSCOM list prices noted per pricing spreadsheet based on current LARSCOM commercial price list dated March of 2002. Net discount offered on LARSCOM products is 30% off list price.

b. Discount Structures Based on Volume (per order or progressive cumulative volume): *N/A*

c. WSCA Member-State coverage:

Pacific Star will support sales to all WSCA member States Including:

Hawaii, Minnesota, South Dakota & Wyoming: Chris Bernards, located in Portland, OR.

Oregon, Idaho & Montana: Mike Jaeger, Portland, OR.

Washington: Liz Erickson, Portland, OR.

Alaska, Utah, & Colorado: John Freeman, Portland, OR.

California, Nevada, Arizona, & New Mexico: Josh Furrer, Portland, OR.

2. Resolution of Customer Problems:

Pacific Star Communications' corporate headquarters is located in Portland, Oregon, where five company representatives are available to provide assistance on product and services delivery as related to the WSCA contract. During business hours (7 a.m. to 6 p.m. PST), customers should call Pacific Star Communications at **888.872.1512**.

3. Escalation Procedures: **RFP pgs. 22 (Larscom) & 28 (Kentrox, LLC)**

Larscom:

Larscom, Inc. uses service partners to deliver on-site requirements and has named a world-class service partner – Nextira. Nextira is a combined company bringing together Milgo Solutions & Williams Communications Solutions. Nextira has over 2500 high level technicians located throughout North America. This allows Larscom to offer installation and maintenance services throughout the US as well as, Canada, Mexico and EMEA. Larscom and Milgo have worked together since 1989. Backing up the service partner(s) is a solid group of Larscom Technical Support Engineers and Project Managers. This group has an average industry expertise of over 16 years! This group supports our partner(s) and interfaces directly with end users.

Kentrox, LLC:

Severity 1 - A "Network Emergency", meaning the failure of a previously functioning Kentrox, LLC product, rendering the product or system inoperable. Further defined as any problem causing service unavailability or severe degradation. ***Resolution time*** – ***within 24 hours after an Kentrox technician arrives on site.***

Severity 2 - Problem results in some loss of functionality and/or some degradation of performance. However, the system is operable. ***Resolution time*** – ***within 72 hours after an Kentrox technician***

arrives on site.

Severity 3 - Problem results in degraded performance, not deemed significant to the end user or the service provider. System availability is not affected. **Resolution time – within 30 days after we receive your call.**

4. Technical Services (Equipment Warranty, Installation, Training, Maintenance Options, Replacement Parts) **RFP pgs. 37 (Larscom) and pgs. 28-36 (Kentrox, LLC)**

Larscom:

Larscom's 4-hour on site response contracts include a spare in all cases. Larscom takes this into account when it proposes its Gold Level II maintenance packages. Spares are located at depots held jointly by Larscom and its partner(s). Spares are available to all technicians 7x24x365.

The following is the procedure for dispatching during normal business hours.

1. Customer calls Larscom 800-988-0033
2. Call transferred to Project Manager
3. The following information is gathered.
 - a. Serial number of unit
 - b. Location of unit
 - c. Local contact and phone number
 - d. Description of problem and configuration of unit
 - e. Ticket number if applicable
 - f. Call back number for closure
4. Customer given TCR tracking number.
5. Dispatch document filled out.

6. Call placed to Larscom Partner and all site information given.
7. Larscom Partner Case Id given for tracking.
8. Larscom Partner orders part from the closest depot.
9. Larscom Partner FE calls with Estimated Time of Arrival – ETA.
10. Larscom Partner FE onsite calls Larscom.
11. Larscom calls central site and assists in trouble clearance.
 - a. Configures new unit
 - b. Installs new unit
 - c. Central site test to see if trouble clears
 - d. Assists with trouble clearing as appropriate
 - e. Closes ticket with central site.
12. Larscom Partner FE takes old unit and returns to Larscom using prepaid air bill provided with new unit.

The procedure differs slightly for after normal business hours and on weekends.

1. Customer calls Larscom at 800-988-0033
2. Call is answered by Larscom Partner TAC
3. Larscom Partner TAC pages Project Manger and the same procedure is followed.

Kentrox, LLC:

CRITICAL CARE Agreement Features

KENTROX, LLC'S CRITICAL CARE will provide a KENTROX, LLC technician on-site within four (4) hours from receipt of formal request. All expenses associated with restoring your KENTROX, LLC product to "fully functional" are included (parts, labor, and travel expenses). Features of CRITICAL CARE include:

Telephone Support

Telephone assistance is available from our Technical Assistance Center twenty-four (24) hours/day, seven (7) days/week at no charge. A qualified support technician will be available within thirty (30) minutes from the time we log your call. If applicable, our diagnostic experts will require remote access to your system.

On-Site Support

*On-site support by a KENTROX, LLC qualified technician is included. Technicians are available to **CRITICAL CARE** customers twenty-four (24) hours/day, seven (7) days/week. KENTROX, LLC will guarantee a KENTROX, LLC technician on-site arrival within four (4) hours of receipt of formal request during normal business hours (if the call is received by 1:00pm local time) Monday through Friday, and six (6) hours of formal request during off-hours, weekends, and holidays.*

Problem Resolution – Projected Timeframe – (Our commitment)

Severity 1** - A "Network Emergency", meaning the failure of a previously functioning KENTROX, LLC product, rendering the product or system inoperable. Further defined as any problem causing service unavailability or severe degradation. **Resolution time – within 24 hours after a KENTROX, LLC technician arrives on site.

Severity 2** - Problem results in some loss of functionality and/or some degradation of performance. However, the system is operable. **Resolution time – within 72 hours after a KENTROX, LLC technician arrives on site.

Severity 3** - Problem results in degraded performance, not deemed significant to the end user or the service provider. System availability is not affected. **Resolution time – within 30 days after we receive your call.

Hardware Advance Replacement

After verification of failure by an approved support technician, replacement part(s) will be expedited from our nearest repair parts depot and will be on-site within four (4) hours of receipt of formal request (within six (6) hours, if request is received outside normal business hours). Replacement parts are provided at no charge.

Software Maintenance

KENTROX, LLC will provide and install all software releases and bug fixes.

On-Line Access (Web)

A password protected customer web site is available through Kentrox.com for up-to-the-minute technical bulletins and documentation.

Training

*Your maintenance support staff should attend KENTROX, LLC approved training courses in order to maintain the technical ability to assist in problem definition and resolution. For **CRITICAL CARE** customers these training packages are available at KENTROX, LLC standard course rates, **less 50%**.*

Critical Care Support Agreements are available in the following cities:

<u>City</u>	<u>State</u>	<u>Country</u>	<u>City</u>	<u>State</u>	<u>Country</u>
Edmonton	AB	Canada	Lansing	MI	USA
Vancouver	BC	Canada	Minneapolis	MN	USA
Winnipeg	MB	Canada	St. Louis	MO	USA
Fredericton	NB	Canada	Jackson	MS	USA
St. John's	NB	Canada	Charlotte	NC	USA
Halifax	NS	Canada	Raleigh	NC	USA
London	ON	Canada	Newark	NJ	USA
Ottawa	ON	Canada	Albuquerque	NM	USA
Toronto	ON	Canada	Albany	NY	USA
Montreal	PQ	Canada	New York	NY	USA
Quebec	PQ	Canada	Rochester	NY	USA
Regina	SK	Canada	Cincinnati	OH	USA
Montgomery	AL	USA	Cleveland	OH	USA
Phoenix	AZ	USA	Columbus	OH	USA
Los Angeles	CA	USA	Dayton	OH	USA
Sacramento	CA	USA	Oklahoma	OK	USA
San Diego	CA	USA	Portland	OR	USA
San	CA	USA	Philadelphia	PA	USA

Francisco			a		
San Jose	CA	USA	Pittsburgh	PA	USA
Denver	CO	USA	Columbia	SC	USA
Hartford	CT	USA	Memphis	TN	USA
Middlebury	CT	USA	Nashville	TN	USA
Washington	DC	USA	Austin	TX	USA
Jacksonville	FL	USA	Dallas	TX	USA
Miami	FL	USA	Houston	TX	USA
Orlando	FL	USA	San Antonio	TX	USA
Tampa	FL	USA	Salt Lake City	UT	USA
Atlanta	GA	USA	Richmond	VA	USA
Chicago	IL	USA	Seattle	WA	USA
Kansas City	KS	USA	Milwaukee	WI	USA
Frankfort	KY	USA			
New Orleans	LA	USA			
Boston	MA	USA			
Worcester	MA	USA			
Baltimore	MD	USA			
Bay City	MI	USA			
Detroit	MI	USA			
Grand Rapids	MI	USA			
Kalamazoo	MI	USA			

For additional cities where Critical is available, please contact Global Services at 800-733-5511 x6430.

KENTROX, LLC, Inc., 20010 NW Tanasbourne Dr. Hillsboro, OR 97124 Ph. (800) 733-5511
Fax (503) 350-6627

SHARED SUPPORT Agreement Features

*KENTROX, LLC SHARED SUPPORT is designed for those choosing to take full responsibility for **on-site** remedial maintenance with assurance from KENTROX, LLC of pro-active response to requests for assistance in diagnosing and resolving problem situations. Features of **SHARED SUPPORT** include:*

Telephone Support

Telephone assistance is available from our Technical Assistance Center twenty-four (24) hours/day, seven (7) days/week at no charge. A qualified support technician will be available within one (1) hour from the time we log your call. If applicable, our diagnostic experts will require remote access to your system.

On-Site Support

*If requested, on-site support by a KENTROX, LLC technician may be provided on an **as available** basis. Such on-site support will be invoiced at the KENTROX,*

LLC published hourly rate in effect at that time, plus associated travel costs and expenses.

Problem Resolution – Projected Timeframe – (Our commitment)

(Please note: Problem Resolution process applies to all levels of Kentrox, LLC's service categories.)

Hardware Advance Replacement

After verification of failure by an approved support technician, replacement part(s) will be expedited from our nearest repair parts depot and will be on-site within one (1) business day, provided the request is received by KENTROX, LLC Technical Assistance Center prior to 1:00PM Central Time. Replacement parts are provided at no charge.

Hardware Repair

As a customer option, defective hardware may be returned to the KENTROX, LLC factory for **no cost** repairs.

Software Maintenance

KENTROX, LLC will provide all software releases and bug fixes. The customer assumes responsibility for installation of all such releases and fixes. New features are priced separately.

On-Line Access (Web)

A password protected customer web site is available through kentrox.com for up-to-the-minute technical bulletins and documentation.

Training

Your maintenance support staff must attend KENTROX, LLC approved training courses in order to maintain a technically competent staff to provide direct support of the system and to interface with KENTROX, LLC. For **SHARED SUPPORT** customers, these required training packages are available at KENTROX, LLC standard course rates, **less 50%**.

URGENT CARE Agreement Features

KENTROX, LLC' URGENT CARE will provide a KENTROX, LLC technician on-site within twenty-four (24) hours from receipt of formal request. All expenses associated with restoring your KENTROX, LLC product to "fully functional" are

included (parts, labor, and travel expenses). Features of **URGENT CARE** include:

Telephone Support

Telephone assistance is available from our Technical Assistance Center twenty-four (24) hours/day, seven (7) days/week at no charge. A qualified support technician will be available within one (1) hour from the time we log your call. If applicable, our diagnostic experts will require remote access to your system.

On-Site Support

On-site support by a KENTROX, LLC qualified technician is included. Technicians are available twenty-four (24) hours/day, seven (7) days/week. This service is provided with an on-site response commitment of less than twenty-four (24) hours after we log your call.

Problem Resolution – Projected Timeframe – (Our commitment)

(Please note: Problem Resolution process applies to all levels of Kentrox, LLC's service categories.)

Hardware Advance Replacement

After verification of failure by an approved support technician, replacement part(s) will be expedited from our nearest repair parts depot and will be on-site within one (1) business day, provided the request is received by KENTROX, LLC' Technical Assistance Center prior to 1:00PM Central Time. Replacement parts are provided at no charge.

Hardware Repair

As a customer option, defective hardware may be returned to the KENTROX, LLC factory for **no cost** repairs.

Software Maintenance

KENTROX, LLC will **provide and install** all software releases and bug fixes for our **URGENT CARE** customer(s). New features are priced separately.

On-Line Access (Web)

A password protected customer web site is available through www.kentrox.com for up-to-the-minute technical bulletins, and documentation.

Training

*Your maintenance support staff should attend KENTROX, LLC approved training courses in order to maintain the technical ability to assist in problem definition and resolution. For **URGENT CARE** customers these training packages are available at KENTROX, LLC standard course rates, **less 50%**.*

STANDARD WARRANTY Features

Telephone Support

Telephone assistance is available from our Technical Assistance Center twenty-four (24) hours/day, seven (7) days/week at no charge during normal business hours, defined as, 7:00AM – 5:00PM, Central Time, Monday – Friday, excluding Holidays. Telephone assistance provided outside normal business hours will be charged at the rate of \$200 USD per hour. A KENTROX, LLC qualified support technician will be available within one (1) hour from the time we log your call.

On-Site Support

*If requested, on-site support by a KENTROX, LLC technician may be provided on an **as available** basis. Such on-site support will be billed at the KENTROX, LLC published hourly rate in effect at that time, plus associated travel costs and expenses.*

Problem Resolution – Projected Timeframe – (Our commitment)

(Please note: Problem Resolution process applies to all levels of Kentrox, LLC's service categories.)

Hardware Advance Replacement

After verification of failure by an approved support technician, replacement part(s) may be expedited from our nearest repair parts depot and will be on-site within one (1) business day, provided the request is received by KENTROX, LLC Technical Assistance Center prior to 1:00PM, Central Time. KENTROX, LLC standard policy and pricing for Advanced Replacement applies.

Hardware Repair

Defective product must be returned to KENTROX, LLC for repair. In-warranty repair is provided at no cost, per standard warranty policy terms

& conditions. Out-of-warranty repairs will be provided at KENTROX, LLC standard factory repair rates in effect at the time the factory receives the defective product.

Software Maintenance

KENTROX, LLC will provide a Software Subscription Service (“bug fixes”) during the term of warranty. The customer assumes responsibility for installation of all such “fixes”. New “features” are priced separately.

On-Line Access (Web)

A password protected customer web site is available through www.kentrox.com for up-to-the-minute technical bulletins and documentation.

Training

Your maintenance support staff must attend KENTROX, LLC approved training courses in order to maintain a technically proficient staff capable of providing direct system support and to interface with KENTROX, LLC. Appropriate training packages are available at KENTROX, LLC standard course rates in effect at the time of request.

ATTACHMENT B
Standard Contract Terms and Conditions
Western States Contracting Alliance (WSCA)

1. PARTICIPANTS: Western States Contracting Alliance (“WSCA”) is a cooperative group contracting consortium for state government departments, institutions and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) for the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming. Obligations under this contract are limited to those Participating States who have signed (and not revoked) an Intent to Contract at the time of award, or who have executed a Participating Addendum where contemplated by the solicitation. Financial obligations of Participating States are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating States incur no financial obligations on behalf of political subdivisions. Unless otherwise specified in the solicitation, the resulting price agreement(s) will be permissive.

2. DEFINITIONS:

“Lead State” means the State conducting this cooperative solicitation and centrally administering any resulting price agreement.

“Offer” or “Bid” or “Proposal” refers to the offer submitted in response to a solicitation, whether denominated as an invitation for bid, request for proposal, or otherwise. “Bidder” or “Offeror” similarly refers to the person, company, or other entity submitting the bid or proposal that constitutes an offer capable of acceptance, regardless of the solicitation method used.

“Permissive price agreement” means that placement of orders through the price agreement is discretionary with Purchasing Entities. They may satisfy their requirements through the price agreement without using statutory or regulatory procedures (e.g. invitations for bids) to solicit competitive bids or proposals. Purchasing Entities may, however, satisfy requirements without using the price agreement so long as applicable procurement statutes and rules are followed.

“Participating Addendum” means a bilateral agreement executed by the contractor and a Participating State that clarifies the operation of the price agreement for the State concerned, e.g. ordering procedures specific to a State, and may add other state-specific language or other requirements.

“Participating State” means a member of WSCA who has indicated its intent to participate as disclosed on the solicitation, or who subsequently signs a Participating Addendum where contemplated by the solicitation.

“Purchasing Entity” means a Participating State or another legal entity, such as a political subdivision, properly authorized by a Participating State to enter into a contract for the purchase of

goods described in this solicitation. Unless otherwise limited in this solicitation or in a Participating Addendum, political subdivisions of Participating States are Purchasing Entities and Participants authorized to purchase the goods and/or services described in this solicitation.

3. QUANTITY ESTIMATES: Estimated quantities are informational and not to be construed as a warranty of accuracy of historical or anticipated volumes or a guarantee to purchase any amount.

4. SPECIFICATIONS: Any deviation from specifications must be clearly indicated by offeror, otherwise, it will be considered that the proposal is in strict compliance. When BRAND NAMES or manufacturers' numbers are stated in the specifications they are intended to establish a standard only and are not restrictive unless the solicitation says "no substitute." Offers will be considered on other makes, models or brands having comparable quality, style, workmanship and performance characteristics. Alternate proposals offering lower quality or inferior performance will not be considered.

5. ACCEPTANCE OR REJECTION OF BIDS AND PROPOSALS: The Lead State reserves the right to accept or reject any or all bids or proposals, or parts of bids or proposals, and to waive informalities therein.

6. SAMPLES: Generally, when required, samples will be specifically requested in the solicitation. Samples, when required, are to be furnished free of charge. Except for those samples destroyed or mutilated during testing, samples will be returned at an offeror's request, transportation collect.

7. CASH DISCOUNT TERMS: Offeror may quote a cash discount based upon early payment; however discounts offered for less than 30 days will not be considered in making the award. The date from which discount time is calculated shall be the date a correct invoice is received or receipt of shipment, whichever is later; except that if testing is performed, the date shall be the date of acceptance of the merchandise.

8. TAXES: Offered prices shall be exclusive of state sales and federal excise taxes. Where the state government entities are not exempt from sales taxes on sales within their state, the contractor shall add the sales taxes on the billing invoice as a separate entry.

9. MODIFICATION OR WITHDRAWAL OF BIDS AND PROPOSALS: Bids and proposals may be modified or withdrawn prior to the time set for receipt of bids or proposals. After the time set for receipt of bids or proposals, no proposal may be modified or withdrawn.

10. PATENTS, COPYRIGHTS, ETC: The Contractor shall release, defend, indemnify, and hold harmless WSCA, the Participating States, and the Purchasing Entities, as well as the officers, agents and employees of WSCA, the Participating States and the Purchasing Entities, from liability of any kind or nature, including the Contractor's use of any copyrighted or uncopyrighted composition, process, patented or unpatented invention, article or appliance furnished or used in performance of this contract.

11. AWARD: Multiple contracts may be awarded as a result of this solicitation. Awards in requests for proposals (competitive sealed proposals) shall be made to the responsible offeror(s) whose proposals are determined to be the most advantageous to the Participating States, taking into consideration price and

the other evaluation factors set forth in the solicitation. Unless otherwise stated in the solicitation, an award in an solicitation denominated as an invitation to bid will be made to the lowest responsive and responsible bidder(s) meeting specifications and all bid terms and conditions. The Participating States reserve the right to award items separately or by grouping items, or by total lot.

12. NON-COLLUSION: By signing the proposal the offeror certifies that the proposal submitted, has been arrived at independently and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the solicitation, designed to limit independent bidding or competition.

13. TERMINATION: Unless otherwise stated in the solicitation, any contract entered into as a result of this solicitation may be terminated by either party upon 60-days notice, in writing, prior to the effective date of the termination. Further, any Participating State may terminate its participation upon 30-days written notice, unless otherwise limited or stated in the special terms and conditions of the solicitation. Any termination under this provision shall not effect the rights and obligations attending orders outstanding at the time of cancellation, including any right of any Purchasing Entity to indemnification by the Contractor, rights of payment for goods/services delivered and accepted, and rights attending any warranty or default in performance in association with any order.”

14. DEFAULT AND REMEDIES:

A. Any of the following shall constitute cause to declare the contract or any order under this contract in default:

- (1) Nonperformance of contractual requirements; or
- (2) A material breach of any term or condition of this contract.

B. A written notice of default, and an opportunity to cure, shall be issued by the party claiming default, whether the Lead State (in the case of breach of the entire agreement), a Participating State (in the case of a breach of the Participating Addendum), the Purchasing Entity (with respect to any order), or the Contractor. Time allowed for cure shall not diminish or eliminate any liability for liquidated or other damages.

C. If the default remains after the opportunity for cure, the non-defaulting party may:

- (1) Exercise any remedy provided by law or equity;
- (2) Terminate the contract or any portion thereof, including any orders issued against the contract;
- (3) Impose liquidated damages, as specified in the solicitation or contract;
- (4) In the case of default by the contractor, and to the extent permitted by the law of the Participating State or Purchasing Entity, suspend contractor from receiving future solicitations.

15. LAWS AND REGULATIONS: Any and all supplies, services and equipment offered and furnished shall comply fully with all applicable Federal and State laws and regulations.

16. CONFLICT OF TERMS: In the event of any conflict between these standard terms and conditions and any special terms and conditions in the solicitation, the special terms and conditions shall govern.

17. REPORTS: The contractor shall submit quarterly reports to the Lead State contract administrator, and upon request to any Participating State, showing the quantities and dollar volume of purchases by each Purchasing Entity.

18. HOLD HARMLESS: The contractor shall release, defend, indemnify and hold harmless WSCA, the Participating States, and the Purchasing Entities, as well as the officers, agents and employees of WSCA, the Participating States and the Purchasing Entities, from and against any damage, cost or liability, including reasonable attorneys fees for any or all injuries to persons, property or claims for money damages arising from acts or omissions of the contractor, its employees or subcontractors or volunteers.

19. ORDER NUMBERS: Contract order and purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.

20. GOVERNING LAW AND VENUE: This procurement shall be governed and the resulting price agreement construed in accordance with the laws of the Lead State. The construction and effect of any Participating Addendum or order against the price agreement shall be governed by and construed in accordance with the laws of the Purchasing Entity's State. Venue for any claim, dispute or action concerning the construction and effect of the price agreement shall be in the Lead State. Venue for any claim, dispute or action concerning an order placed against the price agreement or the effect of a Participating Addendum or shall be in the Purchasing Entity's State.

21. DELIVERY: The prices offered shall be the delivered price to any WSCA state agency or political subdivision. All deliveries shall be F.O.B. destination with all transportation and handling charges paid by the contractor. Responsibility and liability for loss or damage shall remain the Contractor until final inspection and acceptance when responsibility shall pass to the Purchasing Entity except as to latent defects, fraud and Contractor's warranty obligations. The minimum shipment amount will be found in the special terms and conditions. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an order to be shipped without transportation charges that is back ordered shall be shipped without charge.

22. WARRANTY: As used herein "Purchasing entity" refers to any WSCA state agency or political subdivision. The CONTRACTOR agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the PURCHASING ENTITY under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The CONTRACTOR (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the PURCHASING ENTITY apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this

contract. In general, the CONTRACTOR warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the PURCHASING ENTITY has relied on the CONTRACTOR'S skill or judgment to consider when it advised the PURCHASING ENTITY about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the PURCHASING ENTITY has not been warned. Remedies available to the PURCHASING ENTITY include the following: the CONTRACTOR will repair or replace (at no charge to the purchasing entity) the product whose nonconformance is discovered and made known to the CONTRACTOR in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the CONTRACTOR will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the PURCHASING ENTITY may otherwise have under this contract with respect to defects.

23. AMENDMENTS: The terms of this contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the Contract Administrator of the Lead State.

24. ASSIGNMENT/SUBCONTRACT: Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the Contract Administrator of the Lead State.

25. NONDISCRIMINATION: The offeror agrees to abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. The offeror further agrees to furnish information and reports to requesting State(s), upon request, for the purpose of determining compliance with these statutes. Offeror agrees to comply with each individual state's certification requirements, if any, as stated in the special terms and conditions. This contract may be canceled if the offeror fails to comply with the provisions of these laws and regulations. The offeror must include this provision in every subcontract relating to purchases by the States to insure that subcontractors and vendors are bound by this provision.

26. SEVERABILITY: If any provision of this contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions 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 particular provision held to be invalid.

27. INSPECTIONS: Goods furnished under this contract shall be subject to inspection and test by the Purchasing Entity at times and places determined by the Purchasing Entity. If the Purchasing Entity finds goods furnished to be incomplete or in compliance with proposal specifications, the Purchasing Entity may reject the goods and require Contractor to either correct them without charge or deliver them at a reduced price, which is equitable under the circumstances. If Contractor is unable or refuses to

correct such goods within a time deemed reasonable by the Purchasing Entity, the Purchasing Entity may cancel the order in whole or in part. Nothing in this paragraph shall adversely affect the Purchasing Entity's rights including the rights and remedies under the Uniform Commercial Code.

28. PAYMENT: Payment for completion of an contract is normally made within 30 days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance. Payments will be remitted by mail. Payments may be made via a Purchasing Entity's "Purchasing Card".

29. FORCE MAJEURE: Neither party to this contract shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The Lead State may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.

30. HAZARDOUS CHEMICAL INFORMATION: The Contractor will provide one set of the appropriate material safety data sheet(s) and container label(s) upon delivery of a hazardous material to the Purchasing Entity agency. All safety data sheets and labels will be in accordance with each participating state's requirements.

31. FIRM PRICE: Unless otherwise stated in the special terms and conditions, for the purpose of award, offers made in accordance with this solicitation must be good and firm for a period of ninety (90) days from the date of receipt of bids or proposals. Prices must remain firm for the full term of the contract.

32. EXTENSION OF PRICES: In the case of error in the extension of prices in the proposal, the unit prices will govern.

33. PROPOSAL PREPARATION COSTS: WSCA is not liable for any costs incurred by the offeror in preparation of the bid or proposal.

34. CERTIFICATION REGARDING CONFLICT OF INTEREST: Contractor certifies that it has not offered or given any gift or compensation prohibited by the state laws of any Participating State to any officer or employee of WSCA or Participating States to secure favorable treatment with respect to being awarded this contract.

35. INDEPENDENT CONTRACTOR: Contractor shall be an independent contractor, and as such shall have no authorization, express or implied to bind the Participating States to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for WSCA or the states, except as expressly set forth herein.

36. POLITICAL SUBDIVISION PARTICIPATION: Participation under this contract by political subdivisions (i.e., colleges, school districts, counties, cities, etc.) of the WSCA participating states shall be voluntarily determined by the political subdivision. The contractor agrees to supply the political subdivisions based upon the same terms, conditions and prices.

37. E-RATE COMPLIANCE: Contractor agrees to participate in the Federal Communication Commission's E-rate discount program established pursuant to the Telecommunications Act of 1996, and in accordance with any State and local government E-rate related requirement(s) of the authorized procuring agency.

38. CERTIFICATION REGARDING DEBARMENT: The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the CONTRACTOR cannot certify this statement, attach a written explanation for review by WSCA.

39. RECORDS ADMINISTRATION: The contractor will maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the contractor for costs authorized by this contract. These records will be retained by the contractor for at least four years after the contract terminates, or until all audits initiated within the four years have been completed, whichever is later.

40. AUDIT OF RECORDS: The contractor agrees to allow WSCA, State and Federal auditors, and state agency staff access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.

41. PRICES AS CEILING: Price agreement prices represent ceiling prices for the supplies and services priced in the price agreement. The vendor shall report to the Lead State any price reduction or discount, or other more favorable terms, offered to any Purchasing Entity, and the awarded vendor agrees to negotiate in good faith to reestablish ceiling prices or other more favorable terms and conditions applicable to future orders.

42. STATE PARTICIPATION/UNIQUE TERMS AND CONDITIONS: Apart from the Lead State conducting the solicitation, the States indicated on Attachment A have signified their intent to enter into a price agreement and, except where Attachment A or the solicitation requires execution of a Participating Addendum, are considered Participating States for purposes of this solicitation and the resulting contract. Attachment A of the Solicitation includes any significant State-specific provisions required by the laws, regulations, or procurement practices of the State(s).

Additional States may be added with the consent of the contractor and the Lead State (on behalf of the WSCA Participating States) through execution of a Participating Addendum.

Revision Date: April 2001