



City of Pembroke Pines

**SECOND AMENDMENT TO AGREEMENT  
BETWEEN THE CITY OF PEMBROKE PINES AND  
PERISCOPE HOLDINGS, INC.**

**THIS IS AN AGREEMENT ("Agreement")**, dated this 19<sup>th</sup> day of May, 2020, by and between:

**THE CITY OF PEMBROKE PINES**, a municipal corporation organized and operating under the laws of the State of Florida, with an address of 601 City Center Way, Pembroke Pines, FL 33025, hereinafter referred to as "CITY",

and

**PERISCOPE HOLDINGS, INC.**, a Profit Corporation as listed with the Delaware Division of Corporations, authorized to do business in the State of Florida, and with a business address of **5000 Plaza on the Lake, Suite #100, Austin, TX 78746**, hereinafter referred to as "CONTRACTOR". "CITY" and "CONTRACTOR" may hereafter be collectively referred to as the "Parties".

**WHEREAS**, on December 20, 2012, the CITY and CONTRACTOR entered into the Original Agreement ("Original Agreement") for an initial three (3) year period, commencing on **December 20, 2012** and expiring on **December 19, 2015**; and,

**WHEREAS**, the Original Agreement authorized the renewal of the Agreement at the expiration of the initial term, upon mutual written consent of the Parties; and,

**WHEREAS**, on July 1, 2015, the Parties executed the First Amendment to the Original Agreement to execute a five (5) year renewal term at a reduced price and to amend the scope of services and pricing, with the renewal term commencing on **December 20, 2015** and expiring on **December 19, 2020**; and,

**WHEREAS**, on August 1, 2015, RFP Depot LLC dba Bidsync was purchased and merged to become a sub-entity of Periscope Holdings, Inc., as set forth in Exhibit "B", attached hereto and by this referenced made a part hereof; and,

**WHEREAS**, to date the Parties have been satisfied with the performance and execution of the Agreement and desire to amend the Original Agreement, as amended; and,

**WHEREAS**, Periscope and Conga have ended their partnership, the Parties desire to update the Scope of Services to remove Bidsync eContracts from the list of core systems; and,

**WHEREAS**, the Parties further desire to amend the Original Agreement, as amended, to include the provisions for Non-Discrimination and Equal Opportunity Employment and Scrutinized



City of Pembroke Pines

Companies, as required by statutory amendments imposed since the Parties entered into the Original Agreement, as amended, as set forth herein.

### W I T N E S S E T H

**NOW, THEREFORE**, for and in consideration of the sum of the mutual covenants and other good and valuable consideration, the receipt of which are hereby acknowledged, the Parties hereto agree as set forth below:

**SECTION 1.** The recitations set forth in the above "WHEREAS" clauses are true and correct and incorporated herein by this reference.

**SECTION 2.** CONTRACTOR shall provide and CITY agrees to pay for the subscription access to the BidSync Source hosted eProcurement solution (the "**Platform**") in accordance with the Agreement dated December 20, 2015, as amended, and as further described herein and in the amended BidSync Order No. 2012-FL-PPI attached hereto and by this referenced made a part hereof as Exhibit "A-Revision 2":

The following table shall replace the previous product table and pricing in the BidSync Order:

<b>Description</b>	<b>BidSyne eProcure</b>	<b>BidSyne eContract</b>
# of Users	Unlimited	Full 2 / Read 1
Max # of Bids/year	Unlimited	N/A
Modules Ordered	A — Contract Management C — RFP Evaluator	N/A
Training Type — Basic or Advanced	Basic (Remote/Web)	Basic (Remote/Web)
Implementation Type — Basic or Advanced	Basic (Remote/Web)	Basic (Remote/Web)
<b>Annual Cost during Term</b>	<b>\$9,600.00</b>	<b>\$5,000.00</b>

<b>Description</b>	<b>E-Procure</b>
# of Users	Unlimited (limited to Pembroke Pines employees & authorized contractors)
Max # of Bids/year	Unlimited solicitations, Unlimited vendor activity at no charge to vendors
Modules Ordered	RFP Evaluation Module, Builder, Reverse Auction, System Maintenance
Training Type – Basic or Advanced	Basic (Remote/Web)
Implementation Type – Basic or Advanced	Basic (Remote/Web)
<b>Annual Cost during Term</b>	<b>\$9,600.00</b>

**SECTION 3.** Section 3.14 of the Original Agreement, as amended, entitled "Taxes and Interest" is hereby amended as set forth below:



City of Pembroke Pines

**3.14 Taxes and Interest** Customer is tax exempt and will provide BidSync with tax exempt certificate. Any other amounts which may become payable by Customer pursuant to this Agreement, shall be payable by Customer within thirty (30) days of receipt of an itemized invoice from BidSync. Undisputed portions of any invoice shall be paid as stated above. Customer acknowledges and agrees that BidSync may access late charges in accordance with the Florida Local Government Prompt Payment Act (§218.70-218.80, Florida Statutes). Invoices for charges shall be rendered in accordance with the payment schedule set forth in the applicable Order.

**SECTION 4.** Section 10.11 of the Original Agreement, as amended, entitled "Notice" is hereby amended as set forth below:

**10.11 Notice** Any notice required or permitted to be given under this Agreement by one party to the other shall be in writing. Notice under this Agreement shall be accomplished by transmitting the documents (1) via facsimile as well as (2) by overnight delivery service or overnight U.S. mail with, and effective upon, written confirmation of the latter. The address of BidSync for all purposes under this Agreement and for all notices hereunder shall be:

~~BidSync~~-Periscope Holdings, Inc.  
ATTN: Chief Executive Officer  
629 East Quality Drive, Suite 101  
American Fork, UT 84003  
Telephone: 800-990-9339  
Facsimile: 801-765-9246

**SECTION 5.** The Original Agreement, as amended, is hereby amended by the addition of Section 10.17 and Section 10.18 as set forth below:

**10.17 Non-Discrimination and Equal Opportunity Employment.** During the performance of this Agreement, neither the CONTRACTOR nor any subcontractors shall discriminate against any employee or applicant for employment because of race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability, if qualified. CONTRACTOR will take affirmative action to ensure that employees are treated during employment, without regard to their race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability, if qualified. Such actions must include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. CONTRACTOR further agrees that he/she/it will ensure that subcontractors, if any, will be made aware of and will comply with this non-discrimination clause.

**10.18 Scrutinized Companies.** CONTRACTOR, its principals or owners, certify that they are not listed on the Scrutinized Companies that Boycott



City of Pembroke Pines

Israel List, Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or is engaged in business operations with Syria. In accordance with Section 287.135, Florida Statutes, as amended, a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with any agency or local governmental entity for goods or services if:

10.18.1 Any amount of, at the time bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel; or

10.18.2 One million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company:

10.18.2.1 Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes; or

10.18.2.2 Is engaged in business operations in Syria.

**SECTION 6.** In the event of any conflict or ambiguity by and between the terms and provisions of this Second Amendment, the First Amendment, and the Original Agreement, the terms and provisions of this Second Amendment shall control to the extent of any such conflict or ambiguity.

**SECTION 7.** The Parties agree that in all other respects the Original Agreement, as amended by the First Amendment, and this Second Amendment, shall remain in full force and effect, except as specifically modified herein.

**SECTION 8.** Each exhibit referred to in the Original Agreement, as amended, except as repealed herein, forms an essential part of this Agreement. The exhibits, if not physically attached, should be treated as part of this Agreement and are incorporated herein by reference.

**THE REMAINDER OF THIS PAGE**

**HAS BEEN INTENTIONALLY LEFT BLANK**



City of Pembroke Pines

IN WITNESS OF THE FOREGOING, the Parties have set their hands and seals the day and year first written above.

ATTEST:

CITY:

CITY OF PEMBROKE PINES

MARLENE D. GRAHAM,  
CITY CLERK

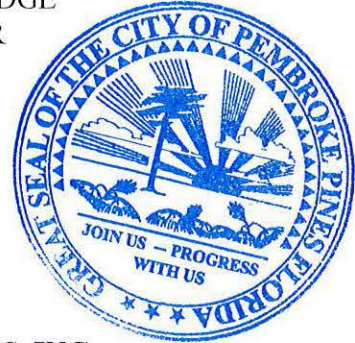
5/19/2020

BY:

CHARLES F. DODGE  
CITY MANAGER

APPROVED AS TO FORM

Print Name: Jacob Horan  
OFFICE OF THE CITY ATTORNEY



CONTRACTOR:

PERISCOPE HOLDINGS, INC.

By: 3576DBABE65D479

Name: David English

Title: Chief Financial Officer

STATE OF \_\_\_\_\_)

) ss:

COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_, of **PERISCOPE HOLDINGS, INC.**, a Delaware, Profit Corporation, on behalf of the corporation. He/she ☐ is personally known to me or ☐ has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
(Name of Notary Typed, Printed or Stamped)

\_\_\_\_\_  
Title or Rank

\_\_\_\_\_  
Serial Number, if any

# Exhibit A-Revision 2 – Order Form

## General Information:

<b>Customer:</b> City of Pembroke Pines - Florida	
<b>Customer Contact:</b>	<b>Billing Contact:</b>
<b>Address:</b> 601 City Center Way	<b>Address:</b> 601 City Center Way
<b>City, State Zip:</b> Pembroke Pines FL 33025	<b>City, State Zip:</b> Pembroke Pines FL 33025
<b>Phone:</b> 954-450-1040 / 954-518-9020	<b>Phone:</b>
<b>E-Mail:</b>	<b>E-Mail:</b> accountspayable@ppines.com

## Services Information:

**Subscription Services:** Periscope shall provide Customer subscription access to Periscope's BidSync Source hosted eProcurement solution (the "Platform") in accordance with the Agreement dated December 20, 2015 .

### Service Fee:

#### Platform

Source..... \$9,600 [Payable annually on each anniversary date plus 3% annual increases]

Item	Annual Recurring Fee
<b>BidSync Source Core System</b> Annual License Fee includes: <ul style="list-style-type: none"> <li>Unlimited users (limited to Pembroke Pines employees &amp; authorized contractors)</li> <li>Unlimited solicitations</li> <li>Unlimited vendor activity at no charge to vendors</li> <li>RFP Evaluation Module, Builder, Reverse Auction</li> <li>System Maintenance</li> </ul>	\$9,600 (Year 1) Includes Annual Subscription and Support Fees

This Order Form is made part of, and subject to, that certain Agreement dated December 20, 2015, between RFP Depot LLC dba BidSync, and the City of Pembroke Pines, Florida, as amended by the First Amendment, the Second Amendment, and this Third Amendment.

## Agreed:

By:

By:

Periscope Intermediate Corp.

City of Pembroke Pines

Print Name

Print Name

Title

Title

Date

Date

# Periscope

September 29, 2015

Exhibit "B"

City of Pembroke Pines Florida  
10100 Pines Boulevard  
Pembroke Pines, FL 33027

RE: Vendor Relationship

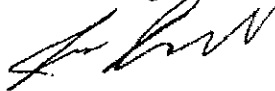
To whom it may concern,

My name is Jason Sanchez. I am the Controller with Periscope Intermediate Corp. It was requested that I submit a letter and updated vendor forms to facilitate invoicing under our current structure.

In December of 2014, BidSync, LLC was purchased and merged to become a sub-entity of Periscope Intermediate Corp. BidSync has remained intact, and continues to operate, although much of the processing will continue to be converted under the parent organization.

I have also included an updated W-9 and Vendor Information Form for your records. Should you need any further information, please don't hesitate to contact me at (512) 717-6149 or [jsanchez@periscopeholdings.com](mailto:jsanchez@periscopeholdings.com).

Sincerest Regards,



Jason Sanchez

# Request for Taxpayer Identification Number and Certification

Give Form to the  
requester. Do not  
send to the IRS.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.  
**Periscope Intermediate Corp**

2 Business name/disregarded entity name, if different from above  
**Periscope Holdings, Inc.**

3 Check appropriate box for federal tax classification; check only one of the following seven boxes:  
☐ Individual/sole proprietor or single-member LLC  
☒ C Corporation  
☐ S Corporation  
☐ Partnership  
☐ Trust/estate  
☐ Limited liability company. Enter the tax classification (C=S corporation, S=S corporation, P=partnership) ▶ \_\_\_\_\_  
Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.  
☐ Other (see instructions) ▶ \_\_\_\_\_

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  
Exempt payee code (if any) \_\_\_\_\_  
Exemption from FATCA reporting code (if any) \_\_\_\_\_  
(Applied to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.)  
**211 East 7th Street, Suite 1100**

6 City, state, and ZIP code  
**Austin TX 78701**

7 List account number(s) here (optional)

8 Requester's name and address (optional)

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number								
			-				-	

or

Employer identification number								
4	7	-	2	2	1	8	1	3

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

**Sign Here** Signature of U.S. person ▶ *Pittuca Kelly* Date ▶ *8/1/2015*

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.  
Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/w9](http://www.irs.gov/w9).

### Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.



(OFFICE USE ONLY) Vendor number: 

Please entirely complete this vendor information form along with the IRS Form W-9, and email to [accounts payable@ppines.com](mailto:accounts payable@ppines.com)

## Vendor Information Form

Operating Name (Payee)	Periscope Intermediate Corp		
Legal Name (as filed with IRS)			
Remit-to Address (For Payments)	211 E. 7 <sup>th</sup> Street Suite 1100 Austin, TX 78701		
Remit-to Contact Name:	Accounts Receivable	Title:	
Email Address:	accounting@periscopeholding.com		
Phone #:	(801) 765-9245 Ext 545	Fax #	
Order-from Address (For purchase orders)			
Order-from Contact Name:		Title:	
Email Address:			
Phone #:		Fax #	
Return-to Address (For product returns)			
Return-to Contact Name		Title:	
Email Address:			
Phone #:		Fax #	
Payment Terms:			

Type of Business (please check one and provide Federal Tax identification or social security Number)

- ☒ Corporation  
☐ Sole Proprietorship/Individual  
☐ Partnership  
☐ Health Care Service Provider  
☐ LLC - C (C corporation) - S (S corporation) - P (partnership)  
☐ Other (Specify):

Federal ID Number:

47-2218130

Social Security No.:

Name of Applicant / Signature 

Title of Applicant

Controller

Date

9/28/15



**FIRST AMENDMENT OF THE AGREEMENT  
BETWEEN THE CITY OF PEMBROKE PINES AND  
RFP DEPOT LLC. D/B/A BIDSYN**

THIS AGREEMENT, dated this 1<sup>st</sup> 19<sup>th</sup> day of July 2015, by and between:

**THE CITY OF PEMBROKE PINES**, a municipal corporation organized and operating under the laws of the State of Florida, with an address of 10100 Pines Boulevard, Pembroke Pines, Florida 33026, hereinafter referred to as "CITY",

and

**RFP Depot LLC., d/b/a BidSync**, a company authorized to do business in the State of Florida, with a business address of **629 East Quality Drive, Suite 101, American Fork, Utah 84003**, hereinafter referred to as "CONTRACTOR". "CITY" and "CONTRACTOR" may be collectively referred to as the "PARTIES".

**WHEREAS**, on **December 20, 2012**, the CITY and CONTRACTOR entered into an agreement to provide the CITY with "BidSync eProcure" and BidSync eContract", hereinafter collectively referred to as "CORE SYSTEMS", along with the associated services related to these CORE SYSTEMS (the "Original Agreement"), and;

**WHEREAS**, the Original Agreement commenced on **December 20, 2012**, for a **three (3)** year period, which expires on **December 19, 2015**, and;

**WHEREAS**, the Original Agreement authorized the option to renew the Agreement upon mutual written consent of the parties, and;

**WHEREAS**, to date the Parties have been satisfied with the performance and execution of the Agreement, and;

**WHEREAS**, the Parties specifically seek to execute a **five (5) year renewal term at a reduced price**; and

**WHEREAS**, the Parties desire to amend the Agreement as set forth herein.

**WITNESSETH**

**NOW, THEREFORE**, for and in consideration of the sum of the mutual covenants and other good and valuable consideration, the receipt of which are hereby acknowledged, the parties hereto agree as follows:

**SECTION 1.** The recitations set forth in the above "WHEREAS" clauses are true and correct and incorporated herein by this reference.



**SECTION 2.** The Original Agreement is hereby renewed for a **five (5) year term** commencing on **December 20, 2015** and terminating on **December 19, 2020**.

**SECTION 3.** The Parties agree to amend BidSync Order No. 2012-FL-PPI of the Original Agreement to establish the scope of services and pricing during the renewal term. The CITY agrees to pay for and CONTRACTOR agrees to provide the following services at the price established herein during the Renewal Term. The parties hereby agree to amend BidSync Order No. 2012-FL-PPI of the Original Agreement as follows:

The following table shall replace the product table and pricing in the BidSync Order:

<b>Description</b>	<b>BidSync eProcure</b>	<b>BidSync eContract</b>
# of Users	Unlimited	Full 2 / Read 1
Max # of Bids/year	Unlimited	N/A
Modules Ordered	A - Contract Management C - RFP Evaluator	N/A
Training Type - Basic or Advanced	Basic (Remote/Web)	Basic (Remote/Web)
Implementation Type - Basic or Advanced	Basic (Remote/Web)	Basic (Remote/Web)
<b>Annual Cost during Term</b>	<b>\$9,600</b>	<b>\$5,000</b>

**SECTION 4.** Section 4.2 "Customer Termination" of the Original Agreement is hereby amended as follows:

**4.2(a) Termination for Convenience.** This Agreement, or individual CORE SYSTEMS in this Agreement, may be terminated by CITY for convenience, upon thirty (30) business days of written notice by the terminating party to the other party for such termination in which event CONTRACTOR shall be paid its compensation for services performed to termination date, including services reasonably related to termination. In the event that CONTRACTOR abandons this Agreement or causes it to be terminated, CONTRACTOR shall indemnify CITY against loss pertaining to this termination.

**4.3(b) Default by CONTRACTOR.** In addition to all other remedies available to CITY, this Agreement shall be subject to cancellation by CITY for cause, should CONTRACTOR neglect or fail to perform or observe any of the terms, provisions, conditions, or requirements herein contained, if such neglect or failure shall continue for a period of thirty (30) days after receipt by CONTRACTOR of written notice of such neglect or failure.

**SECTION 5.** In the event of any conflict or ambiguity by and between the terms and provisions of this First Renewal, and the Original Agreement, the terms and provisions of this renewal shall control to the extent of any such conflict or ambiguity.





**SECTION 6.** The original contract as awarded shall remain in full force and effect except as specifically amended herein.

**SECTION 7.** Each Exhibit referred to in the Original Agreement, except as repealed herein, forms an essential part of this Agreement. The exhibits, if not physically attached, should be treated as part of this Agreement and are incorporated herein by reference.

**IN WITNESS OF THE FOREGOING,** the parties have set their hands and seals the day and year first written above.

ATTEST:

CITY:

*Marlene D. Graham 7/1/15*  
MARLENE D. GRAHAM,  
CITY CLERK

CITY OF PEMBROKE PINES

BY: *Charles F. Dodge*  
CHARLES F. DODGE  
CITY MANANGER

APPROVED AS TO FORM

*[Signature]*  
OFFICE OF THE CITY ATTORNEY

CONTRACTOR:

WITNESSES

RFP Depot LLC., d/b/a BidSync

*Kara Siepierski*

*Kara Siepierski*

Print Name

*Paula Kennedy*

*Brendan Kennedy*

Print Name

BY: *Patricia Shutz*

Print Name: *Patricia Shutz*

Title: *VP, operations*



STATE OF Texas )  
 ) ss:  
COUNTY OF Travis )

**BEFORE ME**, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared PAT STUTZ as VPOPERATIONS of **RFP Depot LLC., d/b/a BidSync**, an organization authorized to conduct business in the State of Florida, and acknowledged execution of the foregoing Agreement as the proper official of **RFP Depot LLC., d/b/a BidSync**, for the use and purposes mentioned in it and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation.

**IN WITNESS OF THE FOREGOING**, I have set my hand and official seal at in the State and County aforesaid on this 19 day of MAY, 2015.

Deborah Hail  
NOTARY PUBLIC



DEBORAH HAIL  
(Name of Notary Typed, Printed or Stamped)



**BIDSYNC ORDER NO. 2012-FL-PPI**

(Effective Date: 12-20-12)

THIS Software Services Order ("Order" or "Agreement") is made and entered into on the effective data above ("Effective Date") by and between RFP Depot LLC., dba BidSync, a Utah corporation whose address is 629 East Quality Drive, Suite 101, American Fork, UT 84003, hereinafter referred to as "BidSync", and The City of Pembroke Pines, whose address 10100 Pines Blvd, Pembroke Pines, FL 33026, hereinafter referred to as "Customer", to be effective upon execution of this Agreement by Customer's duly authorized designee, both individually, as "party" and, collectively, as "parties" depending on the context in which the term is used. The terms and conditions of the Agreement include this Order form, the Terms & Conditions attached hereto, and any Exhibits attached thereto, all of which are incorporated herein by reference. In the event of a conflict between this Order, the Terms & Conditions, and any Exhibits, documents shall control in the following order of priority: 1) this Order 2) the Terms & Conditions and 3) the Exhibits.

WHEREAS, Customer wishes to procure a secure, automated, online competitive procurement system that allows Customer's Purchasing Office (the "Purchasing Office"), the department responsible for purchasing goods and services on behalf of Customer, to manage all competitive and other procurement processes performed by the Purchasing Office; and

WHEREAS, BidSync offers an online competitive procurement system, and associated services and wishes to provide that system and associated services to Customer under the terms and conditions set forth herein; and

NOW, THEREFORE, for and in consideration of the covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, and for the mutual benefits to be obtained hereby, Customer agrees to pay for and BidSync agrees to provide the following:

<u>Core Systems Ordered</u>	<u># of Users</u>	<u>Max # of Bids/year</u>	<u>Modules Ordered</u> A-Contract Management C-RFP Evaluator D-Reverse Auction E-Cooperative Bidding F-Pre-Award Situational Options G-Planholder's List H-Award Scenario Creation I-Reprographic File Transfers	<u>Training Type- Basic or Advanced</u>	<u>Implementation Type-Basic or Advanced</u>	<u>Annual Cost during Initial Term</u>
<b>BidSync eProcure</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Unltd	Unltd	A, C	Basic (Remote/Web)	Basic (Remote/Web)	\$14,660 <sup>1</sup>
<b>BidSync eContract</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Full 2 Read 1	N/A	N/A	Basic (Remote/Web)	Basic (Remote/Web)	\$5,000
<b>BidSync ProcurePointe</b> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>						\$
<b>Reverse Auction (stand alone)</b> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>						\$

<sup>1</sup> 4Q 2012 promotional pricing for service agreements executed prior to December 31, 2012. Year 1 subscription fees (\$14,660) reflect a \$5,000 promotional credit. Subscription fee for eProcure increases to \$19,660 in years 2 and 3.

Description of Additional Services:		N/A
Total Annual Cost, Year 1:		\$19,660
Total Annual Cost, Year 2:		\$24,660
Total Annual Cost, Year 3:		\$24,660

**Initial Term:** 3 years

**Pricing after Initial Term:** . Future renewal periods price increases shall be based on a nationally recognized or published index and shall be agreed to in writing by both parties.

**Payment Terms:** Annual Subscription Fees invoiced on execution of Agreement and upon each anniversary of Agreement execution. Invoices due upon receipt.

**IN WITNESS WHEREOF,** Customer and BidSync have duly executed this Agreement effective as of the later of the Effective Date or the date set forth below.

**BidSync**

**Customer:**

Sabrina Storer  
 By:  
Sabrina Storer  
 Name: (Print)  
President : CEO  
 Title:  
12-20-12  
 Date:

Charles F. Dodge  
 By:  
Charles F. Dodge  
 Name: (Print)  
City Manager  
 Title:  
12/20/12  
 Date:

APPROVED AS TO LEGAL FORM  
[Signature]  
 OFFICE OF THE CITY ATTORNEY  
 DATED: 12/20/12





## BIDSYNC TERMS & CONDITIONS

### SECTION 1 STRUCTURE OF AGREEMENT

**1.1 Structure of Agreement.** These terms and conditions (the “Terms & Conditions” or “Agreement”) consist of the terms and conditions contained herein, the Exhibit A attached hereto, and in at least one Order as entered into and executed by both parties hereunder. Any reference to this Agreement shall be a reference to these Terms & Conditions, as well as any additional terms, conditions or descriptions contained in Exhibit A and any executed Order, which will govern each party’s rights and obligations relating to BidSync’s provision of the Software Services hereunder. In the event of any conflict between this Agreement and a separately executed Order, the terms of the Order shall control.

**1.2 Orders.** BidSync shall furnish to Customer and Customer will accept and pay for the Software Services as indicated on a written order that has been executed by an authorized officer of Customer and accepted in writing by BidSync (“Order(s)”). The Order form shall incorporate by reference the terms and conditions set forth herein. The Order shall reflect the Software Services purchased and procured by Customer, in the quantities and prices set forth therein. Following the Effective Date of this Agreement, Customer may place orders for the Software Services with BidSync, as indicated on the initial Order or subsequent Orders. The receipt or deposit by BidSync of Customer’s down payment will not constitute acceptance of the related Order. BidSync will return any down payment in the event that it does not accept the Order. BidSync’s method of acceptance of Orders for the Software Services submitted under this Agreement will be the acceptance in writing of a properly executed Order listing the Software Services for which Customer has committed to purchase.

### SECTION 2 DEFINITIONS

**2.1 “Additional Services”** shall have the meaning provided in Section 3.9 herein.

**2.2 “Affiliate(s)”** of a party shall mean any corporation or other entity which controls, is controlled by, or is under common control with such party, wherever located in the world. A corporation or other entity shall be deemed to control another corporation or entity if it owns, directly or indirectly, more than fifty percent (50%) of the voting shares or other interest in such other corporation or entity, or has the power to elect more than half the directors of such other corporation or entity.

**2.3 “Authorized Users”** means individuals as specified in the relevant Order who are authorized to access the Software Services described in the Order.

**2.4 “Confidential Information”** shall have the meaning provided in Section 9 herein.

**2.5 “Customer Data”** means all data, information, content or material that Customer enters into the Software Services or has entered on its behalf.

**2.6 “Disclosing Party”** shall have the meaning provided in Section 9 herein.

**2.7 “Disputing Party”** shall have the meaning provided in Section 3.13 herein.

**2.8 “Documentation”** means sufficient written explanations of the intended functionality of the Software Services and other written material generally intended to guide the user in the configuration and use of the Software Services, including, but without limitation, user guides, training materials, worksheets, workbooks, implementation and reference materials, and other documentation, whether in printed or electronic form.

**2.9 “Effective Date”** means the date so indicated on the applicable Order(s).



**2.10** “**Export Laws**” shall have the meaning provided in Section 10.14 herein.

**2.11** “**Governmental Entity**” means a state agency or a political subdivision of a state, or a federal agency or a political subdivision of the federal government.

**2.12** “**Initial Term**” means the initial subscription period identified in the Section 4.1, during which BidSync must provide, and Customer must pay for the Software Services.

**2.13** “**Intellectual Property**” or “**Intellectual Property Rights**” means intellectual property rights, including without limitation, all works of authorship, mask works, trademarks and service marks (together with any registrations or applications thereof), patents (together with any extensions, reexaminations and reissues of such patents, patents of addition, patent applications, divisions, continuations, continuations-in-part, and all subsequent filings in any country or jurisdiction claiming priority therefrom), copyrights, derivative works, trade secrets, trade dress, know-how, drawings, ideas, designs, concepts, techniques, methodologies, processes, inventions, research and development, and discoveries; including, but without limitation, any and all modifications, updates, derivatives, or variations thereof.

**2.14** “**Order(s)**” shall have the meaning provided in Section 1.2 herein.

**2.15** “**Recipient**” shall have the meaning provided in Section 9 herein.

**2.16** “**Renewal Term**” shall have the meaning provided in Section 4.1 herein.

**2.17** “**SLA**” shall have the meaning provided in Section 3.3 herein.

**2.18** “**Software Services**” means an information technology solution offering described in Section 3 and the **Exhibit A**, whereby software application programs, databases and utilities are hosted and maintained by BidSync on servers (the “**Site**”) that are made accessible to Customer via the Internet. Additional technical information concerning the Site is provided on **Exhibit A**.

**2.19** “**Term**” has the meaning defined in Section 4.1 herein.

**2.20** “**Users**” means your employees, representatives, consultants, contractors, or agents who are authorized to use the Software Services and have been supplied a user name and password by Customer or by BidSync at Customer’s request. All Users with records in “active” status are Users under this Agreement.

**2.20** “**Work Product**” shall have the meaning provided in Section 3.9 herein.

### **SECTION 3 SCOPE OF SOFTWARE SERVICES**

**3.1 Scope of Software Services.** Subject to the terms and conditions of this Agreement, BidSync shall provide Customer (only for the number of Users for whom Customer has paid for a subscription) with web-based electronic services and recordkeeping through an automated system that manages Customer’s competitive and other procurement processes performed by the Purchasing Office (the “**Software Services**”). The Software Services, and all associated services provided therewith, shall be provided in accordance with the *Scope of Software Services* attached hereto and incorporated herein for all purposes as **Exhibit A**, the Documentation, and the Order(s).

**3.1(a) Additional Users.** User subscriptions are for designated Users and cannot be shared or used by more than one User but may be reassigned to new Users replacing former Users who no longer require ongoing use of the Software Services. Additional Users subscriptions must be added in minimum increments of ten (10), and the term of the additional User subscriptions shall be coterminous with the expiration of the subscription term in effect at the time the Additional Users are added.

**3.1 (b) Government Users.** As defined in FAR section 2.101, DFAR section 252.227-7014(a)(1) and DFAR section 252.227-7014(a)(5) or otherwise, all Software and accompanying documentation provided by BidSync are “commercial items,” “commercial computer software” and/or “commercial computer software documentation.” Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification,

reproduction, release, performance, display, disclosure or distribution thereof by or for the U.S. Government shall be governed solely by these terms and shall be prohibited except to the extent expressly permitted by these terms.

**3.2 Bid Process.** All of Customer's bid terms, conditions, and disclaimers submitted through the Software Services shall be produced and controlled by Customer. Customer's requests for quotation submitted through the Software Services may only include text descriptions, graphics, pictures and other content relevant to the purchase of that item. Customer is solely responsible for the accuracy of the content and information it provides to BidSync or other users on BidSync's website or in connection with the registration, request for quotes or proposals, bidding, or sale process. BidSync acts as a passive conduit for the online distribution and publication of Customer's information. Customer agrees that, to the best of its ability, Customer's information will not be false, inaccurate or misleading. Customer will comply with all applicable domestic and international laws, statutes, ordinances and regulations regarding its use of the Software Services.

**3.3 Delivery.** BidSync agrees to provide the Software Services to Customer on a subscription fee basis, together with bug fixes, updates or other minor enhancements or improvements thereto, and make the Software Services available in accordance with the service descriptions and availability expressed in **Exhibit A ("SLA")**. Customer acknowledges that the Software Services may be temporarily unavailable for scheduled maintenance, for unscheduled emergency maintenance, or because of other causes beyond BidSync's reasonable control (including without limitation delays or other problems inherent in the use of the Internet and electronic communications services), and agrees that BidSync will not be liable to Customer as a result of these temporary service interruptions, except as otherwise expressly provided in the SLA.

**3.4 Upgrades; Additional Modules.** Upgrades to the Software Services (i.e. modifications, additions or substitutions that result in a substantial change, improvement or addition to the Software Services), if available, may be offered by BidSync at an additional charge. Customer may procure additional modules of the Software Services or Additional Services on a coterminous basis by signing an Order detailing such additional modules or Additional Services ordered. The addition of modules to the Software Services may have the effect of increasing Customer's fees paid hereunder for such services for the remainder of the Term.

**3.5 Software Services Support.** BidSync shall provide Customer telephone and web support for the Software Services during the specified periods for such support and under the terms expressed in **Exhibit A** and on the applicable Order.

**3.6 Software Services License.** BidSync hereby grants to Customer, subject to all the terms and conditions of this Agreement, a non-exclusive, non-transferable (except as permitted in the Agreement), non-sub licensable license to access the Software Services and the Site via the Internet for the duration of the Term, and to use the Software Services, solely for Customer's internal business purposes and for the purposes contemplated in the applicable Documentation and Exhibits, in return for Customer's payment to BidSync of the applicable license fees as expressed in the Order.

**3.7 License Restrictions.** Customer shall not, directly or indirectly, (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the object code, source code or underlying ideas, methodologies, or algorithms of the Software Services; (ii) modify, translate, or create derivative works based on or related to the Software Services; (iii) rent, lease, distribute, sell, resell, assign, or otherwise transfer the rights to the Software Services; (iv) use the Software Services for timesharing or service bureau purposes or otherwise for the benefit of a third party; (v) remove any proprietary notices from the Software Services; (vi) publish or disclose to third parties any evaluation of the Software Services without BidSync's prior written consent; (vii) create any link to the Software Services or frame or mirror the content contained on, or accessible from, the Software Services; or (viii) access the Software Services for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes. Customer may not access the Software Services if you are a direct competitor of BidSync or any of its products and services, except if you disclose such to BidSync and thereafter obtain BidSync's prior written permission.

Customer shall not: (i) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (ii) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortuous material, including material harmful to children or material that violates third party privacy rights; (iii) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (iv)

modify, interfere with or disrupt the integrity or performance of the Software Services (including the data contained therein); or (v) attempt to gain or permit unauthorized access to the Software Services or its related systems or networks.

The Software Services offer integration capabilities via an application programming interface, or API. The average number of API calls made by Customers is less than 10,000 calls per day. The number of API calls Customer can make is limited to the aggregate maximum of 50,000 calls per day. BidSync or its partners may limit and/or modify Customer's API access from time to time.

**3.8 Proprietary Rights of BidSync.** This is not a work made-for-hire agreement (as that term is defined in Section 101 of Title 17 of the United States Code) with regard to either party. Except for express licenses granted in this Agreement, neither party is granting nor assigning to the other party any right, title, or interest, express or implied, in or to the party's Intellectual Property. Each party reserves all rights in such property. Customer acknowledges that the Software Services and all content contained therein, including, but not limited to, text, software, Intellectual Property Rights, music, sound, photographs, video, graphics and third party materials and advertisements, excluding any Customer Data, (collectively "**Content**"), and all Documentation, is proprietary to BidSync or such third parties, and BidSync or such third parties retain exclusive ownership of the same throughout the world, including all related copyrights, trademarks, service marks, patents, trade secrets or other proprietary rights thereto. Except as expressly stated herein, this Agreement does not transfer, grant, or assign any right, title or interest in the Software Services, Content or Documentation to the Customer.

**3.9 Custom Software Development.** Notwithstanding Section 3.8 above, Customer may procure from BidSync any custom software development services or other services ("**Additional Services**") for the fees defined in the **Exhibit A** and the Order. BidSync shall retain and possess all right, title, interest, and ownership in and to any and all ideas, concepts, know-how, residuals, data processing techniques, software, documentation, processes, data, information, or Intellectual Property developed, used, or acquired by BidSync personnel (alone or jointly with Customer) in connection with the Additional Services provided to Customer ("**Work Product**"), and such Work Product will be the exclusive property of BidSync, and Customer shall have no right, title, interest, or ownership in or to such Work Product, except as expressly provided herein this Agreement, **Exhibit A** or the Order. No customized software development shall be deemed a work made for hire agreement or arrangement unless expressly agreed to by the parties in writing. BidSync shall license to Customer the Work Product of such Additional Services under the same terms as the Software Services license expressed in Sections 3.6, 3.7, and 3.8 and with the same applicable warranties, indemnities, and restrictions as expressed in this Agreement for the Software Services, unless expressly stated otherwise in the Order. EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, BIDSINC WARRANTS THAT THE ADDITIONAL SERVICES WILL BE PERFORMED IN A WORKMANLIKE MANNER AND WITH PROFESSIONAL DILIGENCE AND SKILL, IN ACCORDANCE WITH THIS AGREEMENT, THE APPLICABLE ORDER, AND THE EXHIBIT. IF THERE IS A MATERIAL BREACH OF THE ABOVE WARRANTY, BIDSINC'S ENTIRE LIABILITY AND CUSTOMER'S ENTIRE REMEDY SHALL BE, AT BIDSINC'S OPTION TO (I) MODIFY THE ADDITIONAL SERVICES TO CONFORM TO THE ORDER; (II) PROVIDE A REASONABLE WORKAROUND SOLUTION WHICH WILL REASONABLY MEET CUSTOMER'S REQUIREMENTS OR (III) IF NEITHER OF THE FOREGOING IS COMMERCIALY REASONABLE, TERMINATE THE APPLICABLE ORDER OR THIS AGREEMENT WITH NO FURTHER LIABILITY TO BIDSINC. EXCEPT FOR BIDSINC'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 7, THESE REMEDIES ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES FOR A CLAIM OF BREACH OF WARRANTY UNDER THIS SECTION.

**3.10 Passwords.** BidSync shall issue to Customer, or shall authorize a Customer administrator to issue, a password for each Authorized User to use Customer's account for whom Customer has paid the applicable fee. Customer is responsible for maintaining the confidentiality of all user names and passwords and for ensuring that each user name and password is used only by the Authorized User. Customer is solely responsible for any and all usage of the Software Services or activities on the Site resulting from access to the Software Services or the Site through the use of the user names and passwords. Customer agrees to promptly notify BidSync of any unauthorized use of the Customer's account (including each password of each user accessing the Software Services by means of Customer's account) or any other breach of security known to Customer. BidSync shall have no liability for any loss or damage caused by Customer's failure to comply with these requirements. BidSync will maintain Customer passwords as confidential and not disclose them to third parties.

**3.11 Security.** BidSync will maintain the Software Services and Site at a reputable third party Internet service

provider and hosting facility, where the Software Services are subject to commercially reasonable security precautions to prevent unauthorized access to the Software Services and Customer Data. Customer acknowledges that, notwithstanding security precautions, use of or connection to the Internet provides the opportunity for unauthorized third parties to circumvent such precautions and illegally gain access to the Software Services and Customer Data. Accordingly, BidSync cannot and does not represent, warrant, or guarantee the privacy, security, or authenticity of any information so transmitted over or stored in any system connected to the Internet. At all times during the Term, BidSync shall collect, store, use, and maintain Customer Data in compliance with all applicable state and federal laws and regulations relating to the privacy, information security, and consumer protection for such data. In no event shall BidSync implement less than a reasonable level of information security for the confidentiality, integrity, and availability of the Customer Data. BidSync shall promptly report to Customer any actual or suspected compromise of the Customer Data.

**3.12 Rights and Obligations Regarding Customer Data.** Customer grants to BidSync a non-exclusive, worldwide, terminable at-will, and royalty-free license, for the Term of this Agreement, to use Customer Data solely to the extent necessary to enable BidSync to provide the Software Services to Customer under this Agreement. As between BidSync and Customer, Customer shall own all Customer Data. Except as permitted in or reasonably anticipated by this Agreement, BidSync will not edit, delete, or disclose the contents of Customer Data unless authorized by the Customer or unless BidSync is required to do so by law or in the good faith belief that such action is necessary to: (i) conform with applicable laws or comply with legal process served on BidSync; (ii) protect and defend the rights or property of BidSync; or (iii) enforce this Agreement. BidSync may provide user statistical information such as usage or traffic patterns in aggregate form to third parties, but such information will not include personally identifying information. BidSync may access Customer Data to respond to service or technical problems with the Software Services. Customer is solely responsible for the accuracy, quality, integrity, legality, reliability, appropriateness, and copyright of all Customer Data and BidSync assumes no responsibility for the deletion, correction, destruction, loss, or infringement of Customer Data used by or stored in the Software Services. BidSync reserves the right to establish a maximum amount of Customer Data that Customer may store, post, transmit on or through the Software Services. BidSync may back up Customer Data every twenty four (24) hours. BidSync's sole obligation in the event of data loss shall be to use commercially reasonable efforts to recover and restore Customer Data using backup media. Notwithstanding the foregoing, Customer grants to BidSync a non-exclusive, worldwide, irrevocable, perpetual, royalty-free license to use and exploit any vendor list or vendor contact information, whether or not such information is provided in combination with Customer Data, that is provided by Customer or uploaded to the Software Services on behalf of Customer, and such information shall not be deemed Confidential Information.

**3.13 Payments.** Customer shall make payments in the amounts indicated on the applicable Order in consideration for the Software Services purchased or procured from BidSync by Customer. BidSync shall provide Customer with an electronic invoice indicating the amounts due to be paid by Customer to BidSync, and Customer shall pay each invoice within thirty (30) days of receipt of such invoice, unless a bona fide dispute with respect to payment of such invoice or portion thereof has arisen. If there is a bona fide dispute regarding any invoice rendered or amount paid or to be paid, the party disputing such invoice ("**Disputing Party**") shall notify the other party in writing thereof, and the parties shall use their best efforts to resolve such dispute expeditiously. In no event shall a bona fide dispute waive, cancel, or suspend any party's obligations under this Agreement. If the Disputing Party notifies the other in writing of a disputed invoice or payment, and there is a good faith basis for such dispute, the time for paying the disputed portion of the invoice shall be extended by a period of time equal to the time between the Disputing Party's receipt of such notice and the resolution of such dispute.

**3.14 Taxes and Interest.** Customer is tax exempt and will provide BidSync with tax exempt certificate. Any other amounts which may become payable by Customer pursuant to this Agreement, shall be payable by Customer within thirty (30) days of receipt of an itemized invoice from BidSync. Undisputed portions of any invoice shall be paid as stated above. Customer acknowledges and agrees that BidSync may access late charges in accordance with the Florida Prompt Payment Act (§§218.70-218.80, Florida Statutes. Invoices for charges shall be rendered in accordance with the payment schedule set forth in the applicable Order.

**3.15 Excess Data Storage Fees.** The maximum disk storage provided to Customer at no additional charge is fifty (50) GB. The average disk storage used by Customers is less than twenty (20) GB per year. If the amount of disk storage required exceeds 50 GB, Customer will be charged the then-current storage fees. BidSync will use reasonable efforts to notify Customer when Customer reaches approximately 90% of its storage maximum; however, any failure by BidSync to so notify Customer shall not affect Customer's responsibility for such additional storage

charges. BidSync reserves the right to establish or modify its general practices and limits relating to storage of Customer Data.

## **SECTION 4**

### **TERM AND TERMINATION**

**4.1 Term.** This Agreement will commence on the Effective Date following approval by Customer, and shall continue in full force and effect for the number of years defined on the Order (the “**Initial Term**”), unless sooner terminated as provided herein. This Agreement shall renew only upon mutual written consent by both parties. The “**Term**” of the Agreement shall be the Initial Term plus any additional Renewal Term(s).

**4.2 Customer Termination.** Customer may terminate this Agreement upon BidSync’s material breach of its obligations hereunder by furnishing BidSync with no less than thirty (30) business days’ prior written notice and give BidSync a reasonable opportunity to cure such breach (if curable); provided however that, termination of this Agreement for any reason immediately terminates any license, right, or service provided by BidSync to Customer under this Agreement. Notwithstanding the foregoing, if Customer is a Governmental Entity, Customer may terminate this Agreement at any time if adequate funds to pay BidSync all fees owed hereunder are not appropriated to the Governmental Entity during the Term, unless otherwise authorized by law.

**4.3 BidSync Termination.** BidSync may, at its option, terminate this Agreement or any Order, or suspend or terminate the Software Services immediately upon written notice to Customer if (i) any invoice is not paid when due hereunder or Customer breaches any of its obligations under Sections 3.6, 3.7, or 3.8; (ii) bankruptcy, receivership, insolvency, reorganization, or similar proceedings are commenced by or against Customer and are not dismissed within thirty (30) days of commencement; (iii) Customer becomes insolvent, makes an assignment for the benefit of creditors, or otherwise admits its inability to pay its debts and obligations as they come due; or (iv) Customer neglects or fails to perform or observe any other term or obligation hereunder and fails to remedy within thirty (30) days after BidSync’s written notice of such failure to Customer.

**4.4 Termination of Individual Vendor’s Access for Non-Payment.** In the event of non-payment of any invoice by an individual vendor, BidSync may, at its sole discretion, disable the vendor’s access to the Software Services until such time as the vendor’s account is brought current or terminate a vendor’s access to the Software Services in accordance with BidSync’s separately executed agreement with vendor.

**4.5 Effect of Termination of the Agreement.** Upon termination of this Agreement, all licenses, rights, and services provided by BidSync to Customer under the Agreement or the applicable Order shall terminate, and Customer shall immediately discontinue use of the Software Services provided under this Agreement or the Order that is being terminated, and BidSync may terminate provision of or access to the Software Services. BidSync shall not be liable to Customer or any third party for suspension or termination of the Software Services in accordance with this Agreement. Any and all provisions, promises and warranties contained herein which by their nature or effect are required or intended to be observed, kept or performed after termination of this Agreement will survive the termination of this Agreement or the applicable Order and remain binding upon and for the benefit of the parties hereto. BidSync shall retain Customer Data for a period of sixty (60) days after expiration or termination of this Agreement. At no additional cost to Customer, BidSync shall provide a one time, mass export of Customer Data in a format to be agreed upon by the Parties. AFTER SAID SIXTY (60) DAYS, ALL CUSTOMER DATA, CONTENT, ACCOUNT INFORMATION, AND SETTINGS INCLUDING, BUT NOT LIMITED TO, CONTENT AND DATA IN PUBLIC AND PRIVATE INFORMATION STORES OR OTHERWISE ON BIDSYNCS SERVERS OR THE SITE WILL BE IRREVOCABLY DELETED AND DESTROYED.

## **SECTION 5 CUSTOMER OBLIGATIONS**

**5.1 General Obligations.** Customer will use its best efforts to cause its personnel to be, at all times, educated and trained in the proper use and operation of the Software Services and to ensure that the Software Services are used in accordance with applicable manuals, instructions, specifications, and Documentation. Customer shall cooperate with BidSync in BidSync's performance of its obligations under this Agreement, and shall provide access to information and systems as reasonably necessary to assist BidSync in performing its obligations under this Agreement.

**5.2 Hardware and Network Services.** Customer is responsible for obtaining and maintaining all computer hardware, software, communications equipment, and communications network services needed to access the Software Services, and for paying all third-party access or usage charges (e.g. Internet service provider and telecommunications charges) incurred while using the Software Services.

**5.3 Conduct.** Customer agrees: (i) to abide by all local, state, national, and international laws and regulations applicable to Customer's use of the Software Services including, without limitation, all laws regarding the transmission of technical data exported from the United States through the Software Services; (ii) not to upload or distribute in any way files that contain viruses, corrupted files, or any other similar software or programs that may damage the operation of the Software Services or another's computer; (iii) not to use the Software Services for illegal purposes; (iv) not to interfere or disrupt networks connected to the Software Services; (v) not to post, promote or transmit through the Software Services any unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene, hateful, racially, ethnically or otherwise objectionable material of any kind or nature; (vi) not to transmit or post any material that encourages conduct that could constitute a criminal offense or give rise to civil liability; (vii) not to interfere with another customer's use and enjoyment of the Software Services or another entity's use and enjoyment of similar services; and (viii) to comply with all regulations, policies, and procedures of networks connected to the Software Services. Customer acknowledges and agrees that BidSync neither endorses the contents of any Customer communications nor assumes any responsibility for any threatening, libelous, obscene, harassing or offensive material contained therein, any infringement of third party Intellectual Property Rights arising therefrom or any crime facilitated thereby. BidSync may remove any violating content posted on or uploaded to the Software Services or transmitted through the Software Services, without notice to Customer. BidSync acknowledges and agrees Customer has no control over its third party customers/vendors or the content and other information they may submit through the Software Services and that such customers/vendors may not be Customer's agents. As a result, Customer shall have no liability or responsibility with regard to any customer/vendor activity described in clauses (ii) through (vii) that occurs without the knowledge or participation of Customer.

## **SECTION 6 WARRANTIES**

**6.1 BidSync Warranties.** BidSync represents, warrants, and covenants to Customer that (i) the Software Services, and all associated services provided to Customer by BidSync, BidSync's subcontractors, and agents under this Agreement shall be tested and free of material defects in accordance with industry standards and produced and performed in a skillful and workmanlike manner and shall comply with the Documentation; (ii) BidSync has reviewed all Agreement documents, and has used its best efforts to make all investigations necessary to be thoroughly informed regarding requirements for delivery of products, equipment and/or services as required by the conditions of this Agreement; (iii) BidSync (a) is a duly qualified, capable, and otherwise bondable business entity, (b) is not in receivership or contemplating same, (c) has not filed for bankruptcy, and (d) is not currently delinquent with respect to payment of property taxes in Utah County or the State of Utah; and (iv) all applicable copyrights, patents, trade secrets, licenses and other proprietary and Intellectual Property Rights that may exist on materials used in this Software Services have been adhered to.

**6.2 Security Warranties.** BidSync shall not use and shall not allow anyone else under its control to use Confidential Information collected by BidSync for any purpose or to provide it to any third party unless: (i) the Software Services Authorized User is given clear prior notice of the possibility of such other use; (ii) the Software Services Authorized User affirmatively consents to such use; or (iii) Customer agrees to such other use. BidSync shall maintain the security of Confidential Information in its custody and the integrity of transactions received

through its interfaces and through the Software Services. Redundant levels of security will be deployed as necessary throughout the Software Services. Except for Customer's perpetual license to vendor information granted to BidSync under Section 3.12, BidSync shall not use any Confidential Information in its custody for its own purposes or the purposes of its other clients unless Customer expressly agrees to the use of that specific information.

**6.3 INTENTIONALLY OMITTED.**

**6.4 Disclaimer.** EXCEPT FOR THE EXPRESS WARRANTIES STATED ABOVE, THE SOFTWARE SERVICES ARE PROVIDED "AS-IS" AND CUSTOMER ACCEPTS THE ENTIRE RISK AS TO THE QUALITY, PERFORMANCE AND RESULTS OF USE OF THE SOFTWARE SERVICES. EXCEPT AS OTHERWISE RESTRICTED BY LAW, BIDSINC DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, BY STATUTE OR OTHERWISE, REGARDING THE SOFTWARE SERVICES, INCLUDING, BUT NOT LIMITED TO, ITS FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, QUALITY, TITLE, OR ITS NON-INFRINGEMENT. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY BIDSINC OR ITS RESPECTIVE EMPLOYEES, OFFICERS, DIRECTORS, DISTRIBUTORS OR AGENTS WILL INCREASE THE SCOPE OF THE EXPRESS WARRANTIES STATED ABOVE, OR CREATE ANY NEW REPRESENTATIONS, WARRANTIES OR CONDITIONS.

## **SECTION 7 INDEMNIFICATION**

**7.1 Infringement.** BidSync, at its own expense, will defend any action brought against Customer based on a claim by any third party that the Software Services, as used within the scope of this Agreement or applicable Order, infringe or misappropriate any Intellectual Property Right(s) of such third party enforceable in the United States, and BidSync shall hold Customer harmless from any liability for any costs and damages ordered by a court as a result of such action or resulting from a monetary settlement thereof, provided Customer notifies BidSync promptly in writing of the action (and all prior claims relating to such action), BidSync has sole control of the defense and all negotiations for settlement or compromise of the action, and Customer reasonably cooperates with BidSync in such defense (including, without limitation, making available to BidSync all relevant documents and other information in Customer's possession and by making Customer's personnel available to testify or to consult with BidSync or its attorneys).

**7.2 Exclusions.** BidSync shall have no liability or obligation with respect to any infringement or misappropriation claim based upon: (i) any use of the Software Services not in accordance to this Agreement, the applicable Order, or the Documentation; (ii) any use of the Software Services in combination with other products, equipment, software or data not supplied by BidSync, referenced in the Documentation, or otherwise authorized by BidSync; or (iii) any modification of the Software Services made by any person other than BidSync where such modification is not authorized by BidSync.

**7.3 Remedies.** If the Software Services or any portion thereof become or, in BidSync's sole discretion, are likely to become the subject of an infringement or misappropriation claim, BidSync may, at its sole option and expense, either: (a) procure for Customer the right to continue to use the Software Services pursuant to this Agreement and the applicable Order; (b) replace or modify the Software Services to make them non-infringing; or (c) terminate this Agreement or the applicable Order and Customer's right to use the Software Services, and refund to Customer any unused pre-paid fees for the terminated Software Services as of the date of termination.

SECTIONS 7.1, 7.2 AND 7.3 STATE BIDSINC'S ENTIRE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR INFRINGEMENT AND MISAPPROPRIATION CLAIMS AND ACTIONS BASED ON ANY SERVICES OR PRODUCTS PROVIDED BY BIDSINC.

**7.4 INTENTIONALLY OMITTED.**

## **SECTION 8 LIMITATION OF LIABILITY**

**8. LIMITATION OF LIABILITY.** UNLESS FURTHER LIMITED ELSEWHERE IN THIS AGREEMENT, BIDSINC'S AND ITS DIRECT AND INDIRECT SUPPLIERS' AGGREGATE LIABILITY

FOR DAMAGES FOR ANY CAUSE RELATED TO OR ARISING OUT OF THIS AGREEMENT, WHETHER IN CONTRACT, NEGLIGENCE OR TORT, WILL NOT EXCEED THE GREATER OF (A) TEN THOUSAND U.S. DOLLARS (US \$10,000) OR (B) TWICE THE TOTAL FEES AND CHARGES PAID BY CUSTOMER TO BIDSINC FOR THE SERVICES GIVING RISE TO THE LIABILITY DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRIOR TO THE DATE CUSTOMER'S CAUSE OF ACTION ACCRUED. IN NO EVENT SHALL BIDSINC OR ITS DIRECT OR INDIRECT SUPPLIERS OR AFFILIATES BE LIABLE FOR (A) ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF BIDSINC HAS BEEN ADVISED OF THE POSSIBILITY THEREOF INCLUDING BUT NOT LIMITED TO LOSS OF DATA OR INFORMATION OF ANY KIND, LOST PROFITS, LOST BUSINESS REVENUE OR FAILURE TO REALIZE EXPECTED SAVINGS AND REGARDLESS OF WHETHER ANY CLAIM FOR SUCH RECOVERY IS BASED UPON THEORIES OF CONTRACT, NEGLIGENCE OR TORT (INCLUDING STRICT LIABILITY), OR (B) ANY CLAIM AGAINST CUSTOMER BY ANY OTHER PERSON. NOTWITHSTANDING THE FOREGOING, THIS SECTION 8 SHALL NOT LIMIT, NOR SHALL BE CONSTRUED OR APPLIED TO LIMIT: (I) THE INDEMNIFICATION OBLIGATIONS OF EITHER PARTY SET FORTH IN SECTION 7, OR (II) THE LIABILITY OF EITHER PARTY FOR DIRECT MONEY DAMAGES RESULTING FROM A BREACH OF THE OBLIGATIONS OF NONDISCLOSURE AND CONFIDENTIALITY IMPOSED BY SECTION 9 HEREOF.

## SECTION 9 CONFIDENTIALITY

**9. Confidentiality.** Both parties hereby agree that “**Confidential Information**” means any and all technical and non-technical information, including trade secrets, know-how and proprietary information, firmware, designs, schematics, techniques, source code, plans or any other information relating to any product or service as well as work in process, future development, scientific, engineering, manufacturing, marketing or business plans, or financial or personnel matters relating to either party or its present or future products, sales, suppliers, customers, employees, investors or Affiliates disclosed or otherwise supplied in confidence by either party to the other party, acquired in the course of carrying out the tasks hereunder or as a result of access to the premises of a party (including in the context of a request for information or request for proposal, or related to discussions between the parties in anticipation of potential Orders). Confidential Information also includes: (i) information disclosed in a written or other tangible form which is clearly marked with a “confidential” or “proprietary” legend or other comparable legend; (ii) information disclosed orally or visually which is identified as confidential at the time of disclosure and confirmed in writing within a reasonable time; (iii) any other information which a reasonable person would deem confidential under the context of disclosure or due to the nature of the information; (iv) in the case of BidSync, any software used to deliver the Software Services and all modifications, enhancements, updates, and derivatives thereof, as well as the Documentation, functional specifications, methods, concepts, designs, and all other similar information regarding the Software Services or other services; and (v) in the case of Customer, the Customer Data. Both parties (in such capacity, the “**Recipient**”) hereby agree to maintain as confidential all material, non-public Confidential Information, which it learns about the other party (the “**Disclosing Party**”) as a result of its respective performance under this Agreement and, except as may be required by applicable law or regulation, to refrain from disclosing any Confidential Information to any third party and to disclose such Confidential Information only to those agents, employees and representatives of the Recipient who need to know that which is disclosed to them. Confidential Information shall not include: (A) information in the public domain or which enters the public domain after the Effective Date without any breach by the Recipient of its obligations hereunder; (B) information which is disclosed to the Recipient after the Effective Date by a third party whose disclosure of information is unrelated to this transaction or who is unrelated to the Disclosing Party and who is not violating any obligation to the Disclosing Party by disclosing such information; or (C) information which is hereafter developed by the Recipient independent of any Confidential Information. Upon expiration or termination of this Agreement for any reason, each party shall promptly return to the other party, or destroy, as the parties agree, all copies of the other party's Confidential Information. All copies, notes or other derivative material relating to the Confidential Information shall be promptly retrieved or destroyed, as agreed, and no such material shall be retained or used by the receiving party in any form for any reason. Notwithstanding the foregoing, vendor contact and demographic information provided by Customer, whether or not in combination with Customer Data, shall not be deemed Confidential Information and BidSync shall be granted a perpetual license thereto pursuant to Section 3.12. Any confidentiality shall only be maintained to the extent permitted by law.

## SECTION 10 MISCELLANEOUS PROVISIONS



**10.1 Compliance with the Law.** Both parties shall at all times observe and comply with all Federal, State and local laws, ordinances and regulations including all amendments and revisions thereto, which in any manner affect this Agreement or the Software Services.,

**10.2 Assignment and Subletting.** BidSync agrees to retain control and to give full attention to the fulfillment of this Agreement, and that this Agreement shall not be assigned or sublet without the prior written consent of Customer. BidSync further agrees that the subletting of any portion or feature of the services provided hereunder, or materials required in the performance of this Agreement, shall not relieve BidSync from its full obligations to Customer as provided by this Agreement. The terms, provisions, covenants, obligations and conditions of this Agreement are binding upon and inure to the benefit of the successors in interest and the assigns of the parties to this Agreement if the assignment or transfer is made in compliance with the provisions of this Agreement.

**10.3 Use of Contractors.** Notwithstanding anything contained in this Agreement to the contrary, BidSync may utilize the services of independent service providers/contractors who may provide the Software Services to Customer on BidSync's behalf. Notwithstanding the foregoing, no subcontracting shall relieve BidSync of its obligations and liability hereunder for the provision of Software Services described herein.

**10.4 Independent Contractor.** BidSync covenants and agrees that BidSync is an independent contractor and not an officer, agent, servant or employee of Customer; that BidSync shall have exclusive control of and exclusive right to control the details of the services performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, subcontractors and consultants; that the doctrine of respondent superior shall not apply as between Customer and BidSync, its officers, agents, employees, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between Customer and BidSync.

**10.5 Force Majeure.** In the event that a party is materially unable to perform any of its obligations hereunder because of strike, natural disasters, Acts of God, riots, wars, governmental action, or other event of force majeure beyond such party's control, then such party shall, upon notice to the other party thereof, be relieved from its performance of such obligations to the extent, and for the duration, that such performance is prevented by such events; provided that such party at all times uses all reasonable efforts to resume such performance.

**10.6 Modification and Waiver.** No modification of this Agreement or an Order, and no waiver of any breach of this Agreement or an Order will be effective unless in writing and signed by an authorized representative of the party against whom enforcement is sought. No waiver of any breach of this Agreement or an Order and no course of dealing between the parties will be construed as a waiver of any subsequent breach of this Agreement or Order.

**10.7 Severability.** The provisions of this Agreement and the applicable Order are severable. If any provision of such is held to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions will in no way be affected or impaired thereby.

**10.8 Interpretation.** Each party acknowledges that this Agreement has been the subject of active and complete negotiations, and that this Agreement should not be interpreted or construed in favor of or against any party by reason of the extent to which any party or its professional advisors participated in the preparation of this Agreement. Section headings are provided for convenience only and are not to be used to construe or interpret this Agreement. Whenever the words "include" or "including" are used in this Agreement, they will be deemed to be followed by the words "without limitation."

**10.9 Governing Law.** This Agreement is governed by the laws of the United States of America and The State of Florida. Venue for any dispute arising out of this Agreement will lie in the state or federal courts of Broward County, Florida.

**10.10 BidSync Employees.** Customer hereby agrees that, during the Term of this Agreement, Customer shall not employ nor tender any offer of employment to any employee of BidSync without first obtaining BidSync's prior written consent, which may be withheld for any reason. For the purposes of this Section only, the term "employee" extends to all present and future employees of BidSync during the period of their employment and continues for a

period of six (6) months after any such employee leaves the employ of BidSync; provided however, that this Section shall not apply in the event BidSync should cease conducting all business operations.

**10.11 Notice.** Any notice required or permitted to be given under this Agreement by one party to the other shall be in writing. Notice under this Agreement shall be accomplished by transmitting the documents (1) via facsimile as well as (2) by overnight delivery service or overnight U.S. mail with, and effective upon, written confirmation of the latter. The address of BidSync for all purposes under this Agreement and for all notices hereunder shall be:

BidSync  
ATTN: Chief Executive Officer  
629 East Quality Drive, Suite 101  
American Fork, UT 84003  
Facsimile: 801-765-9246

The address of Customer shall be specified on the Order. Each party may change the address for notice to it by giving notice of the change in compliance with this Section. Customer shall provide BidSync with contact information for each vendor that is provided access to the Software Services.

**10.12 Non-Waiver of Default.** No payment, act or omission by either party may constitute or be construed as a waiver of any breach or default of the other party which then exists or may subsequently exist. The failure of either party to exercise any right or privilege granted in this Agreement shall not be construed as a waiver of that right or privilege. All rights of either party under this Agreement are specifically reserved and any payment, act or omission shall not impair or prejudice any remedy or right of either party under it. Any right or remedy stated in this Agreement shall not preclude the exercise of any other right or remedy under this Agreement, the law or at equity, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

**10.13 Counterparts.** Original signatures transmitted and received via facsimile or other electronic transmission of a scanned document, (e.g., PDF or similar format) are true and valid signatures for all purposes hereunder and shall bind the parties to the same extent as that of an original signature. Any such facsimile or electronic mail transmission shall constitute the final agreement of the parties and conclusive proof of such agreement. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.

**10.14 Export Controls.** Customer understands and acknowledges that BidSync may be subject to laws and regulations which prohibit export or diversion of certain software and technology to certain countries (“**Export Laws**”). Any and all obligations of BidSync to provide the Software Services, as well as any other technical information or assistance shall be subject to the Export Laws as shall from time to time govern the license and delivery of technology and software. Customer warrants that it will comply with the Export Laws in effect from time to time as they relate to all aspects of this Agreement and its implementation.

**10.15 Intergovernmental Cooperative Purchasing Agreements/Piggyback Rights.** Upon full execution of a subcontract document, entities can piggyback or adopt BidSync for any of their day-to-day bids, quotes, and proposals, auctions, etc. under this contract. Intergovernmental Cooperative Purchasing agencies and or any government agency can piggyback these Contract terms and conditions and will negotiate separate agency payment terms with BidSync contractually separate and outside this contract.

**10.16 Entire Agreement.** These Terms & Conditions, the Order, and **Exhibit A** set forth the entire agreement and understanding of the parties with respect to the transactions contemplated hereby and supersedes all prior agreements, arrangements, and understandings relating to the subject matter hereof.

## **EXHIBIT A**

### **SCOPE OF SERVICES**

#### **I. Description of the Software Services**

##### **BidSync eProcure™ Core System**



The BidSync eProcure™ Core System provides the ability to electronically create, manage, and award all standard solicitation and quotation types, in addition to paper solicitations. It automatically notifies suppliers (preferred and/or system suggested) and securely facilitates the receipt and electronic tabulation of responses. It then allows for the award to be made and suppliers notified.

In addition to the solicitation creation functionality, the BidSync eProcure™ Core System allows for common solicitation management functionality including pre and post-bidding periods, a substantial vendor management database, temporary and secure work areas, user-defined and configurable workflows, question and answer sections with addendum upload and download tools, online pre-bid conference hosting and many other features which greatly enhance the efficiency and productivity of the bid process. In addition, the solution provides a document management capability where large files can be easily accessed and downloaded by users, as well as the ability to create electronic award scenarios to better allow customers to define and evaluate system-supported bid awards. It also contains a robust suite of reporting tools, including standard reports and ad-hoc reporting, which allow users to export reports in various file formats. The system uses the National Institute of Government Purchasing (NIGP) Commodity Classification Codes which are updated regularly. In addition, eProcure offers a complete Vendor Management solution that offers the ability to closely manage vendor relationships and potential qualifications/certifications. It includes the ability to use an existing unique identification system (ex: tax ID, FEIN) with our system-generated identifier to securely lock in the identity of a supplier, while processing each account through multiple checkpoints for matching and de-duplication, which allows for vendor information to be current and applicable. Furthermore, the Vendor Management functionality enables the ability to communicate dynamically and directly with suppliers via email, fax and/or phone for issues unrelated to the bid process such as conference invitation and surveys. This also allows for vendor diversity (DVBE, SB, WBE, HUB, etc) and Environmentally Preferred Purchasing goals to be tracked and reported. Vendors are able to register and manage their accounts online – in order to ensure that all their contact information is kept current and accurate. Vendors have the option to receive certain notifications via email, facsimile, or SMS text.

For information on specific functionality, please refer to the product documentation.

##### **BidSync eProcure™ Modules**

All modules have been specifically designed to fit seamlessly into the BidSync eProcure™ Core System and work natively with other modules creating an overall user friendly system. eProcure Modules cannot be purchased without the BidSync eProcure™ Core System.

##### ***Contract Repository Module***

The Contract Repository Module allows for the mass system-supported import, display and search of legacy, existing and new contracts. Contracts can be shared and used across agencies as allowed. Associated workflows allow for configuration of public and private access, unique numbering, and automated expiration and renewal reporting. Contract mirroring capabilities allow for the quick creation of new contracts. A variety of general and ad-hoc reporting is also included with the Contract Management Module.

***Reverse Auction Module (can be offered as stand-alone functionality)***

The Reverse Auction Module allows for the creation and management of reverse auction bids. Our Reverse Auction Module complies with all Federal guidelines created by the GSA regarding reverse auctions. Robust system-supported reporting and auditing are included.

***RFP Evaluator Module***

The RFP Evaluator Module is an advanced web-based RFP scoring tool which allows invited committee members to quickly and easily log into a secure scoring/evaluation system to streamline the scoring process. The tool automatically notifies committee members of tasks, allows for a user-configurable workflow to control the process, and then electronically tabulates the scores into customizable reports. All evaluation criterion and scoring parameters are defined by the customer.

***Cooperative Bidding Module***

The Cooperative Bidding Module allows for the creation and management of cooperative and sponsored bids and contracts from multiple users within or outside of a single entity. This includes configurable workflows for creation, display, approval, notification, and award. Participating cooperative users can also suggest additional items to be considered for cooperative bids.

***Pre-Award Situational Options Module***

BidSync eProcure™ is also designed to better accommodate the need for when customers are faced with multiple situational options that feed into the final award decision. Users with the appropriate permissions can create multiple award situations, based on customer-defined parameters. Each situational option is created and stored on the system and can easily be loaded as the final award decision. In addition to exportable formats of the defined options, the Pre-Award Situational Options Module can also be used in conjunction with BidSync's RFP Evaluator Module.

**BidSync Builder™ Core System**



The BidSync Builder™ Core System provides the ability to electronically create, manage and award all standard construction-related solicitation and quotation types, in addition to paper solicitations. It electronically notifies suppliers (preferred and/or system suggested) and securely facilitates the receipt and electronic tabulation of offers from vendors. Awards and award notifications to suppliers can be effortlessly made on the system. BidSync Builder™ is add-on functionality to BidSync eProcure™.

BidSync Builder™ is a robust electronic sourcing tool used to better accommodate the drill-down requirements inherently encompassed in construction-specific solicitations. A plan room is available to easily allow large files and plans to be accessed and downloaded by users.

In addition to the solicitation creation functionality, the BidSync Builder™ Core System allows for common solicitation management functionality including pre and post-bidding periods, a substantial vendor management database, temporary and secure work areas, user-defined and configurable workflows, question and answer sections with addendum upload and download tools, online pre-bid conference hosting and many others features which greatly enhance the efficiency and productivity of the bid process. It also contains a robust suite of reporting tools, which allow users to export reports in various file formats. The system uses NIGP Commodity Code Classification or can facilitate the use of the CSI Commodity Codes. Both classification code systems are updated regularly and can be used in conjunction with each other. In addition, Builder offers a complete Vendor Management solution as part of the Core System that offers the ability to closely manage vendor relationships and potential qualifications/certifications. It includes the ability to use an existing unique identification system (ex: tax ID, FEIN) with our system-generated identifier to securely lock in the identity of a supplier, while processing each account through multiple checkpoints for matching and de-duplication. Furthermore, the Vendor Management functionality enables the ability to communicate dynamically and directly with suppliers via email, fax and/or phone for issues

unrelated to the bid process such as conference invitation and surveys. This also allows for vendor diversity (DVBE, SB, WBE, HUB, etc) and Environmentally Preferred Purchasing goals to be tracked and reported. Vendors are able to register and manage their accounts online – in order to ensure that all their contact information is kept current and accurate. Vendors have the option to receive certain notifications via email, facsimile, or SMS text. BidSync Builder™ includes a contract repository that can be configured to allow private or public access by the vendor community. All of BidSync Builder™'s functionalities have been designed for organizations who have the need to submit construction bids. The Builder solution also includes robust system-supported reporting and auditing.

### **BidSync Builder™ Modules**

All supplemental functionalities have been specifically designed to fit seamlessly into the BidSync Builder™ Core System allowing for overall user friendly system. Supplemental functionality, indicated below, cannot be purchased without the BidSync Builder™ Core System, which is an add on to BidSync eProcure™.

#### ***Planholder's List Module (supplemental functionality)***

BidSync Builder™ also offers the option for agencies to publish a Planholder's List for Prime and Sub Contractors. The customer can provide this as a sponsored service or have the vendors select and purchase the list for their needs. These lists can be made viewable to vendors if the customer chooses to make that information public and sponsors the cost of the list. Notifications have been added to the management of the Planholder's List to further accommodate efforts by vendors to stay abreast of any new planholders added to their subscribed list.

#### ***Reprographic File Transfers (supplemental functionality)***

BidSync Builder™ facilitates the file transfer of large CAD, blueprint and other files to be printed by print vendors – either designated by the customer or a print vendor chosen by the vendor. Any file appended to a solicitation may be transferred to print vendors who may access the files until the solicitation officially ends.

### **BidSync Contract™**



The BidSync Contract™ solution is an innovative contract management technology that offers a complete administrative solution that will accelerate contract execution, improve stakeholder collaboration and strengthen regulatory compliance on both sides of the negotiation table. Agencies can implement BidSync Contract as a stand-alone solution or as a fully integrated component of our end-to-end procurement suite which includes BidSync eProcure (sourcing) and ProcurePointe (procure-to-pay) modules. BidSync Contract includes Document Repository, Reporting, Workflow, Creation, Negotiation Portal, Drafting, Negotiation and Approval/Renewal tools

With BidSync Contract you get a secure negotiation portal, protected DocuSign electronic signatures, automated timetables, reminders and renewals, integrated spend reports, a powerful repository with search tools, and contract approvals via mobile devices.

## **BidSync ProcurePointe™ Core System**



BidSync ProcurePointe™ provides e-procurement management in a single solution for managing and more effectively controlling all procurement spending throughout the customer's entire organization. The ProcurePointe™ platform features a single user interface, a single workflow model for approving purchases, a consistent chart of accounts, and a set of budget entries against which to credit purchases. With BidSync ProcurePointe™, users can enter requisitions on behalf of other users without affecting reporting. Users can add items to their shopping cart from vendors' catalogs, directly from punchout sites, using a free-form request or form template, or with one click from any website. From shopping cart to checkout, ProcurePointe™ streamlines the process, intelligently defaulting to a billing account or accounts, while offering the option to access a built-in address book to help users find the right shipping address. Once a requisition has passed the approval process, BidSync ProcurePointe™ automatically converts it to as many purchase orders as necessary. By combining receiving with invoicing, agencies can implement full 2-way or 3-way matching to ensure payment is made for only those items received. BidSync ProcurePointe™ offers a complete inventory system right inside its purchasing system. Users can receive real-time valuation of inventory and can be alerted when key stock items are low. With BidSync ProcurePointe™, Accounts Payable (AP) departments can automate all the steps in invoice processing from invoice entry and exception processing to invoice approval and accrual reports. AP users or vendors can quickly flip over a PO to create an invoice with a few clicks. For non-PO invoices, AP can simply enter a paper based invoice and submit it for approval. For scanned invoices, BidSync ProcurePointe™ can help AP process and store the scanned images as well. Additionally, with BidSync ProcurePointe™'s cXML and EDI integration, vendors can submit invoices electronically. All invoices are run through invoice matching rules and AP can focus only on exceptions processing. As soon as the invoice is submitted, BidSync ProcurePointe™ provides controls to determine immediately whether it can be approved or put on hold. "On hold" notifications are dispatched to appropriate people to review. A scan of the invoice can even be passed through to validate the invoice.

With BidSync ProcurePointe™, the customer gains a robust suite of reporting tools, which allows users to export reports in various file formats. With real-time graphical views, Executive Dashboards provide critical insights to spend management performance, vendor performance, liquidity and more. BidSync ProcurePointe™ offers approval workflows to be configured for every rule from management hierarchy to self-approval to business condition-based scenarios. All approvals can be done via email and common mobile devices like a Blackberry, iPhone, or Android. With BidSync ProcurePointe™, the requester and all approvers are notified when the budget limit will be exceeded and can take appropriate measure. Users are able to see, both at checkout and during approval steps, exactly how much budget will be remaining upon final approval of a requisition.

ProcurePointe integrates seamlessly with BidSync Builder™ and BidSync eProcure™.

For specific functionality, please refer to the product documentation.

## **II. Description of Maintenance and Support Services**

**System Maintenance and Support Services.** BidSync shall ensure that only properly trained BidSync technicians or other qualified personnel perform the System Support Services as defined below. The System Support Services shall be sufficient to enable the Software Services to perform in accordance with this Scope of Software Services and all representations, warranties and specifications provided to the customer by BidSync in connection with this Agreement and any amendments or addenda thereto that may be issued from time to time. BidSync shall provide the customer with the Software Services support services set forth below (the “**System Support Services**”) as part of the fees provided for under this Agreement:

- **Telephone Support.** BidSync technicians shall provide telephone support by means of a toll-free support line, which the customer may use during business hours (6:00 a.m. - 6:00 p.m., Mountain Time, Monday through Friday; excluding nationally recognized holidays). Telephone support shall include without limitation (i) answering questions concerning use of the Software Services; and (ii) providing technical support.
- **Web Access.** BidSync shall provide additional technical assistance in the form of access to BidSync’s website and online bulletins, all of which shall be maintained by BidSync and available to the customer 24 hours/day, 7 days/week, and 365 days/year excluding scheduled downtime for maintenance.
- **Problem Resolution Criteria and Timelines.** When the customer reports program errors or malfunctions in the Software Services, or when the Software Services do not conform substantially to the Performance and Availability levels specified below, BidSync shall correct the identified errors or modify the Software Services to conform to the specifications according to the impact level criteria set forth below.
  - **Critical Impact.** If a Software Services problem resulting from program errors or malfunctions has a critical business impact, defined as a complete loss of use of the Software Services such that personnel cannot reasonably continue to work, BidSync shall respond within fifteen (15) minutes, and shall provide a temporary solution through a workaround within one (1) hour and continue such efforts until the problem is fixed, patched or a suitable workaround is provided or until the problem has been reduced to a lower impact level.
  - **Significant Business Impact.** If a Software Services problem resulting from program errors or malfunctions has a significant business impact, defined as a significant loss of use of the Software Services or degradation of such use, BidSync shall respond within thirty (30) minutes, and shall provide a temporary solution through a workaround within four (4) hours and shall continue such efforts until the problem is fixed, patched or a suitable workaround is provided or until the problem has been reduced to a lower impact level.
  - **Minimal Business Impact.** If a Software Services problem resulting from program errors or malfunctions has a minimal business impact, defined as the customer’s ability to continue work with only minor impediments or loss of use of the Software Services, BidSync shall respond within four (4) hours and shall provide a permanent correction in its next release of a Software Services upgrade or enhancement.

As part of the System Support Services, BidSync shall provide online training on Software Services access, use and operations to the customer’s personnel (the “Training”) up to two times each year per customer. The customer’s access to BidSync’s database of online video demonstrations is unlimited.

## **III. Description of the Software Services Availability**

**Software Services Availability.** BidSync will use commercially reasonable efforts to provide the Software Services and make them available 24 hours per day, 7 days per week, 99.8% of the time each month, excluding any

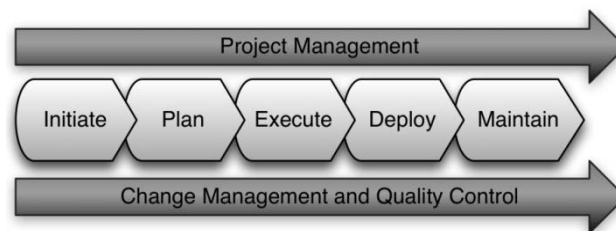
Scheduled Downtime, as defined below. Notwithstanding the foregoing, the availability of the Site and the Software Services are provided by BidSync on an “AS IS” basis to Customer.

- **Scheduled Downtime.** Scheduled and planned Software Services outages are for the purpose of providing system updates and scheduled releases for the System Support Services. All outages are scheduled with a minimum of 72 hours advance notice to the customer and shall occur only during non-peak hours unless otherwise agreed by the parties.

#### **IV. Implementation Plan**

During the past 13 years, BidSync has successfully implemented numerous agency clients using a methodology that is based on the following five distinct phases:

- Phase 1: Initiate
- Phase 2: Plan
- Phase 3: Execute
- Phase 4: Deploy
- Phase 5: Maintain



The Initiation phase is used to determine the scope and to plan the BidSync implementation process. This phase is crucial to ensure BidSync is able to obtain an understanding of the agency’s business needs. This approach ensures that all necessary controls and success criteria are understood by all the members of the Implementation Team. Once the contract is signed, a hand-off meeting is held with the sales representative, project manager, and the agency. This meeting is designed to introduce all project stakeholders. During this meeting, communication, risk mitigation, and change management plans will be presented, discussed, and approved. These plans will play a crucial part in the success of the implementation. The Initiation phase includes the following key activities:

- **Integration Requirements Review:** The project manager will begin meeting with the agency and BidSync technical resources to evaluate any integration requirements the project will require. This includes what systems will be involved, what data will flow to what system, and how often it will occur. The team will also evaluate the technologies that will be used to implement the integrations.
- **Data Templates Review:** These templates are used to format and import the required data into the system. These templates include users, delivery locations, tabulation settings, vendors, workflows, and approvals. The agency can be provided with the template prior to closing the contract. This will allow the agency to gain a better understanding of the data required.
- **Agency Processes and Procedure Review:** The project manager, training lead, and the agency will discuss the high level overview of the agency’s processes and procedures. This will help shape the implementation and training needs. BidSync will then use this information to formulate the project and training plans.
- **Business Process Review:** During this meeting, the project manager and the agency will review business work process, flow requirements, templates, and associated data. Any questions will be resolved and any completed templates will be returned to the BidSync team for import into the product.
- **Reporting Requirement Review:** In this meeting, the project manager and the agency will review the agency’s needs in the reporting framework to ensure all ad hoc reports are taken into account. If special accommodations will be required, proper planning will ensure these are taken into account.
- **Data Flow Diagram:** Develop a high-level application flow by gathering answers from these important questions: What data is flowing to what systems and how and why is it going there? Who needs access to



this data and how and why do they need it? This diagram will then be used to track the agency's data as it flows throughout the system.

- **Organize and Define Implementation Team Roles and Responsibilities:** During the kick-off meeting, roles will be defined so all involved are aware of their responsibilities.
- **Review Test Plan Strategy:** In order to ensure a successful deployment of the procurement solution, a testing phase is required which is designed to test each component and integration point. The test plans and user scenarios will help to ensure that each user case is successful within the solution.
- **Education Requirements and Plan:** Comprehensive training of the user base is crucial to the adoption and ultimate success of the BidSync solution. To this end, it is essential that BidSync ensures each member of the user base is provided with the resources to learn the solution and processes to make them successful. The BidSync trainers have years of experience engaging users and assessing their feedback for understanding and acceptance of the processes and solution.
- **Project Management Plan:** This overall plan is what sets the tone for the implementation as a whole. This plan takes into account BidSync's experience in successfully implementing hundreds of agencies. It is designed to ensure a successful implementation and transition to the BidSync solution.
- **Review and Approve Issue Management Plan:** We recognize that each implementation has its unique needs and challenges. When these occur, it is BidSync's commitment to ensure these issues are overcome to a successful implementation. To this end, we have an issue management plan to ensure everyone is informed of the status of every item as it progresses to each step along the way. This starts from identification and continues through escalation, resolution, and finally acceptance.
- **Risk Management Plan:** Every activity has risk. The key is not to be surprised by the risk and to plan accordingly. Through BidSync's experience, we can identify and mitigate much of the risk. This will help ensure a successful implementation and transition to the BidSync solution. We will identify, evaluate, and mitigate risks throughout the implementation and life cycle of every BidSync project. If and when risks occur, BidSync will be prepared to act quickly to resolve any problems.
- **Review and Approve Change Management Plan:** The change management plan identifies who should be involved in discussing, deciding, approving, and finally accepting the change. This may be different individuals depending on the scope and impact of the change. The project manager will perform an impact analysis with the core team to determine who and what needs to be done.
- **Review and Approve Acceptance Criteria:** All project stakeholders are required to review and agree upon the acceptance criteria. This criteria will be measurable goals and objectives that when reached will allow the agency to begin measuring the return on their investment.
- **Welcome Letter:** A welcome letter is sent out to the agency to introduce project stakeholders to their Implementation Team. The welcome letter also contains estimated start dates for planning, registration instructions, and process diagrams.

## Planning Phase

One of the most critical factors in any systems implementation is to develop a concrete set of organizational technical and functional requirements.

The focus of the Planning phase is to lay the foundation to transition from the current processes and supporting technology to the newly acquired cloud-based solution and its supporting processes.

The Planning phase includes the following key activities:

- **Review Project Plan:** This allows us to manage expectations and plans.
- **Maintain issue log and resolve issues as necessary:** As items arise they will be communicated, prioritized, and resolved with the input and approval of the stakeholders.
- **Maintain a risk log and mitigate risks as they are identified and/or occur:** As risks are identified or occur, they will be prioritized, mitigated, and resolved in accordance with the established and approved risk management plan.
- **Utilize Change Management processes for all scope changes identified:** As changes are identified, they will be communicated, analyzed, prioritized, and approved. Once they are approved, a baseline will be established and the project plan will be updated to reflect the approved changes. The baseline allows the team to see the state of the project before it was altered.

- Maintain and execute the communication management plan in holding all agreed upon meetings and updates: This will ensure that every team member is informed of the project and is able to collaborate effectively throughout the life cycle of the project.
- Conduct the following training courses for the core team:
  - ✓ Administrator: This course is designed to give administrators the tools and knowledge necessary to administer the BidSync solution. This includes maintaining users, workflows, accounts, budgets, forms, and any other activities an admin will be performing on a regular basis.
  - ✓ End User: This course is designed to meet the needs of the end user and the tasks they are expected to perform within the solution. This includes purchasing items from approved vendors and contracts, custom requisitions, and approving purchases made by others.
- Assist the agency in the development of application test plan based on finalized business requirements: BidSync will lead the agency through creating best practice test cases to ensure the solution meets the agency's needs and expectations.
- Develop the functional design and review required interface solutions: This design and review process supports the goals and objectives of the BidSync implementation based on the noted requirements.

The Execute phase is the process used to complete the work defined in the project plan. This involves coordinating people and resources to complete the activities to develop the application requirements and design established in the Planning phase. Some pilot testing may occur to test a series of units of work from its input to output for test validation. Agencies will need to test for all interface tasks; the specifics will be documented within the detailed project plan.

The Execute phase includes the following key activities:

- Develop processes in BidSync according to approved design document: Once the design and conceptual model of the system has been approved, BidSync will configure and test the system.
- Import requirements template from the discovery phase: Each of the templates is designed to allow the BidSync team to import them into the system. This is done through a series of import tools that allow this process to be expedited.
- Maintain and execute the communication management plan in holding all agreed upon meetings and updates: This will ensure that every team member is informed of the project and is able to collaborate effectively throughout the life cycle of the project.
- Configure the BidSync solution: In accordance with the scope defined within the project plan and/or services agreement and according to design document, the solution will be configured.
- Execute user acceptance testing and evaluate metrics: This allows the project team to quickly identify problems and resolve them. Once the configuration is complete, a final round of tests will be performed to ensure a quality product. Once the system has passed, it will be formally approved by the agency.

The Deploy phase supports team members through the formal conversion to production. Final testing is performed to ensure the defined business processes, interface programs, application documentation, and procedures conform to organizational standards and policies.

The Deploy phase includes the following key activities:

- Transition to production: Within this task, the project team will transition from a test environment to a production one. This will include removing or archiving test data and moving the instances from the test environment to the training and production environments.
- Conduct team member training: All team members will attend role specific training. This will present training material that is specific and relevant to the tasks each team member will perform within the system.
- Assist with historical data migration (if required): The agency's historical data will be mapped and imported into the system. This will allow the reports to pull relevant information for comparison and historical context.
- Execute cutover plan from old systems: Specifies what systems will be transitioned in what order. This is key to ensure a smooth transition from one system to another.

- Publish support dashboard: This is the main support portal from the user community that will be supported throughout the deployment and maintenance of the product.
- Perform usability evaluation: This is to ensure the system is being well received and used.
- Establish ongoing BidSync change committee within the core team: As the needs of the agency change and evolve, the system will need to adapt to it. This is the purpose of the change committee. They evaluate each needed change and evaluate the impact of it. This will ensure the smooth implementation of any of these changes.
- Conduct a transition meeting to customer support: This meeting will introduce and transition the agency support representative. The support team will continue to support the agency and proactively contact them at regular intervals.

The Maintain phase is designed to support agencies through the transition from Implementation to Support. The agency's support rep will now be responsible for the day-to-day interactions.

The Maintain phase includes the following key activities:

- Upkeep of account information: The BidSync agency support representative will help the agency to maintain an accurate environment. This is done by the updating of standard documents, users, permissions, and products.
- Refresher courses: The BidSync agency support representative will help in conducting online refresher courses or training needed to efficiently and effectively use the BidSync solution.
- Communication of new products: The agency account admin will be notified when new products or functionality are scheduled to be released within the BidSync environment.
- Maintain risk logs and mitigate risks as they are identified: As risks are identified, they will be prioritized, mitigated, and resolved with the BidSync agency support representative.
- Transition to Customer Representative and Customer Support: This meeting is to ensure that the agency is successfully transitioned to the agency support representative.

## **V. Security and Privacy**

The Software Services utilizes the latest, cutting edge security and privacy tools including SSL 256-bit encryption, server certificates with Global ID provided by a premier national provider, the highest level of encryption dictated by Federal guidelines – the AES algorithm and SAS 70 Type II certification. Our data is stored in mirrored, redundant, highly secured facilities. BidSync's privacy policy is available at [www.bidsync.com/privacy](http://www.bidsync.com/privacy).

## **VI. Upgrades and Enhancements**

BidSync will provide upgrades and enhancements to the Software Services, as defined herein. BidSync may, at its sole discretion, charge the customer a reasonable fee for "upgrades" and "custom enhancements".

For purposes of this Agreement, the terms "upgrades" and "custom enhancements" shall include without limitation any and all releases that have the following functions and purposes: (i) implementing correction of Software Services (or component application) errors or malfunctions; (ii) adding new Software Services features, functions and performance capabilities, including modifications designed to meet federal, state and legally mandated requirements; and (iii) changing the intellectual property contained in the programs.

## **VII. Additional Services**

BidSync shall perform any additional services set forth in the Order (the "**Additional Services**") according to BidSync's then current hourly rates. Additional Services shall be described in the Order and may include, without limitation, custom development services, consulting services, and other services. Upon BidSync's receipt of a written request from the customer for any Additional Services, and acceptance of such request by BidSync, BidSync shall provide a written quotation, at no cost to the customer, of the type of Additional Service requested, the cost of the Additional Services, and the time required to complete the same. Upon receiving the customer's written approval

to proceed with the Additional Services, BidSync shall perform the Additional Services at a time mutually agreed upon by BidSync and the customer.

### **VIII. Communication System Only Disclaimer**

Although the Software Services are sometimes called an online auction system, it does not perform the function of a traditional auctioneer. The customer acknowledges that BidSync's website merely provides the communication system and means to allow the customer to perform the solicitation and procurement services described in this Agreement. BidSync is not involved in the actual transaction between vendors and buyers. As a result, BidSync does not verify or have any control over the quality, safety or legality of the items sought or offered, the identity of each vendor, the truth or accuracy of bid information submitted by vendors, quotations, or statements made, or the ability of vendor to sell or deliver products or services. BidSync advises the customer to use caution, common sense, and practice safe trading when using the Software Services. BidSync does not ensure that a vendor will actually complete a transaction.



September 29, 2015

City of Pembroke Pines Florida  
10100 Pines Boulevard  
Pembroke Pines, FL 33027

RE: Vendor Relationship

To whom it may concern,

My name is Jason Sanchez. I am the Controller with Periscope Intermediate Corp. It was requested that I submit a letter and updated vendor forms to facilitate invoicing under our current structure.

In December of 2014, BidSync, LLC was purchased and merged to become a sub-entity of Periscope Intermediate Corp. BidSync has remained intact, and continues to operate, although much of the processing will continue to be converted under the parent organization.

I have also included an updated W-9 and Vendor Information Form for your records. Should you need any further information, please don't hesitate to contact me at (512) 717-6149 or [jsanchez@periscopeholdings.com](mailto:jsanchez@periscopeholdings.com).

Sincerest Regards,

A handwritten signature in blue ink, appearing to read "Jason Sanchez", is written over a light blue horizontal line.

Jason Sanchez

## Request for Taxpayer Identification Number and Certification

Give Form to the  
requester. Do not  
send to the IRS.

Print or type  
See Specific Instructions on page 2.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. <b>Periscope Intermediate Corp</b>		
2 Business name/disregarded entity name, if different from above <b>Periscope Holdings, Inc.</b>		
3 Check appropriate box for federal tax classification; check only one of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶ _____ <input checked="" type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ (Applies to accounts maintained outside the U.S.)	
5 Address (number, street, and apt. or suite no.) <b>211 East 7th Street, Suite 1100</b>		Requester's name and address (optional)
6 City, state, and ZIP code <b>Austin TX 78701</b>		
7 List account number(s) here (optional)		

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number										
			-				-			
or										
Employer identification number										
4	7	-	2	2	1	8	1	3	0	

### Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign  
Here

Signature of  
U.S. person ▶

*Patricia Krutz*

Date ▶

*8/1/2015*

### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/fw9](http://www.irs.gov/fw9).

### Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

(OFFICE USE ONLY) Vendor number: 

Please entirely complete this vendor information form along with the IRS Form W-9, and email to [accounts payable@ppines.com](mailto:accounts payable@ppines.com)

## Vendor Information Form

Operating Name (Payee)	Periscope Intermediate Corp		
Legal Name (as filed with IRS)			
Remit-to Address (For Payments)	211 E. 7th Street		
	Suite 1100		
	Austin, TX 78701		
Remit-to Contact Name:	Accounts Receivable	Title:	
Email Address:	accounting@periscopeholdings.com		
Phone #:	(801) 765-9245 Ext 545	Fax #	
Order-from Address (For purchase orders)			
Order-from Contact Name:		Title:	
Email Address:			
Phone #:		Fax #	
Return-to Address (For product returns)			
Return-to Contact Name		Title:	
Email Address:			
Phone #:		Fax #	
Payment Terms:			

Type of Business (please check one and provide Federal Tax identification or social security Number)

- ☒ Corporation  
☐ Sole Proprietorship/Individual  
☐ Partnership  
☐ Health Care Service Provider  
☐ LLC – C (C corporation) – S (S corporation) – P (partnership)  
☐ Other (Specify):

Federal ID Number:

47-2218130

Social Security No.:

Name of Applicant / Signature

Title of Applicant

Controller

Date

9/28/15





# City of Pembroke Pines, FL

## Agenda Request Form

10100 Pines Blvd.  
Pembroke Pines, Florida  
33026  
www.ppines.com

**Agenda Number: 9.**

**File Number:** 15-0144

**File Type:** Agreements/Contracts

**Status:** Passed

**Version:** 0

**Reference:**

**Controlling Body:** City Commission

**Requester:**

**Initial Cost:** \$ 14,600.00

**Introduced:** 05/14/2015

**File Name:** First Amendment to the BidSync E-Procure &  
E-Contract Agreement

**Final Action:** 06/17/2015

**Title:** MOTION TO APPROVE THE FIRST AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF PEMBROKE PINES AND RFP DEPOT LLC D/B/A BIDSYNCR FOR THE BIDSYNCR E-PROCURE AND E-CONTRACT SYSTEMS FOR A FIVE YEAR PERIOD AT AN ANNUAL COST OF \$14,600.

**Notes:**

**Attachments:** 1. First Amendment  
2. Original Agreement

**Agenda Date:** 06/17/2015

**Agenda Number:** 9.

**Enactment Date:**

**Enactment Number:**

### History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
0	City Commission	06/17/2015	approve				Pass
			Aye: 5	Mayor Ortis, Vice Mayor Siple, Commissioner Castillo, Commissioner Schwartz and Commissioner Shechter			
			Nay: 0				

### SUMMARY EXPLANATION AND BACKGROUND:

1. In 2011, the Procurement Division implemented an online e-procurement module to assist with the distribution of solicitations to vendors. The software that we utilized was a program that was created in-house by another City, however the program crashed after approximately six months.

2. The Technology Services Department could not salvage the program and recommended that we use an off-the-shelf e-procurement system.

3. The Procurement Division consulted other cities on the different programs being utilized and conducted online demonstrations with the four different companies listed below:

Vendor	First Year Cost
a) RFP Depot d/b/a BidSync.	\$19,660
b) Ion Wave Technologies, Inc.	\$12,500
c) Onvia (DemandStar)	N/A
d) Periscope Holdings, Inc. (BuySpeed)	No Bid

4. Below are the results of the testing and quotes received from the various vendors:

- a) The BidSync system was very favorable and met the needs of the Procurement Division. It also included a \$5,000 credit for the initial year of service along with a credit for training and implementation.
- b) Ion Wave Technologies had very basic features that the Procurement Division did not feel was comparable to the BidSync system and the efficiencies that the BidSync system would create for the division's day to day work.
- c) Onvia's provided a pricing structure that required the vendors to pay for the service.
- d) Periscope Holdings, Inc. declined to provide a quote for their Sourcing module of their BuySpeed system as they preferred to implement their entire system that would include Vendor Management, Requisition & Purchase Order, Invoice & Receipt, and Inventory modules.

5. On December 20, 2012, the City Manager approved the Purchasing Manager's request to use BidSync's e-procurement and contract document management systems.

6. The initial agreement with BidSync was for an initial one year period at a price of \$19,660 with two annual renewals of \$24,660.

7. The existing agreement is currently set to expire on December 19, 2015.

8. The Procurement Department has negotiated the first amendment with BidSync for an initial five year term commencing on December 20, 2015 and terminating on December 19, 2020 at an annual cost of \$14,600. This represents an annual savings of \$10,060 per year or \$50,300 over the entire five year period, while still retaining the same level of service that the City has received from BidSync.

9. Recommend Commission to approve the First Amendment to the Agreement between the City of Pembroke Pines and RFP Depot LLC d/b/a BidSync for the BidSync e-Procure and e-Contract Systems for a five year period at an annual cost of \$14,600.

[Item has been reviewed by the Commission Auditor and approved for the Agenda.](#)

**FINANCIAL IMPACT DETAIL:**

- a) **Initial Cost:** \$14,600 for the first year of service.
- b) **Amount budgeted for this item in Account No:** \$14,600 is budgeted in account # 1-519-6005-52652 - Software < than \$1000 &/or licenses.
- c) **Source of funding for difference, if not fully budgeted:** Not Applicable.
- d) **5 year projection of the operational cost of the project:**

	2015-2016 FY	2016-2017 FY	2017-2018 FY	2018-2019 FY	2019-2020 FY
Revenues	N/A	N/A	N/A	N/A	N/A
Expenditures	\$14,600	\$14,600	\$14,600	\$14,600	\$14,600
Net Cost	\$14,600	\$14,600	\$14,600	\$14,600	\$14,600

**e) Detail of additional staff requirements:** Not Applicable.