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Master Agreement
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Section 10
General Information

10.000 Purpose

The Master Plan for Education Technology for the Commonwealth of Kentucky was originally adopted by the State Board for Elementary and Secondary Education in May 1992 and is updated every two years. This plan for technology is consistent with the underlying tenets of the Kentucky Education Reform Act. The Master Plan addresses the need to ensure equitable access to education technology by establishing a state standard for the level and type of technology within each school. This means equity in price and support response rates for a school no matter how wealthy/poor, big/small or its location (rural/urban). The price given for hardware, software or services to a large/wealthy school shall be the same as the small/poor one. This means once you quote a price for a KETS hardware component to a single school district that is below the current KETS price, the price will then change statewide.

As a result of the objectives outlined in the KDE Master Plan for Education Technology (on the KDE Web site at www.kde.state.kv.us), an Architectural Standards Working Group was formed to establish architectural standards and technical specifications for the technology components of KETS. The Architectural Standards Committee approves or disapproves all equipment standards for file servers, workstations, portable workstations, printers, LAN/WAN data communications equipment and services provided on KETS. This group shall meet periodically during the contract period to determine if the specifications need to be revised or updated for these contracts. The Architectural Standards Committee requires any technology changes shall be available within 30 days of notification, which meet or exceed all new specifications established by the Architectural Standards Committee.

Districts shall purchase with EDTECH funds from the KETS Master Agreements for the specific model numbers that meet the specifications and have been approved by KDE. EDTECH funds are the combination of the funds sent to school districts each year and matched with 100% local funds. The KETS contracts are much different than a regular contract that vendors may have in place. Vendors must be able to effectively handle this magnitude of sales, meet delivery deadlines with quality Enterprise (not Consumer) hardware and support equitably across every county in our state while meeting the performance standards from the first day of award. We want hardware that has consistency in parts and has undergone testing of internal components to the Enterprise level versus the consumer level. We are not interested in a vendor that primarily can sell the product but cannot provide good contract management or on-site support across every county in our state from the first day of contract until the last. Typically it is much easier to provide on-site support to urban areas. The vendor shall be able to provide on-site support to **every school** in **every rural county** with the same timelines and costs as the urban areas. We want vendors that are aggressively in touch with

Kentucky, the KETS Project and our primary customers (students, teachers and the staff that support them).

10.200 KETS Contract Awards

Eligible Vendor: Must be a Nortel Networks Partner Advantage member**.**
A Nortel Networks Premium Partner is a member of the program for Nortel Networks resellers that have annual commitments of over $1 million annually in Nortel sales and have also made firm commitments to Nortel with regard to quality and service levels.

Vendors shall maintain their status as a Nortel Partner Advantage member for the life of the contract. Any contract awarded will be cancelled if the contract holder loses their Nortel Partner Advantage status.

All vendor solutions for procurement shall comply with the Enterprise Architecture and Standards set forth by the Commonwealth. The Enterprise Architecture and Standards are located at http://gotsource.ky.gov/dscgi/ds.py/View/Collection-183.

We want a Nortel Networks Partner Advantage member that:

1) has good financial health and will be around for the next 5 years,
2) can supply the magnitude of products and on-site maintenance to rural and urban customers for the next five years,
3) is in touch with the Kentucky customer and the KETS Project, and
4) has a thorough understanding of the manufacturer's products and is able to use that knowledge to help the KETS customer make well-informed purchasing decisions.

Section 20
General Specifications

20.000 Minimum Requirements

The following shall be considered minimum requirements regarding your company's ability to comply with the requirements of the contract:

Nortel Hardware Requirements

- A completed Vendor Reliability Form

- A minimum one (1) year warranty on all hardware products at no additional cost to the Commonwealth. The warranty shall not commence until the delivery of the hardware to the requesting agency. The Vendor shall maintain a call tracking system for warranty support.

- A written statement verifying your ability and commitment to provide delivery within 30 days.

- Written documentation ensuring all components, parts, including chips, are available to any third party service provider or self-maintainers that hold certifications from the manufacturer in fault determination, installation and maintenance for that specific piece of equipment.

- Copies of manufacturers certification for all service technicians expected to perform statewide service warranties within 30 days of notification. An experienced and properly certified Partner Advantage technician shall conduct hardware product installation and implementation support.

Nortel Software License Requirements

- Vendor must educate agencies on an ongoing basis on how to keep their Nortel software current and to maximize their application serving computing investments. Training can be conducted through teleconferencing, which shall include discussion of Nortel product procurement strategies and a question and answer session.

- The Vendor shall provide a minimum ninety (90) day warranty on all software products at no additional cost to the Commonwealth. The warranty shall not commence until the delivery of the software to the requesting agency.

- The Vendor shall provide enhancements (new versions or patches) to Nortel supporting software within two (2) weeks of the manufacturer's release dates.

Nortel Support Services Requirements

- Vendor shall provide for procurement of Nortel Networks Support Services

- Vendor shall provide the ability to procure implementation support services statewide. Services will include installations and related field services for Nortel products.

20.010 General Procedures For Ordering From The Contracts

Districts must fill out the KETS Master Agreement order forms for the equipment they want to purchase. They must describe the cost of each unit (A), total number of each unit (B), and total cost (A*B). They must also have their financial and technology coordinators sign this form. The District then sends the KETS purchase order form to the vendor. The vendor shall ask for both forms before completing any order.

Negotiation of Price. Districts can and are encouraged to negotiate a better price with KETS vendors for only the specific manufacturer's Enterprise models listed on the KETS Master Agreement. However, once a lower price has been negotiated with one district, it becomes the new statewide price for that model for the duration that particular model is on the KETS contract. Typically, vendors have special offers to quickly get rid of inventory that didn't sell well as anticipated or is outdated. If a vendor offers a special price for any time period (e.g. Offer ends 12 August), that price for that model for all districts does not end on 12 August. It is now the new price for the duration that the model is on contract. Example: If a large district like Jefferson County negotiates a lower price for a specific model from a vendor, it now becomes the new price for every district statewide for that model from that vendor. This works similar to upgrading models within any one level. The Commonwealth shall make other districts aware of any new or special price offerings as they change during this competitive process.

Vendors shall maintain their own Web site accessible to all districts where they can easily/quickly view latest model numbers and prices offered on the KETS contract. This information must be easily accessible and easily recognized as "KETS Master Agreement" pricing. Districts should not have to spend an extraneous amount of time on the vendor's website searching for this information.

In addition, when new products are introduced, the DMPS and OET will have final approval on whether the new model of hardware will be allowed to become part of the KETS contract. The manufacturer and vendor are to actively work with OET on product roadmaps and introduction of models to allow for a well-informed decision to be made in cases such as this.

Once KDE approves the upgrade component at the OET, OET shall then inform DMPS that they recommend approval. DMPS shall then process a Modification and KDE shall

then update the KETS contract order form and send this to the districts. The KETS contract order form is the districts key indicator that the vendor has gone through all the acceptable procedures to upgrade their line.

Price adjustments. These submissions will occur on or about the 1st of the calendar month. Once DMPS accepts the vendor's models, the vendor cannot increase the price for that model on the contract. The price can only be lowered. For example: If the vendor adds Model A to their contract and lists the price for Model A as $1,950, that model can never be priced higher than that amount. During the life of Model A on the vendor's contract, the price for that model can only be lowered and cannot be raised. If a vendor attempts to fluctuate the price of a particular model by lowering the price toward the end of the calendar month and then raising the price on their next monthly submission, the DMPS and OET will consider the vendor in violation of their contract and the vendor may have their contract suspended and or terminated.

If the vendor is throwing in free items (freebies), the vendor shall notify DMPS and KDE so we can ensure all other districts get the same freebies. The vendor cannot offer freebies for a certain time only or to only a certain district or school. Once freebies are offered, they become a statewide standard for anyone purchasing that model from the KETS contract until that model is no longer available.

Vendor Responsibilities. The vendor shall name a person that will be the single point of contact (SPOC) for contract issues. The vendor shall insure that this person and all salespersons of their product will be knowledgeable in:

1) All the details of the KETS contract.
2) The Kentucky school, district office and KDE customer base.
3) The most current KETS Master Plan on our Web site and year round current events in KETS. Many times the field staff, corporate main office or Sales Agent has no idea what technical and non-technical requirements were in the original contract.

The SPOC must be aggressive each day in sharing information or presenting a point of view with the selling staff and the manufacturer of the KETS hardware. To "stay in touch" with the Kentucky customer and the requirements of this contract, this SPOC will be required to be present at least once a week at OET in Frankfort or anywhere else in Kentucky where their services are needed by our customers. Besides keeping each other informed this face-to-face interaction minimizes the probability of small issues becoming big ones in a short period of time. It is reassuring to see the vendor's representative on a weekly basis. Instead of this being just another contract to your company, we must feel that you are making a commitment to be a contributing and well-informed member of our KETS Project team. If any issues with the contract are at hand for a particular vendor, it is nice to be able to inform this person face-to-face of the problem and know that results are coming soon since they know we will see them again face-to-face the next week.

In a nutshell, having a "local" one-stop shop for all needs fills that void of dealing with large companies whom typically have large corporate offices out of state and cannot provide the personal touch for contract management that is needed with a contract of this size. Having an office in Kentucky also demonstrates partnership with multiple manufacturers and commitment to resources and the needs of Education in Kentucky. We shall have a complaint desk at OET and on our Web site so our customers can quickly document vendors that are failing to meet the requirements of the contract. Vendor's contracts can be suspended or terminated based upon these complaints.

New hardware submitted shall undergo extreme compliance compatibility and interoperability testing against the KETS standards. As new models are introduced, the OET will request a sampling of current models to be present on KDE's premises at all times for the duration of the contract for ongoing testing at no charge.

Delivery of Evaluation Units: The vendor shall deliver all evaluation units to the OET facility loading dock off Mero Street, located on the East side of the OET facility. The vendor shall be fully responsible for delivering all evaluation models and new technology upgrades for the duration of this term contract at the address provided below:

Office of Education Technology (OET)
15 Fountain Place
Frankfort, KY 40601

Labels: The vendor shall provide an external label (3`` X 5`` in size) on all evaluation equipment. The label shall be semi-permanently fixed to the main processor unit on the largest painted side of each unit. Each label shall be typed with a minimum of 1/4`` high lettering and contain the following information:

- Vendor Name
- Vendor Phone Number
- Service Phone Number
- Hardware Specifications
- Unit Serial Number
- Model Number/Name

The OET cannot be held responsible for any damage or loss to vendor supplied equipment since the Commonwealth's insurance does not cover non-Commonwealth owned equipment. All equipment that is provided is located at either 15 Fountain Place or on the 14th floor of the Capitol Plaza Tower. Even though we have strict sign-in/out procedures, door sensors, motion detectors and video cameras on the demonstration equipment, the vendor is financially responsible for any accidental damage or incident beyond our control to evaluation units while they are here (e.g. theft, natural disaster,

accidental dropping by a school district inspecting the workstation prior to purchase). Our state government insurance does not cover these types of items. In five years we have only had one (1) workstation out of hundreds that sustained damage (it was dropped), and two (2) losses due to theft, which was recorded by security cameras and turned over to the vendor for prosecution.

20.020 Deliverables

All deliveries of equipment must include:

- Power Cabling;
- Software;
- Initial supplies;
- Technical equipment manuals;
- Operator Manuals;
- Optional Installation: If installation has been purchased, installation and setup of equipment shall include unpacking equipment from box(s), mechanical and electrical installation of all components to main unit. Connection of all power and signal cables, and removal of boxes from customer site.

20.030 Service Warranty

Vendor shall include with all purchases hardware maintenance for the first year at no additional charge to begin at the time of delivery. This is to cover all hardware components purchased from the Master Agreement. After the one-year period, if hardware maintenance is desired, it will be the responsibility of the district to procure from either this contract or other approved sources.

The manufacturer shall provide limited warranty maintenance for items purchased through this contract. Limited warranty maintenance does not extend to the product that has been damaged or rendered defective due to:

a) A result of accident, misuse, or abuse
b) A result of an act of God.
c) Operation outside the usage parameters stated in the products user manual
d) Modification of the product
e) A result of service by anyone other than (manufacturer), a (manufacturer) authorized reseller, or a (manufacturer) authorized service provider. Expendable parts, such as non-rechargeable batteries, carrying cases, etc. are not covered. Damage due to loss of any programs, data or removable storage media is not covered.

ON-SITE WARRANTY: Vendor shall be required to include 1 year of hardware maintenance in the initial purchase cost. After the initial 1-year period, if hardware

maintenance is desired, it will be the responsibility of the district to procure from either this contract or other approved sources.

Warranty shall meet the following criteria:

- Must have a Toll Free phone number for all calls (no busy signals, answered by the third ring, hold time no longer than 2 minutes, and a call tracking system);
- All labor including installation of parts, connection of all power and signal cables, reinstallation of software and all involved with making the hardware fully functional and network ready;
- 5 business days per week, Monday through Friday.
- Call back within 1 hour of placing call; If the phone line remains busy after 3 tries you must: E-mail the customer if at all possible (KDE and district offices all have this ability and 60% of the schools have this ability). If the school doesn't have e-mail and their phone line remains busy after three separate tries (each attempt must be at least 5 minutes apart) then you must either fax them, e-mail the district office or telephonically inform the DTC or technical staff at the district office;
- All technicians shall be properly certified Partner Advantage technician;
- Hardware fully operational within 24 clock hours. Vendor is not responsible for disaster recovery (e.g., reloading application software, reloading network operating software (NOS), re-configuration of network and IP addresses, and reloading data).
- The cost is the same throughout the state.;
- Replacement parts shall be new or reconditioned, and of equal or better quality than original parts;
- There shall be no charge for any shipping and handling of parts

MAINTENANCE EXPECTATIONS: There shall be a complaint desk at KDE and on our web site so our customers can quickly document vendors that are failing to meet the service requirements of the contract. Quarterly reports will be generated which will assist us in identifying vendors whom have not successfully met service response times. The vendor shall meet service specifications in Section 20.030 for a minimum of 95% of total annual service calls. The vendor is allowed this 5% failure rate based on total service calls they receive annually due to vehicle break down, parts that get lost, addresses being difficult to find, etc. Vendor's contracts can be suspended or terminated based upon failing at more than 5% of service calls or by customer complaints and/or the results of these reports.

The contract holder shall be held solely accountable for all services conducted under the terms and conditions specified in this warranty.

Service calls taken by any technical support center(s) shall be quickly turned over to second and third levels of support for quick resolution rather than attempts to resolve issues at that point. All support personnel shall be certified by the manufacturer of equipment (for example, if this vendor supplies Vendor X equipment, support staff shall hold a manufacturer's certification and be certified by Vendor X to perform service on Vendor X equipment).

The vendor shall maintain accurate records indicating a minimum of the following:

- Number of service calls by District made in complete compliance to specifications outlined in this Section 20.030.
- Number of service calls not resulting in complete equipment functionality within 24 hours of initial service call.
- Detailed data regarding customers name, address, phone number, date of service, date service is complete, and reasons this service call was not complete within 24 hours shall be required.

The vendor shall prepare and present this information upon request to the Commonwealth as specified in Section 40.130.

90-DAY SERVICE EVALUATION: The Commonwealth shall evaluate on-site warranty service by conducting multiple response time and quality assurance tests during the initial 90-day period of the contracts. This initial period will be a probationary contract with continuance dependent upon successful completion of the warranty service evaluation.

The vendor shall respond to various on-site service requests in any or all eight (8) regions throughout the entire state of Kentucky within eight (8) working hours for all service requests. The technician must be a properly certified Partner Advantage technician certified by the manufacturer to provide service on equipment requesting service. If more than one (1) technician is responding to an on-site service request at least one (1) technician shall be certified by the manufacturer. Evaluation can occur on any day, Monday through Friday, at any time between 7:00am and 6:00pm Eastern Time, during the initial 90-day probationary period. Evaluation will also include testing call backs from service center, e-mail response times, time of delivery for parts, replacement and fix times, and skill level of your on-site and telephonic support staff.

If the vendor fails the support evaluation at any time during this initial 90-day probationary period, they may be terminated from the KETS approved vendor list.

20.040 Hardware Installation Option

Purchaser may choose installation at time of purchase. The Commonwealth requires

the vendor to price installation charges separately from unit price. When installation is purchased, the vendor shall be responsible for unpacking, uncrating, mechanically and electronically installing all hardware and associated hardware options connected with the order. The vendor shall make connection of all power and signal cabling and in all other respects making the equipment ready for operational use.

The Commonwealth and/or purchaser, at its own expense, shall prepare the site prior to the scheduled delivery date.

The vendor is not responsible for disaster recovery (e.g., application software, reloading data).

20.050 Equipment Manuals

All instruction, maintenance, and technical equipment manuals produced by the manufacturer describing the characteristics and/or operation of the equipment shall be identified and incorporated as part of the contract.

All manuals shall be furnished in paper or electronic media versions, or both, for all equipment purchased.

20.060 New Technology Availability

If the Contractor updates the technology on which the KETS product line award is based, the Commonwealth shall be entitled to the updated technology at OET.

20.070 Distribution of Literature

Upon request, the contractor shall furnish descriptive literature, technical data, catalog of peripherals, and service information for items awarded.

20.080 Universal Service Funds

Vendor, manufacturer or contractor recognizes that all Kentucky schools and the Kentucky Department of Education are participating in the Universal Service Fund Program (E-Rate) and guarantees that any approved discounts for any product or service procured as a result of this contract, be honored throughout the whole life of this contract award including any and all extensions. In addition, contract holder will designate an internal employee who will work with the vendor's Single Point of Contact for this contract to assist school districts and KDE with USF compliance and issues.

Section 40
Terms and Conditions

40.000 Scope of Contract

This Master Agreement is for the purchase, delivery, and warranty of Nortel Network equipment from Nortel Networks Partner Advantage members for the Kentucky Education Technology System.

40.010 Contract Period

This contract will be for the initial period of two (2) years from the date of award**.**

This contract may be extended at the completion of the initial contract period for four (4) additional two-year periods. This extension must have the written approval of the vendor and the Division of Material and Procurement Services. The Commonwealth of Kentucky reserves the right to renegotiate any terms and/or conditions as may be necessary to meet requirements for the extended period. The vendor will be advised of any proposed revisions prior to the renewal periods. In the event proposed revisions cannot be agreed upon, either party shall have the right to withdraw without prejudice from either exercising the option or continuing the contract in an extended period.

40.020 Agencies To Be Served

This contract shall be for use by the Commonwealth of Kentucky for the following:

- **DEPARTMENT OF EDUCATION**
- **LOCAL SCHOOLS AND SCHOOL DISTRICTS**

Delivery of equipment shall be made only as authorized by receipt of an official purchase order as set forth in the contract provisions.

40.030 Basis of Price Quotations

Unless otherwise specified, the prices established by the contract shall be firm for the contract period. However, it does not preclude the buyer from negotiating a more advantageous price.

PRICE ADJUSTMENTS are subject to the following:

Price Decreases: The contract price shall be reduced to reflect any price decreases afforded other clientele. The contract holder is required to furnish the Division of Material and Procurement Services with notice of any price decreases, as soon as such

decreases are available.

Price Increases: No price increase shall be allowed during the term of the contract. The price on the Master Agreement is the maximum allowable to be charged to a buyer except when price increases have been approved. All price increases shall require prior approval from the Division of Material and Procurement Services and KDE. If undue hardship results, the contract holder must request in writing that the contract be terminated thirty (30) days prior to the effective date. The Division of Material and Procurement Services may honor the request and the contract shall be terminated.

Extended Contract Periods: If contract renewal option is exercised, a price adjustment may be granted at that time in line with the industry.

40.050 Warranty of New Equipment

The awarded contractor warrants that all equipment supplied hereunder for the term of this Master Agreement shall be new, in current production, and of identical quality as originally submitted.

The Commonwealth may, at their own discretion, sample the quality of equipment being purchased by the customers at any time during the contract term. If during the sampling process, equipment purchased under this contract is less than the quality originally submitted, their Master Agreement may be terminated.

40.060 Basis of Shipments

All unit prices shall be FOB Destination. The vendor shall be fully responsible for all shipments and freight charges involved in delivery to the ordering entity.

40.070 Quantity Basis of Contract

Any and all quantities are purely estimates, and are not to be implied nor inferred as being guarantees. The State is obligated to buy only that quantity needed by its agencies during the term of the contract. Requirements may exceed the quantities shown and the contractor will be required to furnish all requirements shown on Delivery Orders dated during the life of the contract.

40.080 Reporting Based on Quantity

The contractor is required to furnish the Commonwealth with quarterly reports of how many units are sold per District. Reports must include at a minimum the model name and number, unit cost, date of purchase, PO number and District/School name for all units purchased from the KETS contract.

40.090 Delivery Time

The vendor shall maintain or have available an inventory sufficient to make shipment of the complete purchase order within 30 calendar days from the receipt of the purchase order. Those that don't supply 100% of items ordered within 45 calendar days of receipt of purchase order are subject to shipping penalties, contract suspension or termination. The 45 day clock starts on either (1) the day electronic or paper mail receipt of the district's purchase order by the vendor or (2) the date on the district's registered mail return receipt, whichever is sooner. Delivery time(s) in excess of forty-five (45) calendar days after receipt of order may result in penalties, suspension or termination of contract.

Penalties. Delivery penalties will be applied at a rate of 5% for each 7-day calendar week for those products not delivered within 45 calendar days of receipt of purchase order.

Example: Vendor X has received a purchase order for 10 units each costing $2,000.00. Nine (9) units have been delivered within 45 calendar days but one (1) unit has not. On the 52nd day (7-day week) vendor X will be charged $100.00 (5%) for the unit not delivered. If two (2) units had not shipped, the vendor would be charged $200.00 (5% of $4,000.00). Additionally, if the unit is not delivered by the 58th day, vendor X will be charged another $100.00. Penalties will continue to be charged to the vendor each subsequent week until the unit is delivered to the customer. Penalties shall be deducted from the invoice.

Hardware Configuration. Vendor shall deliver all hardware with the exact configuration as specified by the District/School. However, the Commonwealth realizes the probability for human error to occur. Therefore, we expect a 95% annual accuracy for correct hardware and software configurations. There shall be a complaint desk at KDE and on our Web site so our customers can quickly document vendors that are failing to meet the requirements of the contract. The Commonwealth will generate reports, which identify vendors that have failed to successfully deliver correct configuration of equipment for more than 5% of units shipped annually. Vendor's contracts can be suspended or terminated based upon these complaints and/or poor performance identified from the results of these reports.

40.100 Contract Discounts

Category	Discount / Price
Access Stack Node (ASN) System	49.72%
Advanced Remote Node (ARN) System	43.96%
Passport 2400 Series	49.43%
Passport 5000 Series	49.46%

Baystack Ethernet Switches	48.95%
Contivity 17xx, 27xx, and 46xx Secure IP Services Gateway Portfolio	50.00%
Passport 4000 Series	49.72%
NetID Software Suite	50.00%
WLAN Wireless LAN Portfolio	48.94%
Optivity Network Management Software Suite	49.65%
Contivity 600 Secure IP Services Gateway Portfolio	43.79%
Backbone Node Systems	48.74%
Optivity Switch Manager Software	48.72%
Passport 1000 Series Routing Switches	48.23%
Passport 8000 Series Routing Switches	48.23%
Alteon Portfolio	48.23%
Contivity 1000 Series Secure IP Services Gateway Portfolio	42.31%
Nortel NNSS 5300000 Maintenance Services	26.42%
Nortel Networks Specialist Hourly	15.00%
Nortel Servicelink Offering- per device monthly charge	0.00%
Power Cords, Rack Mount Kits, Router Cables, Flash ROM, Passport 8600 Edge Bundles	33.93%
Nortel Networks Advanced Video Solutions Portfolio	75.00%
Documentation	100.00%
Global Knowledge Training	48.00%
Contivity 100 and 400 Secure IP Services Gateway Portfolio	75.00%
Partner Advantage Implementation Services (Hourly Rate)	$45.00 / hour

40.110 Addition or Deletion of Items

The Division of Material and Procurement Services reserves the right to add to any contract additional or new items. ONLY THE DIVISION OF MATERIAL AND PROCUREMENT SERVICES MAY ISSUE AUTHORIZATION FOR SUCH ADD-ON. The Division of Material and Procurement Services shall determine if any item usage warrants such an addition to a contract.

Should an addition be in agreement with the Division of Material and Procurement Services and the contractor, the Division of Material and Procurement Services shall issue a Modification to the Master Agreement. Until such time as the vendor receives the Modification, the vendor shall not accept any order from any agency for items not on the Master Agreement.

40.120 Items Other Than Contract Items

The vendor may accept orders only for items listed on contract. Any vendor that is found to accept and ship items other than those listed on their contract, against their Master Agreement number, risk cancellation of contract. Such shall not only be grounds for cancellation, but also removal of the vendor from the bid list.

40.130 Post Contract Meetings and Agreements

This contract shall constitute the entire agreement between the state and the vendor. Unless contractually provided, those authorized to use this contract shall not be required to enter into or sign further agreements, company orders or other documents to complete or initiate the terms of a contract. Any such documents so obtained shall be non-binding on the state and be cause for breach of contract.

The vendor shall meet with OET in Frankfort, KY on a quarterly basis. The vendor shall prepare a report on a quarterly basis and deliver it to OET in paper or electronic format. The vendor shall prepare to discuss and present report information as well as any contractual issues, successes, lessons learned, performance measurements, product information, and pricing.

The Commonwealth may periodically request review of invoices of KETS delivered equipment. When requested a KETS vendor shall provide actual purchase invoices from the manufacturer for hardware delivered over a specified period of time sold against their contract. The invoices will be used by the Commonwealth in calculating the percent of price over cost being applied to the schools of Kentucky.

40.140 Cancellation Clause

The Commonwealth may cancel the contract by giving written notice, 30 (thirty) days prior to the effective cancellation date. In the event such action is taken, the contract shall be null and void upon receipt of a Modification from the Division of Material and Procurement Services canceling the contract.

40.160 Orders & Payments

All purchase orders to the contractor shall be mailed to the order addresses stated on the Master Agreement, regardless of any differences stated by the sales representative or stated on the invoice.

40.170 Invoices

Invoices for items ordered, delivered and accepted by state agencies shall be submitted by the vendor directly to the agency receiving delivery, unless otherwise stated on the contract. All invoices shall show the Master Agreement number. Prices charged cannot exceed the contract price. The Commonwealth of Kentucky is only responsible for

payment when the purchaser is a state agency.

40.180 Payment

The vendor shall be paid, upon the submission of proper invoices to the receiving agency at the prices stipulated for the supplies delivered and accepted, or services rendered. Unless otherwise specified, payment will not be made for partial deliveries accepted. Payments will be made within thirty (30) working days after receipt of goods or a vendor's invoice in accordance with KRS 45.453 and KRS 45.454.

Initial invoice period shall commence upon date accepted by the ordering agency. After equipment has been received and invoices submitted to the using agency, it shall be the responsibility of the using agency to make payment. Any questions concerning payment should be addressed to the ship-to agency listed on the agency purchase order. Do not submit invoices, past due statements, etc. to the Division of Material and Procurement Services.

40.190 Assignment

The Contractor shall not assign this Contract in whole or in part to another Contractor at any time during the initial or optional renewal terms of the contract. Any purported assignment shall be null and void.

40.200 Subcontracts

The vendor shall make no contract with any other party for furnishing any of the commodities contracted herein. Should the Division of Material and Procurement Services be provided evidence of the vendor making such an arrangement, the contract shall be immediately cancelled. This provision will not be taken as requiring the approval of contracts of employment between the vendor and personnel assigned for services hereunder.

40.210 Equipment Warranty

The manufacturer's most favorable warranty offered to preferred customers shall apply to all items. A copy of such warranty shall be furnished to the agency upon delivery of the equipment or product.

40.220 EEO Requirements

The Contractor shall comply with the provisions the Equal Employment Opportunity Act of 1978 (KRS 45.550-KRS 45.640) unless exempted under KRS 45.590. The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding $250,000.

During the performance of this contract, the contractor agrees as follows:

- The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin;

- The contractor will take affirmative action in regard to employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, so as to ensure that applicants are employed and that employees during employment are treated without regard to their race, color, religion, sex, age, or national origin; however, when layoffs occur, employees shall be laid off according to seniority with the youngest employee being laid off first. When employees are recalled, this shall be done in the reverse of the way the employees were laid off.

- The contractor will state in all solicitations or advertisements for employees placed by or on behalf of the contractor that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, or national origin;

- The contractor will post notices in conspicuous places, available to employees and applicants for employment, setting forth the provisions of the nondiscrimination clauses required by this section; and

- The contractor will send a notice to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding advising the labor union or workers' representative of the contractor's commitments under the nondiscrimination clauses.

In contracts involving more than $10,000 in federal funding, the Contractor shall comply with the nondiscrimination clause contained in Federal Executive Order 11246, as amended by Federal Executive Order 11375, relative to Equal Employment Opportunity for all persons without regard to race, color, religion, sex, or national origin, and the implementation rules and regulations prescribed by the Secretary of Labor and with Title 41, Code of Federal Regulations, Chapter 60.

40.250 Governing Law

This contract shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky and any litigation with respect to this contact shall be brought in state or federal court in Franklin County, Kentucky.

ALL PROVISIONS OF THE SOLICITATION, S-03213435, SHALL BE PART OF THIS CONTRACT.

Appendix A

Unique Circumstances for Contract Removal

Unique circumstances that would remove one Sales Agent and would allow another Sales Agent to be placed on the KETS Nortel Contract.

1. Sales Agent fails the 90-day probationary period. During the 90-day support evaluation period, the newly awarded vendor shall be added to the KETS approved vendor list at which time they shall commence business with the Commonwealth of Kentucky. If however, the newly awarded vendor fails the service evaluation at anytime within the 90-day period, this vendor gets removed from the KETS approved vendor list at which time their contract is terminated. The Commonwealth may then select the next lowest bidder and begin the 90-day support evaluation and the process is repeated until a vendor passes all phases of testing or no other vendors are available to choose from. The Commonwealth shall not be obligated to pursue further contracts; however, they have the ability at their own discretion to do so.

2. Sales Agent is removed or ceases to be a company that sells the original brand or future approved enterprise model of their bid. If within 12 months of the award date a Sales Agent for some reason is removed from the contract, is no longer a Nortel Networks Partner Advantage member, or ceases to be a company that sells the brand on their original bid, the Commonwealth can go to the next bidder in line. For example, if Sales Agent ABC sold Nortel and for some reason they were removed from the contract within the first 12 months, the next lowest bidder selling Nortel could go through the evaluation process. After this 12-month window, no vendors will be added without rebidding the entire contract

Appendix B

Regional Map of Kentucky:

Region 1: Ballard, Caldwell, Calloway, Carlisle, Christian, Crittenden, Dawson Springs, Fulton County, Fulton Ind, Graves, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, Mayfield Ind, McCracken, Muhlenburg, Murray, Paducah Ind, Providence Ind, Trigg, Union, Webster

Region 2: Allen, Barren, Bowling Green Ind, Breckinridge, Butler, Caverna, Cloverport Ind, Cumberland, Daviess, Edmonson, Elizabethtown Ind, Glasgow, Grayson, Green, Hancock, Hardin, Hart, Larue, Logan, McLean, Meade, Metcalfe, Monroe, Ohio, Owensboro Ind, Russellville Ind, Simpson, Todd, Warren, West Point Ind

Region 3: Jefferson, Anchorage Ind

Region 4: Beechwood, Bellevue, Boone, Bullitt, Campbell, Carroll, Covington, Dayton, Eminence, Erlanger-Elsmere Ind, Ft Thomas Ind, Gallatin, Grant, Henry, Kenton, Ludlow, Newport Ind, Oldham, Owen, Pendleton, Shelby, Silver Grove Ind, Southgate Ind, Spencer, Trimble, Walton-Verona Ind, Williamstown Ind

Region 5: Anderson, Bardstown Ind, Bourbon, Boyle, Burgin, Clark, Danville Ind, Fayette, Frankfort Ind, Franklin, Harrison, Harrodsburg Ind, Jessamine, Marion, Mercer, Montgomery, Nelson, Nicholas, Paris, Powell, Scott, Washington, Woodford

Region 6: Adair, Barbourville, Bell, Berea Ind, Campbellsville Ind, Casey, Clay, Clinton, Corbin Ind, East Bernstadt, Estill, Garrard, Harlan, Harlan Ind, Jackson, Knox, Laurel, Lincoln, Madison, McCreary, Middlesboro Ind, Monticello Ind, Pineville Ind, Pulaski, Rockcastle, Russell, Science Hill Ind, Somerset Ind, Taylor, Wayne, Whitley, Williamsburg Ind

Region 7: Ashland Ind, Augusta Ind, Bath, Boyd, Bracken, Carter, Elliott, Fairview, Fleming, Greenup, Johnson, Lawrence, Lewis, Martin, Mason, Menifee, Morgan, Paintsville Ind, Raceland-Worthington Ind, Robertson, Rowan, Russell

Region 8: Breathitt, Floyd, Hazard, Jackson, Jenkins, Knott, Lee, Leslie, Letcher, Magoffin, Owsley, Perry, Pike, Pikeville Ind, Wolfe