**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
ADMINISTRATIVE OFFICE OF THE COURTS
AND
CONTRACTOR NAME**

This Contract, by and between the State of Tennessee, Administrative Office of the Courts (“State”) and Contractor Legal Entity Name (“Contractor”), is for the provision of The Tennessee General Sessions Data Repository, as further defined in the "SCOPE." State and Contractor may be referred to individually as a “Party” or collectively as the “Parties” to this Contract.

The Contractor is a/an Individual, For-Profit Corporation, Non-Profit Corporation, Special Purpose Corporation Or Association, Partnership, Joint Venture, Or Limited Liability Company.

Contractor Place of Incorporation or Organization: Location

Contractor Edison Registration ID # Number

**A. SCOPE:**

A.1. The Contractor shall provide all goods or services and Deliverables as required, described, and detailed below and shall meet all service and delivery timelines as specified by this Contract.

A.2. Definitions. Following are key definitions related to specific services requested in this Contract.

1. “**Administrator”**, The AOC staff members who have authority to update configuration parameters and allow access to authorized Users.
2. **“Contractor-Owned Software,”** shall mean commercially available software the rights to which are owned by Contractor, including but not limited to commercial “off-the-shelf” software which is not developed using State’s money or resources.
3. **“Days”**, shall mean calendar Days unless otherwise stated in the Contract section.
4. **“Defect”**, shall mean a condition in the product which does not meet requirements or end-User expectations, which may not be specified, but are reasonable.
5. **“Deliverables”**, shall mean a set of products to be delivered to the State by the Contractor to fulfill the terms of this Contract.
6. **“Hours”**, shall mean sequential Hours unless otherwise stated in the Contract section.
7. **“Rights Transfer Application Software,”** shall mean any pre-existing application software owned by Contractor or a third party, provided to State and to which Contractor will grant and assign, or will facilitate the granting and assignment of, all rights, including the source code, to State.
8. **“State”**, shall mean the Administrative Office of the Courts
9. **“State Lead”**, shall mean the project manager for the General Sessions Data Repository and the main point of contact between Contractor and State.
10. **Strategic Technology Solutions (STS)**, the State’s central IT service agency.
11. **“Third Party Software”**, shall mean software not owned by the State or the Contractor.
12. **“User”**, Person who is authorized to access the repository; Users include AOC staff, attorneys, judges, court clerks, and legislators at the time of this RFQ development.
13. **“Work Product,”** shall mean all Deliverables exclusive of hardware, such as software, software source code, documentation, planning, etc., that are created, designed, developed, or documented by the Contractor exclusively for the State during the course of the project using State’s money or resources, including Custom-Developed Application Software. If the Deliverables under this Contract include Rights Transfer Application Software, the definition of Work Product shall also include such software. Work Product shall not include Contractor-Owned Software or Third-Party Software.

A.3. Service Goals The goal of the initiative is to collect and report General Sessions Court caseload, caseflow, workload, and other key information. Rather than compile aggregate statistical summaries from individual courts, with this project the State will transition to a more robust case‐level reporting system. Courts will report specific information about each case, and the State will consolidate, manage, and analyze this data in a centralized repository. This approach has been selected because it will maximize the ability of the repository to answer the questions that will be posed by stakeholders. The objectives of the repository are to:

* Collect and store complete, accurate, and timely information about each General Sessions court case
* Support policy development and resource allocation decisions with comprehensive information about General Sessions Court activities and trends
* Provide authorized stakeholders with quick and easy answers to routine questions about the work of the General Sessions Court
* Deliver support for more complex information requests with staff expertise and business intelligence and statistical analysis tools
* Create a repository infrastructure that eventually can be expanded to include other courts of the state

 While this project is focused on General Sessions Court information, its scope is a bit broader because the types of cases heard in these courts vary from county to county. Most case types heard in any court may be heard in a General Sessions Court in some part of the state. The court will be also be collecting limited juvenile data for the sole purpose of accurate caseload and workload data. The State desires the option to use this same General Sessions Repository system to include trial court data in the future.

A.4. Service Description. The Contractor shall deliver the services outlined herein.

1. Kickoff Meeting and Presentation. The Contractor shall participate in a State-led Kickoff Meeting. The purpose of the Kickoff Meeting shall be to introduce the Contractor to State project stakeholders, and ensure agreement regarding project objectives, roles and responsibilities, strategy, and known risks. The Contractor shall prepare and deliver a presentation for the kickoff meeting that synthesizes their approach to the overall project, provides high-level milestones, and introduces the Contractor team.
2. Project Management and Reporting. The Contractor shall designate a single Project Manager to serve as the Contractor’s primary point of contact for all activities and issues. The Contractor shall ensure that all project activities are performed efficiently, accurately and on schedule. The Contractor Project Manager shall coordinate as necessary with the State Lead to ensure the Contractor activities are managed consistently with overall Contract requirements.

The Contractor Project Manager shall ensure timely and accurate submission of project management Deliverables to the State Lead as listed below:

* + - 1. Project Management Plan. The Contractor shall designate a single full-time Project Manager to develop a master Project Management Plan that describes the approach, activities, stages, duration and risks for all Project work. The State shall provide written acceptance of the Contractor’s Project Management Plan. The State shall be responsible for the master Project Management Plan. The Contractor shall prepare and provide to the State Lead the following for inclusion in the master Project Management Plan:
				1. Work Breakdown Structure and Project Schedule: lists the work packages to be performed for the project and a schedule baseline that will be used as a reference point for managing project progress as it pertains to schedule and timeline. The state strongly prefers an agile approach for this project.
				2. Change Management Plan: a proposed plan for managing project changes including, but not limited to: processes, scope, resources and implementation. Since requirements could change based on a number of factors: legislative changes, organizational changes or changes in business conditions, an agile methodology is strongly preferred.
				3. Communication Management Plan: a proposed plan for defining the audience, communication requirements, communication schedule, proposing the responsible party for communication and the medium for communication.
				4. Resource Management Plan: how the Contractor will maintain a pool of resources for the project, what skill sets are required and available, time off and the hiring/firing of Contractor personnel.
				5. Risk Management Plan: potential project risks, mitigation strategies and risk management processes.
				6. Issue Management Plan: a plan for documenting, tracking and reporting of issues, including the process for escalating issues for joint management decisions by the Contractor and State.
				7. Configuration Management Plan: procedures for version control of all Deliverables and artifacts, including configurations, documentation and executables, execution plans including rollback and system source code. The Plan shall include a process to ensure the status of all existing Deliverables is known; that only approved versions are released for production use; that prior released versions can be recreated and that changes are made to release Deliverables only when authorized by the State.
				8. Quality Management Plan: a plan to describe how quality will be managed throughout the lifecycle of the project; including processes and procedures for quality planning, quality assurance and control will be conducted.
			2. Release Management Plan: a plan that defines the procedures for release and deployment of system components to each region/environment (testing, training, production, etc.). The plan will also include details on how the Contractor will manage the release of future software upgrades and enhancements.
			3. Weekly Status Report. The Contractor shall prepare and submit to the State Lead a Weekly Status Report. The report shall contain a synopsis of the status of activities, outstanding issues as documented in the “Issue Management Plan” and expected resolution dates, and key risks and issues. Items to be tracked in this report will include at a minimum, open technical questions, requests for information, schedule of resources for the coming weeks, and requests for documentation.

The Contractor shall also report progress against the Project Schedule in the Weekly Status Report, including, at a minimum, an assessment of progress against plan, and details of slipping tasks. For any planned tasks that are not worked or completed during the reporting period, the Contractor shall include an explanation of the failure to meet the schedule and detailed plans to overcome the failure and prevent its recurrence.

The State shall indicate acceptance or modification of the weekly status report during the weekly status meeting with the State Lead and other appropriate members. The State may request an updated Weekly Status Report if modifications are deemed to be needed.

1. Requirements Verification and Fit-Gap Analysis. The Contractor shall work with State project team members, as identified by the State, to verify the requirements outlined in Attachment 4 – Requirements Matrix, and to map and document the extent that the Contractor’s solution meets each requirement. The Contractor shall use its responses to Attachment 4 – Requirements Matrix, for the verification process. The Contractor and the State shall reach and the Contractor shall document a common understanding of Requirements and Gaps.

The Contractor shall prepare and deliver to the State for review and approval a Requirements Verification document that includes a finalized list of Requirements Specifications, which detail the specific features and functions of each requirement. This document shall include identified gaps (requirements that are not met or not met fully by the Contractor's solution prior to modification) and a high-level statement of how each gap will be filled. The State shall provide written acceptance of the Requirements Verification document.

High-level requirements for the Tennessee General Sessions Data Repository Include:

1. System. The solution shall be a web-based solution. Detailed requirements for general system, User interface and display, case management integration, security, hosting, support, access, standards and compliance can be found in Attachment 4. The Reporting Specifications for the system are located in Attachment 5.
2. Reporting & Analytics. The solution shall provide a reporting module that will allow the State Users, based on roles, to run existing reports and request ad hoc reports. The solution shall provide a module for State Administrators to run existing reports, schedule reports, and export the reports in a format deemed necessary by the Administrator (e.g. excel, pdf). More detailed requirements are incorporated into this contract in Attachment 4.
3. Application Administration. The solution shall include a comprehensive administration section allowing State authorized Users and Information Technology staff to configure certain elements within the solution, additionally the solution shall conform to operability standards and contain workflow/routing capability. More detailed requirements are incorporated into this contract in Attachment 4.
4. Requirements Traceability: The Contractor shall create and maintain a Requirements Traceability Matrix or equivalent through the end of this contract that shall be comprised of:
	1. the requirements from Attachment 4 - Requirements Matrix and documentation of any changes and/or gaps identified during the requirements verification process
	2. a cross-reference for each requirement to use cases, design/specification documents and test cases

The Contractor shall not proceed with the development of the solution until the Requirements Verification and Fit-Gap Analysis is complete and accepted in writing by the State.

1. Application Design

A number of applications will be required for the operation of the data repository; some of the functions that they perform may be combined. The Contractor shall be wholly responsible for the design and/or configuration of the application. The Contractor shall create and deliver to the State the design/configuration documentation that includes the following as a minimum:

1. **Acquisition:** receiving and verifying files transmitted by courts to the acquisition server and returning an acknowledgement of receipt or an error message
2. **Validation and cleansing:** unpacking (or parsing) data and performing error testing that goes beyond the schema‐based validation that will occur at the court prior to the transmission of the file, and correcting known errors in the information.
3. **Transformation, loading, and updating:** validated information will be loaded into the repository databases and subset databases in batches, and updates to cases will replace previous submissions
4. **Quality control:** reports must be run against the repository data periodically to identify potential problems, e.g., old cases that have not been updated for a significant period of time, duplicate or contradictory information about cases, unattached index entries, and inconsistent or invalid codes or other information
5. **Archiving:** after the end of the fiscal year in which a case was closed, and following a reasonable time period to run end‐of‐year reports, key parts of the case may be moved to an archival database
6. **Restoring from archives:** on occasion a closed case will be reopened and the court will resubmit it – the archived case must be marked as reactivated or the case must be removed from the archive
7. **Expunction:** when a defendant’s record is expunged or a case is sealed, identifying data will be obscured to ensure that the information cannot be retrieved, but statistical information will remain for reporting court activity
8. **Purging:** at some point it will be necessary to remove old cases from the repository archive area, and routines must be created to perform these functions
9. **External access:** authorized external stakeholders must be able to run standard, parameter‐driven statistical reports and queries against repository data that allow drilldown to underlying cases – this will be accomplished through a web‐based portal
10. **Internal access:** State Users must be able to run the same standard reports and queries, and to extract data sets for complex statistical analysis – this will involve the use of commercial tools and custom applications
11. **APIs and information exchanges:** it may be necessary to provide bulk data exchanges from the repository to external Users so court data may be combined with information from other justice organizations for research purposes

The Contractor shall participate in Design Review in order to present the initial design of all software components, software configuration and items for customization. The Contractor shall submit the Design documentation to the State for review and approval.

Upon State approval of the Design documentation, the Contractor shall update the State’s future state business flows and create future state process descriptions

1. Test Plan. The Contractor shall develop and deliver a plan describing how the Contractor will coordinate, manage, and conduct thorough testing of the Tennessee General Sessions Data Repository prior to delivery to the State for User Acceptance Testing (UAT). The Plan shall include, at a minimum, testing all functionality, reports, correspondence, notices, and interfaces and system performance. Documentation of the inputs, outputs, problems identified, and corrections made shall be required, in the form of a test results document. Functional testing shall be performed by the Contractor on each module of the system and on the integrated system prior to delivery to the State for UAT. Load testing shall be performed to determine the system's behavior under both normal and anticipated peak load conditions. Individual sets of test data and test plans shall be created by the Contractor to completely test internal conditions of the system. The State shall provide written acceptance of the Test Plan and reserves the right to request periodic updates to the document.

The Test Plan will include preparations required for system testing, including at a minimum:

1. Creating the appropriate test environment(s)
2. Installing General Sessions Data Repository in the test environment
3. Installing and configuring any automated testing tools/packages
4. Defect Tracking Log. The Contractor shall develop and maintain a Defect Tracking Log which shall include at a minimum, for each Defect:
5. Unique tracking number
6. Short name and description of the Defect
7. Utility to attach a screen print of the Defect
8. Reference to test condition that identified the Defect or steps taken to create Defect.
9. Date Defect was identified
10. Tester
11. Disposition (e.g., Not a Defect, Fixed, Successfully Retested, etc.)
12. Severity Level
13. Description of changes made to correct Defect

The Contractor shall correct all Defects as directed by the State in writing and at the State’s sole discretion. The Contractor shall deliver a daily Defect Tracking Report to the State’s Business Project Manager upon commencement of User Acceptance Testing (UAT). The Defect Tracking Report shall be based on data recorded in a Defect tracking tool designated by the State and will include any modifications or enhancements identified during UAT. A weekly Defect summary report will be required by the Contactor until all Defects have been resolved.

The Contractor shall maintain the Defect Tracking Log for the duration of the Contract and provide the most current log to the State at the State’s request.

1. Implementation Plan. The Contractor shall create an Implementation Plan to describe its overall approach to implementation. The Implementation Plan shall describe, at a minimum, the following:
2. Implementation preparation for data migration, security, staff training, personnel assignments, and level of resources required for each area
3. Objectives and approach for components requiring installation, including utilization of the WAN, Extranet and Internet
4. Confirmation of the training schedule
5. Backup and recovery procedures
6. Contingency approach

The State shall provide written acceptance of the Implementation Plan and reserves the right to request periodic updates to the document.

1. Backup and Recovery Plan. The Contractor shall create a Backup and Recovery Plan that supports multiple environments, failover environments, and Disaster Recovery. In order to prevent loss of data, the Contractor shall develop and implement recovery procedures, including the process for restoring data to its original or prior state, in the form of Recovery Time Objective (RTO) within 24 Hours and Recovery Point Objectives (RPO) within 4 Hours. The Backup and Recovery Plan shall be updated, at a minimum, annually and shall include the results of any disaster recovery exercises conducted by the Contractor. The State shall provide written acceptance of the Backup and Recovery Plan and reserves the right to request periodic updates to the document. Required contents of the plan should include, but are not limited to, documenting any project implementation assumptions and constraints for the proposed General Sessions Data Repository specific to Disaster Recovery details regarding the State's use of General Sessions Data Repository, including backup and Disaster Recovery, roles and responsibilities, and recovery approach. The plan should reference external Strategic Technology Solutions (STS) and State systems where the disaster recovery details are consolidated across the State’s enterprise applications.
2. Contingency of Operations Plan. The Contractor shall develop and submit a Contingency of Operations Plan to specify planning for the remediation of specific systems, equipment, software, and/or operations in the event of critical impact resulting from natural, accidental or intentional events. The Contingency of Operations Plan shall document the Contractor’s plans and procedures to maintain State support and shall include, but not be limited to the following:
3. Description of the Contractor's emergency management procedures and policy
4. Description of how the Contractor will account for their employees during an emergency
5. Planned temporary work locations or alternate Facilities
6. How the Contractor will communicate with the State during emergencies
7. List of primary and alternate Contractor points of contact, each with primary and alternate telephone numbers and e-mail addresses
8. Procedures for protecting the State furnished equipment (if any)
9. Procedures for safeguarding sensitive and/or classified State information (if applicable)

The State shall provide written acceptance of the Contingency of Operations Plan and reserves the right to request periodic updates to the document:

1. Construct Solution. The Contractor shall develop and build the Tennessee General Sessions Data Repository solution including interfaces, application and an integrated document management solution based on what is outlined in this contract. Additionally, the Contractor shall work with State staff to incorporate Business Rules.

Each program and/or configuration shall be thoroughly documented and updated into the Requirements Traceability Matrix. All requirements will be traced to design, design to code and requirements to test cases for functional, system and integration testing.

The Contract shall create in line documentation (in the code) which shall be reviewed during code walkthroughs with the State at the State’s discretion. The Contractor shall document decisions, issues and action items that result from code walkthroughs with the State. The Contractor shall document and submit source code and executable object code to the State when the solution is not hosted.

1. Conduct Testing. The Contractor shall perform all functional, system, and integration testing of General Sessions Data Repository, including interfaces, system performance and data migration, in accordance with Contract Section A.4.e and the State Approved Test Plan. The Contractor shall be responsible for all aspects of system and integration testing. The Contractor shall perform testing of all interfaces, with interaction and involvement of State personnel responsible for each interface. All testing shall be performed in the Contractor's technical environment. The Contractor shall conduct functional, system, integration and regression testing during each phase of the Tennessee General Sessions Data Repository project. In addition, prior to go-live, the Contractor shall conduct a performance/capacity test simulating 1,500 Users.
2. Functional Testing. Documentation of the inputs, outputs, problems identified, and corrections made shall be required, in the form of a Functional Test Results document. Functional testing shall be performed by the Contractor on each module/program. Individual sets of test data and test plans shall be created by the Contractor to completely test internal conditions of the module/program. Successful functional testing occurs when the module’s test plan is completed without failure.
3. System and Integration Testing. The Contractor shall fully test all software to ensure it meets the requirements and to demonstrate the functionality and performance characteristics before the start of User Acceptance Testing (UAT). The system tests shall actively use all of the functions, test all interfaces, and process all types of input. The Contractor shall include specific types of test cases and transactions in the test, as specified in writing by the State.

If the Software Test Results Document is deemed acceptable by the State, the State shall approve in writing, which shall signal the initiation of User Acceptance Testing (UAT).

The Contractor shall be required to work with the State to facilitate and coordinate the execution of UAT in the designated test environment.

1. Training. The Contractor shall provide training services to the State related to the use of the Tennessee General Sessions Data Repository system.
2. Training Plan. The Contractor shall develop a Training Plan detailing specific training plans for each role type that will interact with the Tennessee General Sessions Data Repository solution. The Contractor and the State shall collaborate and develop the specific role types, permissions and training for each category of Users. Training shall be appropriate for these roles and categories.
3. Training Material. The Contractor shall develop and deliver to the State Train-the-Trainer material for the final General Sessions Data Repository functionality as approved by the State. Training material shall be prepared using State-standard Microsoft Office products. The Contractor shall provide training materials for the State’s designated trainers, including unlimited right to copy.
4. Train-the-Trainer Training. The Contractor shall offer a train-the-trainer program to train State-designated General Sessions Data Repository Trainers using the Training Material developed in accordance with Contract Sections A.4.g and A.4.l.(1) and the State-approved Training Plan. A variety of training approaches may be proposed, such as:
5. On-site training
6. Virtual classroom
7. Training Video
8. Help Content. The Contractor shall develop and deliver content for the Help functions of General Sessions Data Repository.

The State reserves the right to make final determination of the training approaches to be used as part of the Train-the-Trainer Training and any other Training formats.

The Contractor shall deliver the training components for each phase of the project. The State shall provide written acceptance of the Training Plan, Training Material and Help Content.

1. User Acceptance Testing. The Contractor shall work with the State to develop the UAT Test Plan and test scenarios. The Contractor shall provide dedicated support for User Acceptance Testing, including installation General Sessions Data Repository to a State-approved UAT environment; application and technical assistance during UAT; and correction of Defects identified during UAT. The Contractor shall record and track Defects identified by the State using the Defect Tracking Log (Contract Section A.4.f). When all Defects have been corrected and UAT is deemed completed by the State, the State shall approve User Acceptance Testing in writing, which shall signal the commencement of the Statewide Rollout phase of the project.
2. Statewide Rollout. There will be 95 General Sessions Courts and 28 Municipal Courts with general session’s jurisdiction that will contribute to the data repository. These courts process approximately 1.5 million cases per year. Because of the large amount of data being transmitted, this project shall be delivered in multiple phases:
3. Identify pilot courts and CMS vendors
4. Install, configure, test production applications
5. Train users and staff
6. Implement pilot sites
7. Evaluate pilot implementations
8. Implement statewide

The Contractor shall work with the State to determine readiness for rollout based on an approved User Acceptance Test cycle and an approved Training cycle. The Contractor shall be responsible for the following:

1. Build Enterprise Architecture. The Contractor shall work with the State to build and validate the Contractor’s production readiness before commencing with implementation of the production environment.
2. Deploy Solution to Production. The Contractor shall deploy the solution in the Production environment and work with State staff to ensure all pre-conversion tasks are completed before migrating production data for conversion.
3. Conversion. The Contractor shall perform the conversion and validation of data and images in the Production environment. The Contractor shall provide validation and verification of the conversion to the State before allowing Users to begin work. The State shall provide written approval of the conversion documentation.
4. Post Implementation Assessment. The Contractor shall monitor the performance of the solution and shall prepare and deliver to the State, a Post-Implementation Assessment report which shall describe any issues encountered during implementation, actions taken to remediate the issues, and lessons learned from the implementation. The State shall review the Assessment and, if acceptable, provide written approval.
5. Support and Maintenance. The Contractor shall provide support and maintenance for the Tennessee General Sessions Data Repository system that will commence with the State’s acceptance and written approval of the Post-Implementation Assessment report and will continue throughout the Contract. The Contractor shall provide direct, second-tier technical support and shall maintain the operational readiness, interoperability, and conformance to specifications and requirements of General Sessions Data Repository.

The Contractor shall be responsible for operating systems, services and processes required to perform data collection and processing as required by this Contract.

The Contractor shall deliver to the State for review and approval a support and maintenance plan that describes how the Contractor will provide the support and maintenance services outlined in this Contract. The support and maintenance plan shall include a description of the Contractor’s support organizational structure.

1. Annual Support and Maintenance. Annual support and maintenance shall include all updates, corrections and modification to the Contractor’s software, plus any updates, corrections, modifications or new versions of Third Party Software. Additionally, the annual support and maintenance plan shall include all new releases or versions of the Contractor’s solution, including all required Third Party Software included in the solution. The Contractor shall be responsible for establishing a Support Center as required by this Contract.
2. The Contractor shall establish a support center and dedicated point(s) of contact to provide communication and technical assistance to the State for annual support and maintenance. data
3. The Contractor shall provide support Monday through Friday, **from 7:00 a.m. to 6:00 p.m.** Central Time, with the exception of designated State holidays.
4. The Contractor shall establish an email address dedicated to this initiative to facilitate communication and provide access to technical support.
5. The Contractor shall provide a toll-free phone number to facilitate communication and provide access to technical support.
6. The Contractor may establish additional points or modes of contact (e.g., chat or messaging through secure website) to expand or enhance access to service or support.
7. The Contractor shall respond to any calls or messages within two (2) Hours of receipt.

The State will provide written acceptance of the support and maintenance plan and reserves the right to request periodic updates to the document.

1. Support. The Contractor shall, at a minimum:
2. Make appropriate Contractor support resources available to the State between **7:00 a.m. to 6:00 p.m.** Central Time, Monday through Friday, except State holidays, to provide the services described and detailed in this section.
3. Diagnose and resolve problems reported by the State that have not been diagnosed and resolved at lower levels of support within the State. The State will determine the severity level of each reported problem. The levels and the corresponding Service Level Goals are indicated below:

| **Severity Level** | **Description** | **Service Level Goal** |
| --- | --- | --- |
| Level 1 | Problem has an immediate impact on a majority of end Users’ ability to access and/or use the system.Generally involves multiple Users at the same time. The Contractor shall address system outages or severely degraded services immediately. | Within two (2) Hours from the time a Severity Level 1 problem is reported to the Contractor, the Contractor shall assign dedicated resources as required to solve the problem. The Contractor shall provide a status update to the State’s Technical Contact or his/her designee every two (2) Hours until the problem is resolved.The goal for Level 1 issues is to have the problem resolved within two (2) Hours; otherwise, the issue shall be escalated to the Contractor’s Chief Product Officer or the Contractor’s equivalent senior management. |
| Level 2 | Problem has a high impact on most Users, must be resolved quickly, and can occur at any time. Under these circumstances, the software is unusable or unstable | Within four (4) Hours from the time a Severity Level 2 problem is reported to the Contractor, the Contractor shall assign dedicated resources as required to solve the problem. The Contractor shall provide a status update to the State’s Technical Contact or his/her designee every eight (8) Hours for the first 24 Hours of the incident; then every 24 Hours thereafter until the problem is resolved.The goal for Level 2 issues is to have the problem resolved within eight (8) Hours; otherwise, the issue shall be escalated to the Contractor’s senior management. |
| Level 3 | Problem can occur at any time and is either high impact with moderate urgency, or extremely urgent but with moderate impact. Under these circumstances, the ability of the software to support business processes is diminished. For example, a software process causes frequent, unpredictable, system-wide slowdown, and must be restarted to resume acceptable performance. | Within 24 Hours from the time a Severity Level 3 problem is reported to the Contractor, the Contractor shall assign resources to solve the problem within a mutually agreed upon timeframe. The Contractor shall provide a status update to the State’s Technical Contact or his/her designee every 48 Hours until the problem is resolved, or a workaround provided, or a fix scheduled for a future date or release |
| Level 4 | Problem has a moderate impact and is moderately urgent. These circumstances create conditions that inconvenience Users of the system. | The Contractor shall work with the State’s Technical Contact or his/her designee to determine resources that the Contractor shall assign and when, and the frequency of updates on the status of the problem or fix. |

The Contractor shall provide the State with Quarterly Service Level Reports no later than the tenth (10th) business day of the following quarter. The Service Level Reports will provide the time, severity level, description, acknowledgement time, and resolution time for each incident logged during the reporting period. The Service Level Reports will also show actual Service Level performance as compared to Service Level goals. Failure to provide reports by the tenth (10th) business day will incur penalties as indicated in Pro Forma Contract Attachment C– Performance Requirements and Payment Reductions.

1. System Management and Monitoring. The State shall manage the databases and services on equipment located at the State's facility to the performance metrics agreed upon. The State must monitor all equipment and applications and shall use both automated and manual tools and processes to monitor performance, as well as prevent and detect unauthorized access. All equipment and devices must have currently-supported and hardened operating systems, the latest anti-viral, anti-hacker, anti-spam, anti-spyware, and anti-malware utilities. The environment, as a whole, shall have aggressive intrusion detection and prevention features.
2. Maintenance. The State shall maintain fully-supported, current versions of all hardware and software components. The State shall perform hardware and software maintenance and support services as necessary to ensure proper operation and maintenance of systems.

The State shall install all hardware and software patches, updates, and other utilities according to recommendations and industry best practices, as required to maintain system operations and security. All patches and updates shall be fully tested prior to implementation in the production environment.

The State shall repair or replace hardware or software, or any portion thereof, so the system operates in accordance with the specifications, terms, and requirements of the Contract. A regularly scheduled maintenance window shall be identified (e.g., weekly, monthly, or quarterly), at which time all relevant server patches and application upgrades shall be applied. The State shall report the status of any software testing that will necessitate User Acceptance Testing at least fifteen (15) business Days before UAT would need to commence.

A critical outage shall be designated when a business function cannot be met by a nonperforming application and there is no work around to the problem. Unless critical or agreed upon, the State shall perform system maintenance that results in system downtime only on weekends. All maintenance shall be scheduled and the State shall be notified seventy-two (72) Hours in advance of any downtime. The State shall maintain a record of maintenance activities.

The State shall generate System Usage and Performance reports on a monthly basis, including but not limited to the following:

1. Server up-time and down-time;
2. All critical outages, including issue and resolution;
3. All changes, patches and upgrades implemented;
4. System access; and
5. Any other issues and resolution.

System Usage and Performance Reports for the previous month must be provided to the State by the fifth (5th) business day of the following month. Failure to provide reports by the fifth (5th) business day will incur penalties as indicated in Pro Forma Contract Attachment C – Performance Requirements and Payment Reductions.

1. Business Continuity and Disaster Recovery. State Hosted: Systems shall be configured with levels of redundancy so that typical component failures shall not disrupt service. The State shall define, implement and exercise adequate business continuity and disaster recovery procedures.

The State shall have documented disaster recovery plans that address the recovery of hardware, software and data. The State shall adhere to a defined and documented back- up schedule and procedure, including regular full and incremental back-up. The State shall manage back-up, off-site data storage, and restore operations. The back-up process must ensure data is transferred securely.

1. Final Project: The Contractor shall create a Final Project Report summarizing project activities, lessons learned and recommended next steps. The Project Closure Report shall be submitted to the State Lead no later than fifteen (15) business Days prior to the final signoff of the final project implementation. The State will provide written acceptance of the Project Closure Report.
2. Change Orders. The State may, at its sole discretion and within written notice to the Contractor, request changes in the Scope that are necessary but were inadvertently unspecified in this contract.
3. Change Order Creation. After receipt of a written request for additional services from the State, the Contractor shall respond to the State, within a maximum of ten (10) business days, with a written proposal for completing the service. Contractor’s proposal must specify:
4. The effect, if any, of implementing the requested change(s) on all other services required under this Contract;
5. The specific effort involved in completing the change(s);
6. The specific schedule for completing the change(s);
7. The maximum number of person hours required for the change(s); and
8. The maximum cost for the change(s) – this maximum cost shall in no instance exceed the product of the person hours required multiplied by the appropriate payment rate proposed for such work.

The Contractor shall not perform any additional service until the State has approved the proposal. If approved, the State will sign the proposal, and it shall constitute a Change Order between the Contract Parties pertaining to the specified change(s) and shall be incorporated, hereby, as a part of this Contract.

1. Change Order Performance. Subsequent to creation of a Change Order, the Contractor shall complete the required services. The State will be the sole judge of the acceptable completion of work and, upon such determination, shall provide the Contractor written approval.
2. Change Order Remuneration— The State will remunerate the Contractor only for acceptable work. All acceptable work performed pursuant to an approved Change Order, without a formal amendment of this Contract, shall be remunerated in accordance with and further limited by Contract Section C.3.c., PROVIDED THAT, the State shall be liable to the Contractor only for the cost of the actual goods or services provided to complete the necessary work, not to exceed the maximum cost for the change detailed in the Change Order. In no instance shall the State be liable to the Contractor for any amount exceeding the maximum cost specified by the Change Order authorizing the goods or services. Upon State approval of the work, the Contractor shall invoice the State in accordance with the relevant provisions of this Contract.

A.5. Service Deliverables.

| **#** | **Deliverable** | **Contract Section (s)** | **Delivery Date** |
| --- | --- | --- | --- |
| 1. | Kickoff Meeting Presentation | A.4.a | Within 30 Days after the Contract Effective Date |
| 2. | Work Breakdown Structure and Project Schedule | A.4.b.(1).(i) | Within 30 Days after the Contract Effective Date |
| 3. | Change Management Plan | A.4.b. (1).(ii) | Within 30 Days after the Contract Effective Date |
| 4. | Communication Management Plan | A.4.b. (1).(iii) | Within 30 Days after the Contract Effective Date |
| 5. | Resource Management Plan | A.4.b. (1).(iv) | Within 30 Days after the Contract Period Beginning Date |
| 6. | Risk Management Plan | A.4.b.(1).(v) | Within 30 - 45 Days after the Contract Period Beginning Date |
| 7. | Issue Management Plan | A.4.b.(1).(vi) | Agreed upon date after the Contract Period Beginning Date |
| 8. | Configuration Management Plan | A.4.b.(1).(vii) | Agreed upon date after the Contract Period Beginning Date |
| 9. | Quality Management Plan | A.4.b.(1).(viii) | Agreed upon date after the Contract Period Beginning Date |
| 10. | Release Management Plan | A.4.b.(2) | Agreed upon date after the Contract Period Beginning Date |
| 11. | Weekly Status Report | A.4.b.(3) | One week after the Contract Effective Date and weekly thereafter. |
| 12. | Requirements Verification and Fit-Gap Analysis | A.4.c | As mutually agreed upon by the State and Contractor in accordance with the Project Schedule |
| 13. | Application Design | A.4.d | As mutually agreed upon by the State and Contractor in accordance with the Project Schedule |
| 14. | Test Plan | A.4.e | As mutually agreed upon by the State and Contractor in accordance with the Project Schedule |
| 15. | Defect Tracking Log | A.4.f | As mutually agreed upon by the State and Contractor in accordance with the Project Schedule |
| 16. | Implementation Plan | A.4.g | As mutually agreed upon by the State and Contractor in accordance with the Project Schedule |
| 17. | Backup and Recovery Plan | A.4.h | As mutually agreed upon by the State and Contractor in accordance with the Project Schedule |
| 18. | Contingency of Operations Plan | A.4.i | As mutually agreed upon by the State and Contractor in accordance with the Project Schedule |
| 19. | Construct Solution | A.4.j | As mutually agreed upon by the State and Contractor in accordance with the Project Schedule |
| 20. | Conduct Testing | A.4.k | As mutually agreed upon by the State and Contractor in accordance with the Project Schedule |
| 21. | Training | A.4.l | At least thirty (30) calendar Days prior to the commencement of UAT |
| 22. | User Acceptance Testing. | A.4.m | As mutually agreed upon by the State and Contractor in accordance with the Project Schedule |
| 23. | Statewide Rollout | A.4.n | As mutually agreed upon by the State and Contractor in accordance with the Project Schedule |
| 24. | Support and Maintenance Plan | A.4.o | No later than ninety (90) Days after the Contract Period Start Date |
| 25. | Quarterly Service Level Reports | A.4.o.(2) | Quarterly upon commencement of Support and Maintenance Plan |
| 26. | Monthly System Usage and Performance Reports | A.4.o.(4) | Monthly upon commencement of Support and Maintenance Plan |
| 27. | Final Project Report | A.4.p | No later than fifteen (15) business Days prior to the Contract Period End Date |

A.6. Warranty. Contractor represents and warrants that the term of the warranty (“Warranty Period”) shall be the greater of the Term of this Contract or any other warranty general offered by Contractor, its suppliers, or manufacturers to customers of its goods or services. The goods or services provided under this Contract shall conform to the terms and conditions of this Contract throughout the Warranty Period. Any nonconformance of the goods or services to the terms and conditions of this Contract shall constitute a “Defect” and shall be considered “Defective.” If Contractor receives notice of a Defect during the Warranty Period, then Contractor shall correct the Defect, at no additional charge.

 Contractor represents and warrants that the State is authorized to possess and use all equipment, materials, software, and Deliverables provided under this Contract.

 Contractor represents and warrants that all goods or services provided under this Contract shall be provided in a timely and professional manner, by qualified and skilled individuals, and in conformity with standards generally accepted in Contractor’s industry.

 If Contractor fails to provide the goods or services as warranted, then Contractor will re-provide the goods or services at no additional charge. If Contractor is unable or unwilling to re-provide the goods or services as warranted, then the State shall be entitled to recover the fees paid to Contractor for the Defective goods or services. Any exercise of the State’s rights under this Section shall not prejudice the State’s rights to seek any other remedies available under this Contract or applicable law.

A.7. Upgrades and Enhancements.

1. All upgrades and/or enhancements to the solution will be made available to the State as soon as they are released to any of the Contractor’s customers.
2. The Contractor will coordinate with the State on the timing of the installation of the upgrades and/or enhancements.
3. The Contractor will provide the State will full instructions regarding the steps necessary to install and test upgrades and/or enhancements.

A.8. Information Security Compliance.

Contractor warrants to the State that it is familiar with the requirements of the State of Tennessee Enterprise Information Security Policies, and has measures in place that ensure that all data records are transported, stored and accessed in a secure manner. All data is property of the State of Tennessee. The system or contractor must meet or exceed the State’s information security requirements for access control, authentication, storage, data destruction, system maintenance and patching and must be compliant with best practices for secure application development as defined in ISO/IEC 27000 series. The State of Tennessee Information Security policy can be found at the following link:

<http://www.tn.gov/assets/entities/finance/oir/attachments/PUBLIC-Enterprise-Information-Security-Policies-v2.0_1.pdf>

Contractor warrants that it will cooperate with the State in the course of performance of the Contract so that both parties will be in compliance with State Enterprise Information Security Policies requirements and any other state and federal computer security regulations including cooperation and coordination with State computer security officials and other compliance officers required by its regulations.

The State may conduct audits of Contractor’s compliance with the State’s Enterprise Information Security Policy (“The Policy”) or under this Contract, including those obligations imposed by Federal or State law, regulation or policy.

The State’s or State’s designee’s right to conduct security audits is independent of any other audit or monitoring required by this Contract. The timing and frequency of such audits shall be at the State’s discretion and may but not necessarily shall, be in response to a security incident.

A security audit may include the following: (i) review of access logs, screen shots and other paper or electronic documentation relating to Contractor’s compliance with the Policy. This may include review of documentation relevant to subcontractors or suppliers of security equipment and services used with respect to State data; (ii) physical inspection of controls such as door locks, file storage, communications systems, and employee identification procedures; and (iii) interviews of responsible technical and management personnel regarding security procedures.

Contractor shall provide reports or additional information upon request of the State and access by the State or the State's designated staff to Contractor’s facilities and/or any location involved with providing services to the State or involved with processing or storing State data, and Contractor shall cooperate with State staff and audit requests submitted under this Section. Any confidential information of either party accessed or disclosed during the course of the security audit shall be treated as set forth under this Contract or federal or state law or regulations. Each party shall bear its own expenses incurred in the course of conducting this security audit. Contractor shall at its own expense promptly rectify any non-compliance with the Policy or other requirements identified by this security audit and provide proof to the State thereof.

A.9. Secure Website.

1. The Contractor shall create a secure website for use by the Contractor and the State. The website landing page shall clearly indicate that General Sessions Data Repository is a State of Tennessee program and shall display logos, title, text and banner regarding unauthorized use.
2. The website content shall only be accessible to authorized Users. The Contractor shall create User accounts and manage access in accordance with the requirements of this contract.
3. The website shall be updated as warranted by changes or developments and upon request by the State.

A.10. Security Certification, Accreditation, Audit.

1. At the State’s request, the Contractor shall provide proof of certification, accreditation, or audit on a yearly basis to the State to validate the hosting solution security. (Examples: SAS 70, SSAE 16, SOC 2 / SOC 3, ISO 27001/2.).
2. The Contractor shall represent and warrant that the Software / Application / Network shall be free from all computer viruses, worms, time-outs, time bombs, back doors, disabling devices and other harmful or malicious code intended to or which may damage, disrupt, inconvenience or permit access to the Software User's or another's software, hardware, networks, data or information. If the Contractor is aware of any security incident, vulnerability or other malicious code within their software or network, the Contractor shall immediately disclose this information to the State via telephone and e-mail, as well as identify a timeline to mitigate and eliminate the risk.

A.11. Retention of Data. The Contractor shall maintain all data belonging to the State, in accordance with the requirements for data storage and retention found in this Contract, that this is in its possession through the term of the Contract.

A.12 Transfer of Data. The Contractor shall provide to the State all data belonging to the State that is in its possession within sixty Days after the termination date of the Contract. The Contractor and the State shall determine a mutually agreeable format and process for transferring such data. This section does not relieve the Contractor from maintaining all records as required by the Contract.

A.13. Inspection and Acceptance. The State shall have the right to inspect all goods or services provided by Contractor under this Contract. If, upon inspection, the State determines that the goods or services are Defective, the State shall notify Contractor, and Contractor shall re-deliver the goods or provide the services at no additional cost to the State. If after a period of thirty (30) Days following delivery of goods or performance of services the State does not provide a notice of any Defects, the goods or services shall be deemed to have been accepted by the State.

**B. TERM OF CONTRACT:**

 This Contract shall be effective on DATE (“Effective Date”) and extend for a period of number (#) months after the Effective Date (“Term”). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

**C. PAYMENT TERMS AND CONDITIONS:**

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Written Dollar Amount ($Number) (“Maximum Liability”). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.

C.2. Compensation Firm. The payment methodology in Section C.3. of this Contract shall constitute the entire compensation due the Contractor for all goods or services provided under this Contract regardless of the difficulty, materials or equipment required. The payment methodology includes all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Contractor.

C.3. Payment Methodology. The Contractor shall be compensated based on the payment methodology for goods or services authorized by the State in a total amount as set forth in Section C.1.

1. The Contractor’s compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A. Upon completion and written State approval of the deliverable(s), the State will compensate the Contractor in an amount equal to 90% of the actual deliverable Payment Amount listed in C.3.b, the other 10% to be retained and distributed at the signed approval of the e-filing implementation.
2. The Contractor shall be compensated based upon the following payment methodology:

|  |  |  |  |
| --- | --- | --- | --- |
| **Services Description** | **Amount from Cost Proposal** | **Retainage Amount** | **Payment Amount** |
| **Completion and State approval of the following Deliverables:*** Kickoff Meeting Presentation as detailed in Contract Section-A.4.a
* Work Breakdown Structure and Project Schedule as detailed in Contract Section-A.4.b. (1).(i)
* Change Management Plan as detailed in Contract Section-A.4.b. (1).(ii)
* Communication Management Plan as detailed in Contract Section-A.4.b. (1).(iii)
* Resource Management Plan as detailed in Contract Section-A.4.b. (1).(iv)
* Risk Management Plan as detailed in Contract Section-A.4.b.(1).(v)
* Issue Management Plan as detailed in Contract Section-A.4.b.(1).(vi)
* Configuration Management Plan as detailed in Contract Section-A.4.b.(1).(vii)
* Quality Management Plan as detailed in Contract Section-A.4.b.(1).(viii)
* Release Management Plan as detailed in Contract Section-A.4.b.(2)
* Implementation Plan as detailed in Contract Section-A.4.g
* Backup and Recovery Plan as detailed in Contract Section-A.4.h
* Contingency of Operations Plan as detailed in Contract Section-A.4.i
* Support and Maintenance Plan as detailed in Contract Section-A.4.o
 | **90%** | **10%** | **$ [NUMBER]** |
| **Completion and State approval of the following Deliverables:*** Requirements Verification and Fit-Gap Analysis as detailed in Contract Section-A.4.c
* Application Design as detailed in Contract Section-A.4.d
* Test Plan as detailed in Contract Section-A.4.e
* Defect Tracking Log as detailed in Contract Section-A.4.f
 | **90%** | **10%** | **$ [NUMBER]** |
| **Completion and State approval of the following Deliverables:*** Construct Solution as detailed in Contract Section-A.4.j
* Conduct Testing as detailed in Contract Section-A.4.k
 | **90%** | **10%** | **$ [NUMBER]** |
| **Completion and State approval of the following Deliverables:*** Weekly Status Report as detailed in Contract Section-A.4.b.(3)
* Quarterly Service Level Reports as detailed in Contract Section-A.4.o.(2)
* Monthly System Usage and Performance Reports as detailed in Contract Section-A.4.o.(4)
 | **90%** | **10%** |  |
| **Completion and State approval of the following Deliverables:*** Training as detailed in Contract Section-A.4.l
* User Acceptance Testing as detailed in Contract Section-A.4.m
* Statewide Rollout as detailed in Contract Section-A.4.n
 | **90%** | **10%** | **$ [NUMBER]** |
| **Completion and State approval of the following Deliverables:*** Final Project Report as detailed in Contract Section-A.4.p
 | **90%** | **10%** | **$ [NUMBER]** |
| **Total Implementation Amount** |  |  | **$ [NUMBER]** |

1. The Contractor shall be compensated for changes requested and performed pursuant to Contract Section A.4.q, without a formal amendment of this Contract based upon the payment rates detailed in the schedule below and as agreed pursuant to Section A.4.q, PROVIDED THAT compensation to the Contractor for such “change order” work shall not exceed NUMBER NOT TO EXCEED SEVEN PERCENT (Number %) of the sum of milestone payment rates detailed in Section C.3.b., above (which is the total cost for the milestones and associated deliverables set forth in Contract Sections A.3., through A.10.). If, at any point during the Term, the State determines that the cost of necessary “change order” work would exceed the maximum amount, the State may amend this Contract to address the need.

|  |  |
| --- | --- |
| **Service Description** | **Amount** (per compensable increment) |
| Change Orders – as detailed in Contract Section A.4.q. | **$ [NUMBER]**per person hour |

1. No Support and Maintenance fees shall be accumulated or invoiced by the Contract until General Sessions Data Repository is deployed and active. Support and Maintenance fees for Contract Year One will be paid by the State based on the date of implementation. Support and Maintenance fees for all other contract years awarded under the Contract shall be invoiced by the Contractor in equal annual installments provided the combined invoices do not exceed the maximum liability amount. Annual installments for all Support and Maintenance fees shall correspond with the State’s fiscal year (July1 to June 30).

|  |  |
| --- | --- |
| **Service Description** | **Amount** (per compensable increment) |
| Support and Maintenance as detailed in Contract Section A.4.o. | **$ [NUMBER]**per year |

C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel time, travel expenses, meals, or lodging.

C.5. Invoice Requirements. The Contractor shall invoice the State only for goods delivered and accepted by the State or services satisfactorily provided at the amounts stipulated in Section C.3., above. Contractor shall submit invoices and necessary supporting documentation, no more frequently than once a month and no later than thirty (30) Days after goods or services have been provided to the following address:

511 UNION STREET, SUITE 600

NASHVILLE, TN 37219

1. Each invoice, on Contractor’s letterhead, shall clearly and accurately detail all of the following information (calculations must be extended and totaled correctly):

1. Invoice number (assigned by the Contractor);
2. Invoice date;
3. Contract number (assigned by the State);
4. Customer account name: Administrative Office of the Courts & Technology Services;
5. Customer account number (assigned by the Contractor to the above-referenced Customer);
6. Contractor name;
7. Contractor Tennessee Edison registration ID number;
8. Contractor contact for invoice questions (name, phone, or email);
9. Contractor remittance address;
10. Description of delivered goods or services provided and invoiced, including identifying information as applicable;
11. Number of delivered or completed units, increments, Hours, or Days as applicable, of each good or service invoiced;
12. Applicable payment methodology (as stipulated in Section C.3.) of each good or service invoiced;
13. Amount due for each compensable unit of good or service; and
14. Total amount due for the invoice period.
15. Contractor’s invoices shall:
16. Only include charges for goods delivered or services provided as described in Section A and in accordance with payment terms and conditions set forth in Section C;
17. Only be submitted for goods delivered or services completed and shall not include any charge for future goods to be delivered or services to be performed;
18. Not include Contractor’s taxes, which includes without limitation Contractor’s sales and use tax, excise taxes, franchise taxes, real or personal property taxes, or income taxes; and
19. Include shipping or delivery charges only as authorized in this Contract.

 c. The timeframe for payment (or any discounts) begins only when the State is in receipt of an invoice that meets the minimum requirements of this Section C.5.

C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or other matter. A payment by the State shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of any amount invoiced.

C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment that is determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, to not constitute proper compensation for goods delivered or services provided.

C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee, any amounts that are or shall become due and payable to the State of Tennessee by the Contractor.

C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following, properly completed documentation.

a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and

b. The Contractor shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor’s Edison registration information.

**D. MANDATORY TERMS AND CONDITIONS:**

D.1. Required Approvals. The State is not bound by this Contract until it is duly approved by the Parties and all appropriate State officials in accordance with applicable Tennessee laws and regulations. Depending upon the specifics of this Contract, this may include approvals by the Commissioner of Finance and Administration, the Commissioner of Human Resources, the Comptroller of the Treasury, and the Chief Procurement Officer. Approvals shall be evidenced by a signature or electronic approval.

D.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective Party at the appropriate mailing address, facsimile number, or email address as stated below or any other address provided in writing by a Party.

The State:

ANN LYNN WALKER, IT DIRECTOR

ADMINISTRATIVE OFFICE OF THE COURTS

511 UNION STREET, SUITE 600

NASHVILLE, TN 37219

TEL: 615-741-2687

FAX: 615-253-2745

awalker@tncourts.gov

The Contractor:

Contractor Contact Name & Title
Contractor Name
Address
Email Address
Telephone # Number
FAX # Number

All instructions, notices, consents, demands, or other communications shall be considered effective upon receipt or recipient confirmation as may be required.

D.3. Modification and Amendment. This Contract may be modified only by a written amendment signed by all Parties and approved by all applicable State officials.

D.4. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Contract upon written notice to the Contractor. The State’s exercise of its right to terminate this Contract shall not constitute a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. If the State terminates this Contract due to lack of funds availability, the Contractor shall be entitled to compensation for all conforming goods requested and accepted by the State and for all satisfactory and authorized services completed as of the termination date. Should the State exercise its right to terminate this Contract due to unavailability of funds, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages of any description or amount.

D.5. Termination for Convenience. The State may terminate this Contract for convenience without cause and for any reason. The State shall give the Contractor at least thirty (30) Days written notice before the termination date. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by the State or for satisfactory, authorized services completed as of the termination date. In no event shall the State be liable to the Contractor for compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State’s exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State for any damages or claims arising under this Contract.

D.6. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor materially violates any terms of this Contract (“Breach Condition”), the State shall have the right to immediately terminate the Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any Breach Condition and the State may seek other remedies allowed at law or in equity for breach of this Contract.

D.7. Assignment and Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract without the prior written approval of the State. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor’s obligations under this Contract.

D.8. Conflicts of Interest. The Contractor warrants that no part of the Contractor’s compensation shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed under this Contract.

The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six (6) months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six (6) months has been, an employee of the State of Tennessee.

D.9. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal or state law. The Contractor shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

D.10. Equal Opportunity. During the performance of this Contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:
	1. Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising;
	2. Layoff or termination;
	3. Rates of pay or other forms of compensation; and
	4. Selection for training, including apprenticeship.

The 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.

1. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
2. If the State approves any subcontract, the subcontract shall include paragraphs (a) and (b) above.

D.11. Prohibition of Illegal Immigrants. The requirements of Tenn. Code Ann. § 12-3-309 addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.

a. The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment 1 semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.

b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.

c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Contractor’s records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.

d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.

e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; (iv) allowed by the federal Department of Homeland Security and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.; or (v) is otherwise authorized to provide services under the Contract.

D.12. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, for work performed or money received under this Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

D.13. Monitoring. The Contractor’s activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.

D.14. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.

D.15. Strict Performance. Failure by any Party to this Contract to require, in any one or more cases, the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the Parties.

D.16. Independent Contractor. The Parties shall not act as employees, partners, joint ventures’, or associates of one another. The Parties are independent contracting entities. Nothing in this Contract shall be construed to create an employer/employee relationship or to allow either Party to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one Party are not employees or agents of the other Party.

D.17 Patient Protection and Affordable Care Act. The Contractor agrees that it will be responsible for compliance with the Patient Protection and Affordable Care Act (“PPACA”) with respect to itself and its employees, including any obligation to report health insurance coverage, provide health insurance coverage, or pay any financial assessment, tax, or penalty for not providing health insurance. The Contractor shall indemnify the State and hold it harmless for any costs to the State arising from Contractor’s failure to fulfill its PPACA responsibilities for itself or its employees.

D.18. Limitation of State’s Liability. The State shall have no liability except as specifically provided in this Contract. In no event will the State be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise. The State’s total liability under this Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability. This limitation of liability is cumulative and not per incident.

D.19. Limitation of Contractor’s Liability. In accordance with Tenn. Code Ann. § 12-3-701, the Contractor’s liability for all claims arising under this Contract shall be limited to an amount equal to two (2) times the Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the Contractor for: (i) intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights; (ii) any claims covered by any specific provision in the Contract providing for liquidated damages; or (iii) any claims for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or death.

D.20. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State to enforce the terms of this Contract.

In the event of any suit or claim, the Parties shall give each other immediate notice and provide all necessary assistance to respond. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

D.21.    HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), Health Information Technology for Economic and Clinical Health (“HITECH”) Act and any other relevant laws and regulations regarding privacy (collectively the “Privacy Rules”). The obligations set forth in this Section shall survive the termination of this Contract.

a. Contractor warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Contract.

b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.

c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and Contractor in compliance with the Privacy Rules.  This provision shall not apply if information received or delivered by the parties under this Contract is NOT “protected health information” as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.

d. The Contractor will indemnify the State and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.

D.22. Tennessee Consolidated Retirement System. Subject to statutory exceptions contained in Tenn. Code Ann. §§ 8-36-801, *et seq*., the law governing the Tennessee Consolidated Retirement System (“TCRS”), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established under Tenn. Code Ann. §§ 8-35-101, *et seq.*, accepts State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of “employee/employer” and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the Term.

D.23. Tennessee Department of Revenue Registration. The Contractor shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Contract.

D.24. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:

a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;

b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and

d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

D.25. Force Majeure. “Force Majeure Event” means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Contract arising from a Force Majeure Event is not a default under this Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor’s representatives, suppliers, subcontractors, customers or business apart from this Contract is not a Force Majeure Event under this Contract. Contractor will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Contractor’s performance longer than forty-eight (48) Hours, the State may, upon notice to Contractor: (a) cease payment of the fees until Contractor resumes performance of the affected obligations; or (b) immediately terminate this Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Contractor will not increase its charges under this Contract or charge the State any fees other than those provided for in this Contract as the result of a Force Majeure Event.

D.25. State and Federal Compliance. The Contractor shall comply with all applicable state and federal laws and regulations in the performance of this Contract.

D.26. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 - 407.

D.27. Entire Agreement. This Contract is complete and contains the entire understanding between the Parties relating to its subject matter, including all the terms and conditions of the Parties’ agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the Parties, whether written or oral.

D.28. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions of this Contract shall not be affected and shall remain in full force and effect. The terms and conditions of this Contract are severable.

D.29. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

D.30. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor’s duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:

1. any amendment to this Contract, with the latter in time controlling over any earlier amendments;
2. this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f., below), which includes contract attachments 1, 2, 3, and 4.
3. any clarifications of or addenda to the Contractor’s proposal seeking this Contract;
4. the State solicitation, as may be amended, requesting responses in competition for this Contract;
5. any technical specifications provided to proposers during the procurement process to award this Contract; and
6. the Contractor’s response seeking this Contract.

D.31. Insurance. Contractor shall provide the State a certificate of insurance (“COI”) evidencing the coverages and amounts specified below. The COI shall be provided ten (10) business days prior to the Effective Date and again upon renewal or replacement of coverages required by this Contract. If insurance expires during the Term, the State must receive a new COI at least thirty (30) calendar days prior to the insurance’s expiration date. If the Contractor loses insurance coverage, does not renew coverage, or for any reason becomes uninsured during the Term, the Contractor shall notify the State immediately.

 The COI shall be on a form approved by the Tennessee Department of Commerce and Insurance (“TDCI”) and signed by an authorized representative of the insurer. The COI shall list each insurer’s national association of insurance commissioners (also known as NAIC) number or federal employer identification number and list the State of Tennessee, Risk Manager, 312 Rosa L. Parks Ave., 3rd floor Central Procurement Office, Nashville, TN 37243 in the certificate holder section. At any time, the State may require the Contractor to provide a valid COI detailing coverage description; insurance company; policy number; exceptions; exclusions; policy effective date; policy expiration date; limits of liability; and the name and address of insured. The Contractor’s failure to maintain or submit evidence of insurance coverage is considered a material breach of this Contract.

 If the Contractor desires to self-insure, then a COI will not be required to prove coverage. In place of the COI, the Contractor must provide a certificate of self-insurance or a letter on the Contractor’s letterhead detailing its coverage, liability policy amounts, and proof of funds to reasonably cover such expenses. Compliance with Tenn. Code Ann. § 50-6-405 and the rules of the TDCI is required for the Contractor to self-insure workers’ compensation.

All insurance companies must be: (a) acceptable to the State; (b) authorized by the TDCI to transact business in the State of Tennessee; and (c) rated A- VII or better by A. M. Best. The Contractor shall provide the State evidence that all subcontractors maintain the required insurance or that the subcontractors are included under the Contractor’s policy.

The Contractor agrees to name the State as an additional insured on any insurance policies with the exception of workers’ compensation (employer liability) and professional liability (errors and omissions) (“Professional Liability”) insurance. Also, all policies shall contain an endorsement for a waiver of subrogation in favor of the State.

The deductible and any premiums are the Contractor’s sole responsibility. Any deductible over fifty thousand dollars ($50,000) must be approved by the State. The Contractor agrees that the insurance requirements specified in this Section do not reduce any liability the Contractor has assumed under this Contract including any indemnification or hold harmless requirements.

The State agrees that it shall give written notice to the Contractor as soon as practicable after the State becomes aware of any claim asserted or made against the State, but in no event later than thirty (30) calendar days after the State becomes aware of such claim. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor or its insurer, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

All coverage required shall be on a primary basis and noncontributory with any other insurance coverage or self-insurance carried by the State. The State reserves the right to amend or require additional endorsements, types of coverage, and higher or lower limits of coverage depending on the nature of the work. Purchases or contracts involving any hazardous activity or equipment, tenant, concessionaire and lease agreements, alcohol sales, cyber-liability risks, environmental risks, special motorized equipment, or property may require customized insurance requirements (e.g. umbrella liability insurance) in addition to the general requirements listed below.

The Contractor shall obtain and maintain, at a minimum, the following insurance coverages and policy limits.

1. Workers’ Compensation and Employer Liability Insurance
	1. For Contractors statutorily required to carry workers’ compensation and employer liability insurance, the Contractor shall maintain:
		1. Workers’ compensation in an amount not less than one million dollars ($1,000,000) including employer liability of one million dollars ($1,000,000) per accident for bodily injury by accident, one million dollars ($1,000,000) policy limit by disease, and one million dollars ($1,000,000) per employee for bodily injury by disease.
	2. If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. §§ 50-6-101 – 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:
		1. The Contractor employs fewer than five (5) employees;
		2. The Contractor is a sole proprietor;
		3. The Contractor is in the construction business or trades with no employees;
		4. The Contractor is in the coal mining industry with no employees;
		5. The Contractor is a state or local government; or the Contractor self-insures its workers’ compensation and is in compliance with the TDCI rules and Tenn. Code Ann. § 50-6-405.
2. Automobile Liability Insurance
	1. The Contractor shall maintain automobile liability insurance which shall cover liability arising out of any automobile (including owned, leased, hired, and non-owned automobiles).
	2. The Contractor shall maintain bodily injury/property damage with a limit not less than one million dollars ($1,000,000) per occurrence or combined single limit.
3. Professional Liability Insurance
	1. Professional liability insurance shall be written on an occurrence basis. This coverage may be written on a claims-made basis but must include an extended reporting period or “tail coverage” of at least two (2) years after the Term;
	2. Any professional liability insurance policy shall have a limit not less than one million dollars ($1,000,000) per claim and two million dollars ($2,000,000) in the aggregate; and
	3. If the Contract involves the provision of services by medical professionals, a policy limit not less than two million ($2,000,000) per claim and three million dollars ($3,000,000) in the aggregate for medical malpractice insurance.

D.32 International. No data, application, hardware or personnel for Contractor’s proposed solution can reside outside of the United States.

**E. SPECIAL TERMS AND CONDITIONS:**

E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, the special terms and conditions shall be subordinate to the Contract’s other terms and conditions.

E.2. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State that is regarded as confidential under state or federal law shall be regarded as “Confidential Information.” Nothing in this Section shall permit Contractor to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Contractor shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

The obligations set forth in this Section shall survive the termination of this Contract.

E.3. State Ownership of Goods. The State shall have ownership, right, title, and interest in all goods provided by Contractor under this Contract including full rights to use the goods and transfer title in the goods to any third parties.

E.4 Ownership of Software and Work Products.

1. Definitions.
2. “Contractor-Owned Software,” shall mean commercially available software the rights to which are owned by Contractor, including but not limited to commercial “off-the-shelf” software which is not developed using State’s money or resources.
3. “Custom-Developed Application Software,” shall mean customized application software developed by Contractor solely for State.
4. “Rights Transfer Application Software,” shall mean any pre-existing application software owned by Contractor or a third party, provided to State and to which Contractor will grant and assign, or will facilitate the granting and assignment of, all rights, including the source code, to State.
5. “Third-Party Software,” shall mean software not owned by the State or the Contractor.
6. “Work Product,” shall mean all Deliverables exclusive of hardware, such as software, software source code, documentation, planning, etc., that are created, designed, developed, or documented by the Contractor exclusively for the State during the course of the project using State’s money or resources, including Custom-Developed Application Software. If the Deliverables under this Contract include Rights Transfer Application Software, the definition of Work Product shall also include such software. Work Product shall not include Contractor-Owned Software or Third-Party Software.
7. Rights and Title to the Software
8. All right, title and interest in and to the Contractor-Owned Software shall at all times remain with Contractor, subject to any license granted under this Contract.
9. All right, title and interest in and to the Work Product, and to modifications thereof made by State, including without limitation all copyrights, patents, trade secrets and other intellectual property and other proprietary rights embodied by and arising out of the Work Product, shall belong to State. To the extent such rights do not automatically belong to State, Contractor hereby assigns, transfers, and conveys all right, title and interest in and to the Work Product, including without limitation the copyrights, patents, trade secrets, and other intellectual property rights arising out of or embodied by the Work Product. Contractor and its employees, agents, contractors or representatives shall execute any other documents that State or its counsel deem necessary or desirable to document this transfer or allow State to register its claims and rights to such intellectual property rights or enforce them against third parties.
10. All right, title and interest in and to the Third-Party Software shall at all times remain with the third party, subject to any license granted under this Contract.
11. The Contractor may use for its own purposes the general knowledge, skills, experience, ideas, concepts, know-how, and techniques obtained and used during the course of performing under this Contract. The Contractor may develop for itself, or for others, materials which are similar to or competitive with those that are produced under this Contract.

E.5 Contractor Commitment to Diversity.The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor’s proposal responding to RFQ-**30227\_16001** (Attachment B) and resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor’s performance of this commitment by providing, as requested, a quarterly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, and persons with a disability. Such reports shall be provided to the State of Tennessee Governor's Office of Diversity Business Enterprise in form and substance as required by said office.

E.6. Software License Warranty. Contractor grants a license to the State to use all software provided under this Contract in the course of the State’s business and purposes.

E.7. Software Support and Maintenance Warranty. Contractor shall provide to the State all software upgrades, modifications, bug fixes, or other improvements in its software that it makes generally available to its customers.

E.8. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible personal property furnished by the State for the Contractor’s use under this Contract. Upon termination of this Contract, all property furnished by the State shall be returned to the State in the same condition as when received, less reasonable wear and tear. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the fair market value of the property at the time of loss.

E.9. Prohibited Advertising or Marketing. The Contractor shall not suggest or imply in advertising or marketing materials that Contractor's goods or services are endorsed by the State. The restrictions on Contractor advertising or marketing materials under this Section shall survive the termination of this Contract.

E.10. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:

a. No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,'' in accordance with its instructions.

c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

E.11. Intellectual Property. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State concerning or arising out of any claim of an alleged patent, copyright, trade secret or other intellectual property infringement. In any such claim or action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any settlement or final judgment, and the Contractor shall be responsible for all legal or other fees or expenses incurred by the State arising from any such claim. The State shall give the Contractor notice of any such claim or suit and full right and opportunity to conduct the Contractor’s own defense thereof, however, the failure of the State to give such notice shall only relieve Contractor of its obligations under this Section to the extent Contractor can demonstrate actual prejudice arising from the State’s failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State of Tennessee in any legal matter, as provided in Tenn. Code Ann.§ 8-6-106.

E.12. Partial Takeover of Contract. The State may, at its convenience and without cause, exercise a partial takeover of any service that the Contractor is obligated to perform under this Contract, including any service which is the subject of a subcontract between Contractor and a third party (a “Partial Takeover”). A Partial Takeover of this Contract by the State shall not be deemed a breach of contract. The Contractor shall be given at least thirty (30) Days prior written notice of a Partial Takeover. The notice shall specify the areas of service the State will assume and the date the State will be assuming. The State’s exercise of a Partial Takeover shall not alter the Contractor’s other duties and responsibilities under this Contract. The State reserves the right to withhold from the Contractor any amounts the Contractor would have been paid but for the State’s exercise of a Partial Takeover. The amounts shall be withheld effective as of the date the State exercises its right to a Partial Takeover. The State’s exercise of its right to a Partial Takeover of this Contract shall not entitle the Contractor to any actual, general, special, incidental, consequential, or any other damages irrespective of any description or amount.

E.13. Unencumbered Personnel. The Contractor shall not restrict its employees, agents, subcontractors or principals who perform services for the State under this Contract from performing the same or similar services for the State after the termination of this Contract, either as a State employee, an independent contractor, or an employee, agent, subcontractor or principal of another contractor with the State.

E.14. Personally Identifiable Information. While performing its obligations under this Contract, Contractor may have access to Personally Identifiable Information held by the State (“PII”). For the purposes of this Contract, “PII” includes “Nonpublic Personal Information” as that term is defined in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time (“GLBA”) and personally identifiable information and other data protected under any other applicable laws, rule or regulation of any jurisdiction relating to disclosure or use of personal information (“Privacy Laws”). Contractor agrees it shall not do or omit to do anything which would cause the State to be in breach of any Privacy Laws. Contractor shall, and shall cause its employees, agents and representatives to: (i) keep PII confidential and may use and disclose PII only as necessary to carry out those specific aspects of the purpose for which the PII was disclosed to Contractor and in accordance with this Contract, GLBA and Privacy Laws; and (ii) implement and maintain appropriate technical and organizational measures regarding information security to: (A) ensure the security and confidentiality of PII; (B) protect against any threats or hazards to the security or integrity of PII; and (C) prevent unauthorized access to or use of PII. Contractor shall immediately notify State: (1) of any disclosure or use of any PII by Contractor or any of its employees, agents and representatives in breach of this Contract; and (2) of any disclosure of any PII to Contractor or its employees, agents and representatives where the purpose of such disclosure is not known to Contractor or its employees, agents and representatives. The State reserves the right to review Contractor's policies and procedures used to maintain the security and confidentiality of PII and Contractor shall, and cause its employees, agents and representatives to, comply with all reasonable requests or directions from the State to enable the State to verify and/or procure that Contractor is in full compliance with its obligations under this Contract in relation to PII. Upon termination or expiration of the Contract or at the State’s direction at any time in its sole discretion, whichever is earlier, Contractor shall immediately return to the State any and all PII which it has received under this Contract and shall destroy all records of such PII.

The Contractor shall report to the State any instances of unauthorized access to or potential disclosure of PII in the custody or control of Contractor (“Unauthorized Disclosure”) that come to the Contractor’s attention. Any such report shall be made by the Contractor within twenty-four (24) Hours after the Unauthorized Disclosure has come to the attention of the Contractor. Contractor shall take all necessary measures to halt any further Unauthorized Disclosures. The Contractor, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals whose PII was affected by the Unauthorized Disclosure. The Contractor shall bear the cost of notification to all individuals affected by the Unauthorized Disclosure, including individual letters and public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to this State under this Contract or otherwise available at law.

|  |
| --- |
| **IN WITNESS WHEREOF,** |
| **CONTRACTOR LEGAL ENTITY NAME:** |
|  |
| **CONTRACTOR SIGNATURE** | **DATE** |
|  |
| **PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)**  |
| **ADMINISTRATIVE OFFICE OF THE COURTS:** |
|  |
| **DEBORAH TAYLOR TATE, AOC DIRECTOR** | **DATE** |

|  |
| --- |
| **ATTACHMENT 1** |
| **ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE**  |
| **If the attestation applies to more than one contract, modify this row accordingly.****SUBJECT CONTRACT NUMBER:** |  |
| **CONTRACTOR LEGAL ENTITY NAME:** |  |
| **FEDERAL EMPLOYER IDENTIFICATION NUMBER:** (or Social Security Number) |  |
| If the attestation applies to more than one contract, modify the following paragraph accordingly.**The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.** |
|  |
| **CONTRACTOR SIGNATURE** |
| NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. Attach evidence documenting the individual’s authority to contractually bind the Contractor, unless the signatory is the Contractor’s chief executive or president. |
|  |
| **PRINTED NAME AND TITLE OF SIGNATORY**  |
|  |
| **DATE OF ATTESTATION**  |

***Pro Forma* ATTACHMENT 2**

***(Fill out only by selected Contractor)***

SAMPLE LETTER OF DIVERSITY COMMITMENT

**(Company Letterhead/Logo)**

(Address)

(Date)

(Salutation),

(Company Name) is committed to achieving or surpassing a goal of (numeral) percent spend with certified diversity business enterprise firms on State of Tennessee contract # (Edison document #). Diversity businesses are defined as those that are owned by minority, women, small business and Tennessee service-disabled veterans which are certified by the Governor's Office of Diversity Business Enterprise (Go-DBE).

We confirm our commitment of (percentage) participation on the (Contract) by using the following

diversity businesses:

1. Name and ownership characteristics (i.e., ethnicity, gender, Tennessee service-disabled veteran) of anticipated diversity subcontractors and suppliers:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(ii)         Participation estimates (expressed as a percent of the total contract value to be dedicated to diversity subcontractors and suppliers):

 \_\_\_\_\_\_\_\_%.

(iii)        Description of anticipated services to be performed by diversity subcontractors and

 suppliers:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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We accept that our commitment to diversity advances the State’s efforts to expand opportunity of diversity businesses to do business with the State as contractors and sub-contractors.

Further, we commit to:

1. Using applicable reporting tools that allow the State to track and report purchases from businesses owned by minority, women, Tennessee service-disabled veterans and small business.
2. Reporting quarterly to the Go-DBE office the dollars spent with certified diversity
businesses owned by minority, women, Tennessee service-disabled veterans and small business accomplished under contract # (Edison number).

(Company Name) is committed to working with the Go-DBE office to accomplish this goal.

Regards,

**(Company authority – signature and title)**

**ATTACHMENT 3**

**Performance Requirements and Payment Reductions**

|  |  |
| --- | --- |
| **Performance Standard** | **Applicable Penalty for Failure to Meet Standard** |
| 1 | Within two (2) Hours from the time a Severity Level 1 problem is reported to the Contractor, the Contractor shall assign dedicated resources as required to solve the problem.(Reference Section A.4.o.(2)) | Five Hundred Dollars ($500.00) | Per incident > 2 hour |
| 2 | Within four (4) Hours from the time a Severity Level 2 problem is reported to the Contractor, the Contractor shall assign dedicated resources as required to solve the problem.(Reference Section A.4.p.(2)) | One Hundred Dollars ($100.00) | Per incident > 4 Hours |
| 3 | Within 24 Hours from the time a Severity Level 3 problem is reported to the Contractor, the Contractor shall assign resources to solve the problem within a mutually agreed upon timeframe.(Reference Section A.4.p.(2)) | One Hundred Dollars ($100.00) | Per incident > 1 day |
| 4 | Provide Quarterly Service Level reports by the 10th business day of the following quarter.(Reference Section A.4.p.(2)) | One Hundred Dollars ($100.00) | Per calendar day after failure to supply |
| 5 | Provide Monthly System Usage and Performance Reports by the 5th business day of the following month.(Reference Section A.4.p.(3)) | One Hundred Dollars ($100.00) | Per calendar day after failure to supply |
| 6 | The Approval and Completion of Change Orders specific to the scope of services of this Contract (Reference A.4.q.) | One Hundred Dollars ($100.00) | Within ten (10) business Days after receipt of a written Change Order request from the State |
| 7 | Provide Work Breakdown Structure and Project Schedule within 30 calendar Days of the Contract Period Beginning Date.(Reference Section A.4.b (1).i) | One Hundred Dollars ($100.00) | Per calendar day after failure to supply |
| 8 | Provide Weekly Project Status Reports by the first business day of the week.(Reference Section A.4.b(3)) | One Hundred Dollars ($100.00) | Per calendar day after failure to supply |

***Pro Forma* ATTACHMENT 5**

**This is a placeholder for the Reporting Specification Document.**