

# PROCURECONNECT

## Service Subscriber Subscription Agreement

PROCURECONNECT – Terms and Conditions of use

PLEASE READ THESE “TERMS OF USE” CAREFULLY BEFORE USING THE PROCURECONNECT WEBSITE (THE "WEBSITE"). THESE TERMS GOVERN YOUR ACCESS TO AND USE OF THE WEBSITE. THE WEBSITE IS AVAILABLE FOR YOUR USE ONLY ON THE CONDITION THAT YOU AGREE TO THE TERMS OF USE SET FORTH BELOW. YOUR SIGNATURE OR ACCEPTANCE/AGREEMENT (IF THE SUBSCRIPTION IS FILLED OUT ON THE WEBSITE/ON-LINE) OF THE SUBSCRIPTION AGREEMENT SIGNIFIES YOUR AGREEMENT TO BE BOUND BY THE TERMS OF USE.

### Terms of Use

#### Definitions:

- **Additional User** shall refer to users other than the Primary User within your organization to ensure adequate coverage in the event of the absence of the Primary User.
- **BID FORM** shall mean the form submitted by Buyer and placed on the PROCURECONNECT Service Application website for response from Suppliers.
- **Buyer** shall mean any individual or person responsible for procuring on behalf of its organization.
- **Primary User** shall refer to the key account manager on the PROCURECONNECT system for your organization.
- **PROCURECONNECT** refers to the **on-line Application service** provided by PROCURECONNECT.
- **Subscriber** shall mean Buyer and/or Supplier.
- **Subscription Period** shall refer to the full term of the signed subscription agreement.
- **Supplier** shall mean the Company responsible for providing products and or services meeting the needs and requirements set forth by the Buyer.
- Website includes the on-line PROCURECONNECT Application.

## 1. SERVICES

The system referred to as “*PROCURECONNECT*” consists of the Application and technology tools designed to support the contracted services. The Application features shall include the following components:

- Supplier Registration Form
- Buyer Registration Form
- Bid Packages
- Message Center
- Automated access for subscribing Buyer and Suppliers
- Confidentiality of Specific Pricing and Service between Buyer and Supplier
- Ability to add a purchase order number to a bid
- Geographic Searches
- Ability to select suppliers who Best Fit the Buyers Requirements

## 2. SECURITY

The system is hosted at the PROCURECONNECT’S secure data center.

## 3. APPLICATION (SOFTWARE) REVISIONS AND RELEASE

**PROCURECONNECT** will continue to provide a series of upgrades, new features, and technical and/or maintenance releases. Such Releases fall into four categories:

- I. General Application features applicable to all subscribers (suppliers and buyers).
- II. Enhancements and modifications.
- III. Technical and/or Maintenance releases.
- IV. Security updates and/or patches

During a subscriber’s **Term**, subscribers will have access to the standard functionality as well as new functionality which is considered the core of PROCURECONNECT. Optional functionality may also be available.

Continued usage of the Application website after any changes means the subscriber accepts those changes. Any aspect of the website may be changed, supplemented, deleted or updated without notice at the sole discretion of PROCURECONNECT.

#### **4. IMPLEMENTATION**

**PROCURECONNECT** is “software as a service” and no installation or implementation is needed. Subscribers need a computer, Internet access, E-mail and a web browser to access and use PROCURECONNECT.

- Self-training guide/video
- Easy to use Application
- Line card set up(offerings) and or supplier attributes: walk through instruction guide

#### **5. SUBSCRIBER RESPONSIBILITIES**

- The Subscriber is responsible for providing Internet connectivity/access.
- The Supplier will provide all needed data on-line in (digital) electronic format against the bid set forth by the Buyer and in accordance with Buyer’s timetables and requirements.
- Subscriber will designate a point of contact.
- Subscriber will register and provide certain data. In registering and providing such data, the Subscriber represents and warrants the following:
  - Information about the subscriber and or their business is true, accurate, current, and complete as required by registration forms.
  - Subscriber will maintain and promptly update Registration Data to keep it true, accurate, current and complete. If information provided is untrue, inaccurate, not current or incomplete, or if PROCURECONNECT has reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete; PROCURECONNECT has the right to suspend or terminate the account and refuse any and all current or future use of the PROCURECONNECT Products and Services.
- Set up a password and ID. Subscriber is responsible for maintaining the confidentiality of the password and ID, and is fully responsible for all activities that occur under that password or ID. Subscriber agrees to (a) immediately

notify PROCURECONNECT of any unauthorized use of their password or account or any other breach of security, and (b) ensure that they exit from their account at the end of each session. **This means the subscriber must log-out and close their browser.** PROCURECONNECT is not and will not be held liable for any loss or damage arising from the subscriber's failure to comply with this requirement.

- Acknowledge and agree that all information or other materials ("Content") are the sole responsibility of the person from which such Content originated. This means that the subscriber, and not PROCURECONNECT, is entirely responsible for all Content. As a general matter, PROCURECONNECT does not pre-screen user Content posted on Procure Connect. PROCURECONNECT reserves the right to monitor any area of the Application for adherence to these Terms and Conditions or any other rules or guidelines posted by PROCURECONNECT.
- Supplier(s) SHALL NOT contact any Buyer prior to any bid awards unless invited by the Buyer.
- PROCURECONNECT is not responsible for any damages that may occur from the use of the system.
- It is the Suppliers responsibility to evaluate Buyer(s) for their ability and willingness to pay for product and services purchased through the PROCURECONNECT system.
- It is the Buyers responsibility to evaluate Supplier(s) for their ability and willingness fulfill the products and services purchased or quoted on the PROCURECONNECT system.

In addition to other restrictions set forth in these Terms of Use, Subscribers agree that: They shall not disguise the origin of information transmitted through the website.

- a) They will not place false or misleading information on the website.
- b) They will not use or access any service, information, available via the website in a manner not expressly permitted by PROCURECONNECT.
- c) They will not input or upload to the website any information which contains viruses, Trojan horses, worms, time bombs or other computer programming routines that are intended to damage, interfere with, intercept or expropriate any system, the website or information or that infringes the Intellectual Property (defined below) rights of PROCURECONNECT. They will not input or upload any information or documentation which may be offensive to others including but not limited to Pornography, Political, and/or Religious statements.

- d) Access to the PROCURECONNECT Application Service is via link from the PROCURECONNECT.com website. The Application Service website is restricted solely to Subscribers.
- e) Subscribers may not use or access the website or the Systems or Services in any way that adversely affects the performance or function of the PROCURECONNECT Application or the website or interferes with the ability of authorized parties to access the Services or the website.
- f) Responsibility for Data. Subscribers have sole responsibility for all data that is entered into the Procure Connect Application. They acknowledge and agree that PROCURECONNECT will not be responsible for any failure of the data entered to generate desired bids or acceptance of such bids. They acknowledge and agree that PROCURECONNECT hosts the data entered and through its proprietary software, introduces buyers to suppliers but has no control or responsibility for the accuracy of the data entered or the ability of the buyer and/or supplier to enter into an agreement

## **6. SUBSCRIPTION**

The Subscription period begins on the Subscription Start Date shown on the applicable Subscription Agreement and continues for the duration of the Term as defined.

The website is provided by PROCURECONNECT and available only to entities and persons of legal age who can form legally binding agreement(s) under applicable law. If you do not qualify, you are not permitted to use the website.

Subscriptions will be in effect for one (1) year and will automatically renew without further notice. This agreement will begin upon acceptance.

Subscription Terms and Conditions remain in force for as long as subscriber remains a member and user of the PROCURECONNECT Service or until the subscription is cancelled by the subscriber or PROCURECONNECT.

## **7. LICENSE AND OWNERSHIP**

Any and all intellectual property rights ("Intellectual Property") associated with the website and its contents (the "Content") are the sole property of PROCURECONNECT. The Content is protected by copyright and other laws in the United States. The Application is patented and solely owned by PROCURECONNECT.

PROCURECONNECT does not grant to its Subscribers any express or implied rights to its Intellectual Property known as the PROCURECONNECT Application.

PROCURECONNECT does grant Subscribers a limited, non-transferable, non-sub-licensable, revocable license to (a) access and use only the website, Content and Services only in the manner presented by PROCURECONNECT, and (b) access and use the PROCURECONNECT Application offered within the website (the Procure Connect Application) only in the manner expressly permitted by PROCURECONNECT.

PROCURECONNECT does not convey any interest in or to the PROCURECONNECT Application or the Content, Services, Website or any other PROCURECONNECT property by permitting access to the Website.

Confidentiality: Any and all information seen on the PROCURECONNECT service application website shall be held in confidence. This includes but is not limited to Buyers and Suppliers contact and other information disclosed during the use of this system.

Except to the extent required by law or as expressly provided herein, none of the Content and/or Information may be reverse-engineered, modified, reproduced, republished, translated into any language or computer language, re-transmitted in any form or by any means, resold or redistributed. This along with confidentiality will survive the termination of the Subscription or Terms.

## **8. TERMINATION**

PROCURECONNECT, in its sole discretion, may terminate or suspend a Subscriber's use of the PROCURECONNECT Application at any time and for cause in its sole discretion, even if access and use continues to be allowed to others. Cause includes, but is not limited to, violation of the provisions of this Agreement.

Upon termination, Subscribers must immediately (a) discontinue use of the PROCURECONNECT Application and the website, and (b) destroy any copies made of any portion of the Content. Accessing the PROCURECONNECT Application after such termination, suspension or discontinuation shall lead to legal action on the part of PROCURECONNECT against the trespassing Subscriber. Further, Subscribers agree that PROCURECONNECT shall not be liable to Subscriber or any third party for the consequences, financial or otherwise, of any termination of access.

## **9. DISCLAIMER OF WARRANTIES**

PROCURECONNECT MAKES NO REPRESENTATIONS ABOUT THE RESULTS TO BE OBTAINED FROM USING THE PROCURECONNECT APPLICATION.

THE SERVICES ARE PROVIDED "AS IS," WITHOUT WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED. WITHOUT LIMITING THE FOREGOING, PROCURECONNECT EXPLICITLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. PROCURECONNECT MAKES NO WARRANTY THAT THE SERVICES WILL MEET THE SUBSCRIBERS REQUIREMENTS OR WILL BE AVAILABLE ON AN UNINTERRUPTED OR ERROR-FREE BASIS. YOUR USE OF THE SERVICES IS AT THE SUBSCRIBERS OWN RISK. SUBSCRIBERS ACKNOWLEDGE AND AGREE THAT PROCURECONNECT WILL NOT BE RESPONSIBLE FOR ANY DAMAGES TO THEIR BUSINESS THAT RESULT FROM USE OF THE SERVICES.

PROCURECONNECT MAKES NO REPRESENTATIONS OR WARRANTIES ABOUT THE ACCURACY, COMPLETENESS, TIMELINESS OF THE CONTENT, INFORMATION OR SERVICES PROVIDED ON OR THROUGH THE USE OF THE PROCURECONNECT APPLICATION OR THE ABILITY OF THE PROCURECONNECT APPLICATION TO GENERATE REVENUE OR ADDITIONAL BIDS TO THE SUBSCRIBING SUPPLIER OR THE WORTHINESS, QUALITY, CREDIBILITY OF BUYERS USING OR SUPPLIERS SUBSCRIBING TO THE APPLICATION. NO INFORMATION OBTAINED BY SUBSCRIBERS FROM AND THROUGH THE USE OF THE APPLICATION SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED BY PROCURECONNECT IN THESE TERMS OF USE.

## **10. LIMITATION OF LIABILITY**

If you are dissatisfied with any aspect of the PROCURECONNECT Application or with these Terms of Service/Terms of Use/Terms and Conditions, or any other rules or policies, your sole remedy is to discontinue use.

You expressly understand and agree that PROCURECONNECT shall not be liable for any direct, indirect, incidental, special, consequential exemplary damages, including but not limited to, damages for loss of profits, goodwill, use, data or other intangible losses (even if we have been advised of the possibility of such damages), resulting from:

- (I) the use or the inability to use the service;
- (II) the cost of procurement of substitute goods and services resulting from any goods, data, information or services purchased or obtained or messages received or transactions entered into through or from the Service;
- (III) unauthorized access to or alteration of your transmissions or data;
- (IV) statements or conduct of any third party on the service; or
- (V) any other matter relating to the Service. PROCURECONNECT is not responsible for financial obligations entered into between the buyer and supplier including but not limited to collections, letters of credit and terms of sale.

## **11. INDEMNITY**

You agree to defend, indemnify, and hold harmless PROCURECONNECT, its affiliates, officers, directors, employees and agents, from and against any claims, actions or demands, including without limitation reasonable legal and accounting fees, arising out of or in any way connected with your access to or use of the Services, or your violation of these Terms of Service.

## **12. OTHER**

### 12.1 Relationship

- Subscriber and PROCURECONNECT are independent contractors, and no agency, partnership, joint venture, employee-employer or franchiser-franchisee relationship is intended or created by this Agreement.

### 12.2 Assignment

- Subscriber may not assign any of its rights, or delegate any of its duties, under this Agreement, and any attempted assignment will be null and void.

### 12.3 Force Majeure

- Operation of PROCURECONNECT Services may be interfered with by numerous factors outside of our control and we shall not be liable to you for any delay or failure in performance under this Agreement resulting directly or indirectly from causes beyond PROCURECONNECT'S control.

As part of your registration and sign-up, you will be asked to acknowledge you have read this document and are authorized to accept these terms on behalf of yourself and your company.

The "Acceptance Date" is the "Start Date" of your subscription.

**Note: Acceptance is required**