

APPENDIX F TO DIR-TSO-2689

<Customer Full Legal Name>

FIXED PRICE STATEMENT OF WORK

<Project Title>

This Statement of Work ("SOW") is governed by DIR Contract No. DIR-TSO-2689 and made part of the _____ (the "Agreement") between NEC Corporation of America, a Nevada Corporation, having its principal place of business at 6535 North State Highway 161, Irving, TX 75039-2402 ("NEC") and **<Customer Full Legal Name>** having its principal place of business at **<Customer Street Address, City, State and Zip Code>** ("Customer") and is effective as of the date last signed below ("Effective Date").

This SOW defines the Equipment and Services that NEC will deliver to, or perform for Customer (the "Project") in exchange for a fixed price.

Agreed and Accepted:

<Customer Full Legal Name>

NEC Corporation of America

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

INSTRUCTIONS TO SOW AUTHOR(S): Read this entire document carefully and familiarize yourself with its content and terminology before you make changes and additions. Otherwise you risk introducing contradictions and ambiguities that will reduce its effectiveness as a mechanism to avoid and resolve any dispute with the Customer. Make sure that you replace all of the text placeholders highlighted in yellow with the appropriate text. Also, make sure you delete all of the instructions highlighted in green before you save the final version.

Use the standard styles that have been defined to apply formatting to different parts of the document. If you do not know how to use this function of MS Word, get help from someone who does or read the instructions in online help.

1. Project Summary

< Author should provide a summary of the entire Project. This summary should succinctly describe the purpose of the work and end product desired. In the summary, the "big picture" is presented in concise form. This should be written as clearly and concisely as practicable, taking care to ensure that the reader will gain a general but comprehensive understanding of the overall project objectives. Use broad, nontechnical terms. Avoid the use of capitalized terms, except where capitalization is required under the rules of standard English.

If applicable, discuss any difficulties or constraints already known to the Customer, and any techniques or methodologies that have been tried and were found ineffective.

Summarize actions to be performed by NEC and the results or products expected by the Customer.

2. Project Description

Author should provide a more specific description of the Project scope and the Services to be delivered> Delineate the overall boundaries (time frames, special areas of interest, etc.) of the effort. If the work is to be divided into phases, delineate each phase and make clear the relationship between the work to be undertaken in each phase and the specific project objectives. If appropriate, depending on the nature or complexity of the project, first state an overall goal and then spell out specific objectives falling under that goal. Avoid the use of capitalized terms, except where capitalization is required in standard English.

The following headings are provided as examples and a general guideline for the types of information that might be included in this section. This does not necessarily mean that the Project Description must be broken down into paragraphs with these specific headings and subheadings. The important thing is to reflect an orderly progression of ideas based on an underlying structure.

- A. Project Description
- B. Equipment list(s) (if applicable)
- C. Services list(s)
- D. Additional Deliverables (if any)
- E. Site Locations
- F. Responsibilities of the Parties
- G. Project phases (if applicable)
- H. Network diagrams (if applicable)
- I. Progress/Compliance metrics (if applicable)

J. Acceptance/Testing processes and criteria (if applicable)

3. Definitions

Capitalized terms not otherwise defined in this SOW or the Agreement have the following meanings:

- 3.1. **“Deliverables”** means the Equipment and Services plus any other tangible items (e.g., reports, project plans, checklists, etc.) to be provided to Customer as specified in this SOW.
- 3.2. **“Equipment”** means both hardware products and Software sold, licensed, or installed as specified in this SOW.
- 3.3. **“Project Completion”** refers to that point in the Project when NEC has completed the Services and provided the Deliverables to Customer.
- 3.4. **“Services”** means the installation, maintenance, technical, or other related services as specified in this SOW.
- 3.5. **“Software”** means the machine-readable object code software programs - if any - licensed by NEC or its suppliers as specified in this SOW.

4. Project Schedule

NEC will confer with Customer within five (5) business days after the Effective Date of this SOW, to define a Project schedule. The Project schedule will include, but is not limited to, the Project commencement date, any significant Project milestones, and the anticipated Project Completion date.

5. Responsibilities of the Parties

- 5.1. NEC responsibilities:
 - 5.1.1. NEC will assign a project manager (“NEC Project Manager”) to serve as NEC’s primary contact for all aspects of this Project, including: Project scheduling, defining Project requirements, change control, escalation, implementation planning, and Project Completion.
 - 5.1.2. NEC will designate a back-up contact when the NEC Project Manager is not available.
 - 5.1.3. On or after Project Completion, NEC will notify the Customer that the Project is complete by presenting the Project Completion Checklist (Schedule A).

- 5.1.4. NEC will promptly correct Punchlist items properly identified by Customer in accordance with the requirements of Section 5.2.9 below, and upon completion, NEC will resubmit the Project Completion Checklist to Customer.
- 5.1.5. Additional NEC responsibilities may be itemized in the Project Description (Section 2) above.

5.2. Customer Responsibilities

- 5.2.1. Customer will assign an individual to serve as Customer's primary contact ("Primary Contact") for all aspects of the Project, including: Project scheduling, defining Project requirements, ensuring availability of necessary Customer staff and delivery of all necessary information, arranging all necessary site access, change control, escalation, implementation planning, and Project Completion.
- 5.2.2. Customer will designate a back-up contact for occasions when the Primary Contact is not available ("Secondary Contact"). The Secondary Contact must have the authority to act on Customer's behalf for all aspects of the Project in the absence of the Primary Contact.
- 5.2.3. For Services performed on Customer premises, Customer will provide NEC staff with building access and an adequate work environment, including LAN and Internet connectivity, desks, phones, printer, whiteboard, and other standard office resources as reasonably required for NEC to perform the Services.
- 5.2.4. For Services performed remotely from Customer premises, Customer will provide NEC staff with a remote access solution that has sufficient performance and reliability as to allow NEC to complete the Services in a timeframe that is consistent with the mutually agreed upon Project schedule.
- 5.2.5. Customer will review all Deliverables provided in accordance with the mutually agreed upon Project schedule, and will communicate any perceived material deficiencies in a timeframe that will allow NEC to validate such deficiencies, and if validated, correct and resubmit the Deliverables so that subsequent activities that will not be materially delayed.
- 5.2.6. Customer will ensure that any Customer staff needed to allow NEC to complete the Project will be made available on an as-needed basis.

- 5.2.7. Customer will ensure that Customer staff are sufficiently qualified and familiar with the goals of the Project, and the products, techniques, and technologies used in the Project to allow them to carry out their respective duties and assignments.
- 5.2.8. Customer will provide all documentation to NEC, that is needed for NEC to complete the Project including, but not limited to copies of Customer's standards, policies, and specifications applicable to the Project. This documentation will be provided in a timeframe that is consistent with the Project schedule.
- 5.2.9. Within ten (10) days after receipt of the Project Completion Checklist, Customer will either: (a) promptly sign the Project Completion Checklist (Schedule A) and return it to NEC or (b) provide NEC with a written notification ("Punchlist") detailing how the Project fails to materially conform with the then-current requirements of this SOW. Items that are not expressly included in the then-current scope of the Project shall not qualify as Punchlist items. If Customer fails to provide a Punchlist or sign and return the Project Completion Checklist to NEC within ten (10) days of receipt, the Project will be complete and NEC will be entitled to invoice Customer in accordance with the payment schedule in Section 6 below.
- 5.2.10. Upon NEC's correction of all bona fide Punchlist items, Customer will promptly sign the Project Completion Checklist (Schedule A) and return it to NEC. If Customer fails to sign and return the Project Completion Checklist to NEC within five (5) days of NEC's completion of Punchlist items, the Project will be complete and NEC will be entitled to invoice Customer in accordance with the payment schedule in Section 6 below.
- 5.2.11. Additional Customer responsibilities may be itemized in the Project Description (Section 2) above.

6. Pricing and Payment

The total price for the Project is <Insert total Project Price> (the "Project Price"). Sales taxes, if applicable, are not included in the Project Price but will be invoiced separately unless Customer has provided NEC with a valid sales tax exemption certificate.

NEC will invoice Customer for the Project Price (plus applicable sales taxes) in accordance with the billing schedule below. Unless otherwise expressly agreed

to by NEC in writing, payments are due in accordance to Appendix A, Section 8.J. of DIR Contract No. DIR-TSO-2689.

Equipment: \$

Equipment Price invoiced upon acceptance of Equipment (in whole or in part) to the site specified by Customer.

Services: \$

Services Price (\$) invoiced on Project Completion

The Project Price does not include Change Orders. Unless otherwise expressly agreed to by the parties in writing, all Change Orders will be invoiced upon Project Completion.

CUSTOMER PURCHASE ORDER REQUIREMENTS – *Customer must indicate which of the following applies to the official purchase order (“PO”) requirements of its organization, by initialing one of the items below:*

Customer will require NEC to reference a valid PO as a pre-condition for payment under this SOW, and is providing a copy of the PO concurrent with Customer’s execution of this SOW.

_____ PURCHASE ORDER # _____
(Copy of PO must be provided with the SOW)

Customer
Initials

Customer will require NEC to reference a PO as a pre-condition for payment under this SOW, but is NOT providing the PO with this SOW. Customer will issue the PO to NEC for the Project Price within ten (10) days after Customer’s execution of this SOW. NEC is NOT obligated to commence performance on the Project until NEC has received a valid PO, issued in accordance with the Customer’s procurement policies.

_____ Customer
Initials

Customer will NOT require NEC to reference a PO as a pre-condition for payment under this SOW. The lack of a PO reference will not constitute cause for invoice dispute or withholding of payment.

_____ Customer
Initials

7. Assumptions and Limitations

The Project Price is based on certain assumptions by NEC. Any deviation from the following assumptions may result in an adjustment in the Project Price in accordance with the Change Management Procedures set forth in Section 8 below.

- 7.1. If Equipment is being installed, Customer will supply, at its sole cost and expense, an environment that meets all the applicable requirements for the Equipment.
- 7.2. Customer will fulfill all Customer responsibilities outlined above. NEC's ability to provide Deliverables may be affected if Customer does not fulfill its responsibilities in Section 5.2 above and (if applicable) the Project Description.
- 7.3. Except as otherwise specified in the Project Description, all Services to be performed Monday through Friday 8:00 AM to 5:00 PM local time (for the applicable site), excluding any NEC observed holidays ("Normal Business Hours"). If Customer requires Services to be performed outside of Normal Business Hours, such Services will be subject to additional charges based on NEC's prevailing rates for overtime, weekends or holidays, as applicable and in accordance to Appendix C, Pricing Index of DIR Contract No. DIR-TSO-2689.
- 7.4. Unless otherwise agreed to by NEC in writing, the Customer's network architecture design will not change between the date of Customer's execution of this SOW and Project Completion.
- 7.5. Unless otherwise agreed to by NEC in writing, NEC does not guarantee the assignment of any specific personnel for this Project. NEC requires a minimum Project schedule extension of 30 days for any personnel change requests made by Customer.
- 7.6. NEC will be relieved of a milestone commitment if Customer's tasks or milestone dates for that milestone are not met.
- 7.7. If the scope of the Project expands beyond the Deliverables defined in this SOW, Customer may be required to pay NEC additional fees and expenses incurred by NEC.

The following **are not covered** under this SOW:

- 7.8. Support or replacement of any Equipment due to (a) Customer's unauthorized maintenance or repair of the Equipment, (b) Customer's unauthorized add, move, or changes to the Equipment, (c) unusual physical, electrical or electromagnetic stress (d) Customer negligence or abuse of the Equipment, including connection to inappropriate power supplies, (e) fire, flood, wind, lightning, or other similar acts of

God, (f) failure of Customer to maintain proper environmental conditions for the Equipment (g) improper wiring, installation, repair, or alteration of the software or hardware by anyone other than NEC or its agents, (h) software changes or attempted changes in the Equipment by persons not authorized by NEC (i) database reprogramming required because of Customer error of any kind (j) failure of rotation media not furnished by NEC (k) operation of the Equipment with other third party products not in accordance with the Equipment manufacturer's specifications (l) failures or other problems caused by products for which NEC is not otherwise contractually responsible or (m) Equipment failures due to causes other than ordinary use.

- 7.9. Any hardware upgrades, not specifically included in this SOW, but required to run new or updated Software.

8. CHANGE MANAGEMENT PROCEDURES

It may be necessary to amend this SOW for reasons including, but not limited to, the following:

- 8.1. Customer's proposed changes to the scope of the Project or proposed changes to the specifications for the Services or other Deliverables.
- 8.2. Customer's proposed changes to the Project plan or Project schedule,
- 8.3. Unavailability of resources which are beyond either party's control; or,
- 8.4. Environmental or architectural conditions not previously identified.

In the event either party desires to change this SOW, the following procedures will apply:

- 8.5. The party requesting the change will deliver a "Change Request" (Schedule B) to the other party. The Change Request will describe the nature of the proposed change; the reason for the change, and the effect the change will have on the Project, which may include changes to the Deliverables and the Project schedule.
- 8.6. A Change Request may be initiated by either party for any changes to the SOW. The NEC Project Manager and the Primary Contact will review the Change Request and negotiate, in good faith, any changes to the Deliverables and additional charges, if any, required to implement the Change Request.

- 8.7. If both parties agree to implement the Change Request, an authorized representative of each party will sign the Change Request, and (if applicable) Customer will issue a revised PO to NEC. Upon execution of the Change Request by both parties, it will be made a part of this SOW and become a binding change order (“Change Order”).
- 8.8. NEC is under no obligation to proceed with any Change Request until such time as the Change Request has been agreed upon by both parties, and Customer has issued a revised PO (if required for Customer’s invoice approval process).
- 8.9. If there is a conflict between the terms and conditions in any Change Order and the terms and conditions of this SOW, or the terms and conditions of any other Change Order, the terms and conditions of the most recent Change Order will prevail.

9. POST-PROJECT LABOR SUPPORT

If elected by Customer, and included in the Project Description (Section 2), NEC agrees to provide on-site or remote labor coverage for the term specified in the Project Description (not to exceed 60 months) commencing on the date of Project Completion (Post Project Coverage Term). Unless due to causes excluded from coverage in subsection 7.8 and 7.9 above, NEC agrees to provide support without additional charge for labor if any portion of the Equipment fails to work during the Post Project Coverage Term. NEC may provide the Services under this Section from a remote location.

If the Post Project Coverage Term is longer than 12 months from the Project Completion Date, NEC reserves the right to conduct an annual review of the installed Equipment and may require additional fees as a condition for providing labor coverage for any equipment installed subsequent to Project Completion.

10. COMPLETE CONTRACT

This SOW, along with DIR Contract No. DIR-TSO-2689 and the Agreement, are the complete agreements between the parties concerning the Project and supersedes any prior oral or written communications between the parties with regard to the subject matter contained herein. The provisions of this SOW govern only the subject matter hereof and shall not apply to any other subject matter covered by the Agreement. In the event of conflict between the documents DIR Contract No. DIR-TSO-2689 shall prevail.

SCHEDULE A
Project Completion Checklist

When NEC has achieved Project Completion, NEC will submit this checklist to Customer. Within 10 days of receipt, Customer will either (a) sign and return this checklist to NEC as confirmation that the Project is complete, or (b) provide NEC with written notice (“Punchlist”) specifically detailing how the Project fails to materially conform to the specifications of this SOW. If Customer fails to provide a Punchlist or sign and return this checklist to NEC within 10 days of receipt, the Project will be complete and NEC will be entitled to invoice Customer in accordance with the payment schedule in Section 6 of the SOW.

NEC will promptly correct any Punchlist items properly identified by Customer in accordance with the requirements of the SOW and upon completion, resubmit this checklist to Customer.

Upon NEC’s correction of all bona fide Punchlist items, Customer will promptly sign this checklist and return it to NEC. If Customer fails to sign and return this checklist to NEC within five (5) days of NEC’s correction of Punchlist items, the Project will be complete and NEC will be entitled to invoice Customer in accordance with the payment schedule in Section 6 of the SOW.

IMPLEMENTATION TASKS/DELIVERABLES	COMPLETED?	Date
1. <Input bullets to correspond with tasks and Deliverables outlined in the SOW>	<input type="checkbox"/>	_____
2. <Additional bullets may be required>	<input type="checkbox"/>	_____
3. Include as many bullets as are appropriate to outline the full scope of the Project.	<input type="checkbox"/>	_____

This is to confirm that as of ___/___/20__ NEC has completed Services and provided the Deliverables under the <Project Description> SOW effective ___/___/20__.

Submitted by:

NEC Corporation of America

By: _____

Name: _____

Title: _____

Date: _____

Acknowledged and Agreed:

Customer

By: _____

Name: _____

Title: _____

Date: _____

**SCHEDULE B
Change Request**

In accordance with Section 8 of the SOW (Change Management Procedures), NEC Corporation of America, Inc. (“NEC”) and <Customer Full Legal Name> (“Customer”), certify, by the signature of an authorized representative, that this Change Management Request will amend and be fully incorporated into the existing Statement of Work (SOW) for <Project Description>.

1. **Change Request Number:** _____
2. **Reason for Change Request:**
3. **Changes to SOW:**
4. **Schedule Impact:**
5. **Cost Impact:**

	<i>Equipment</i>	<i>Services</i>	<i>Total</i>
a. Previous Project Price	\$ __. __	\$ __. __	\$ __. __
b. Change Order Price	\$ __. __	\$ __. __	\$ __. __
c. New Value of SOW:	\$ __. __	\$ __. __	\$ __. __

Unless otherwise expressly agreed to by the parties in writing, all Change Orders will be invoiced or credited upon Project Completion. Sales taxes, if applicable, are not included in the Change Order Price but will be invoiced separately unless Customer has provided NEC with a valid sales tax exemption certificate.

6. **Purchase Order Issuance (check here, if applicable):** Customer will issue a written PO to NEC, or will issue an amendment to the original PO issued under this SOW, for the total Change Order Price.

Except as changed herein, all terms and conditions of the SOW remain in full force and effect.

Upon execution by authorized representatives of the parties, this Change Request becomes a binding change order (“Change Order”).

<Customer Full Legal Name>

NEC Corporation of America

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____