

**CONTRACT
 BETWEEN THE STATE OF TENNESSEE,
 DEPARTMENT OF GENERAL SERVICES, CENTRAL PROCUREMENT OFFICE
 AND
 CONTRACTOR NAME**

This Contract, by and between the State of Tennessee, acting by and through the Department of General Services, Central Procurement Office (“State”) and **Contractor Legal Entity Name** (“Contractor”), is for the provision of Facilities Management Services (“FM Services”) as further defined in the "SCOPE." The 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. For purposes of this Contract, definitions shall be as follows and as set forth in the Contract:

a. Definitions –

TERM	DEFINITION
APPA	The term “APPA” shall mean the organization formerly known as the Association of Physical Plant Administrators, which today is known as APPA: Leadership in Educational Facilities.
APPA Levels	The term “APPA Levels” shall mean the standards promulgated by APPA relating to the different standards of maintenance, custodial, and grounds based on a five (5) point scale with an APPA Level of one (1) being the highest quality standard and an APPA Level of five (5) being the lowest quality standard. The term “APPA Levels” shall have the meaning as ascribed to it in Contract Attachment Q.
Baseline	The term “Baseline” represents the actual annualized operating costs and levels of service or APPA Levels, including any third-party costs, incurred by the Participating Entity immediately prior to the PA Effective Date of a KPI or performance measure comparing current and prior period results. Notwithstanding anything to the contrary, the Baseline shall not include Major Maintenance or Capital Projects as set forth in Contract Section A.4.6.
Baseline Adjustment	“Baseline Adjustment” refers to a mutually agreed modification to the Baseline that is required to maintain comparability of outcomes due to changes in operating costs, APPA service levels, service frequency, location, square footage, or other similar conditions.
Capital Project(s)	The term “Capital Project” shall have the meaning as ascribed to this term in Contract Section A.4.6.d.

CMMS	The acronym "CMMS" shall mean Contractor's "computerized maintenance management system."
Continuous Improvement	Continuous Improvement means any initiative or project proposed by the Contractor to enhance existing processes, procedures, or services within the State of Tennessee's Facility management program. Such projects may improve processes managed by either the Contractor or the State and must demonstrate measurable benefits, including increased efficiency, improved service quality, or cost savings in hard or soft dollars. Continuous Improvement efforts must align with State objectives and be reviewed and approved by the Operational Governance Committee prior to implementation. See references in Contract Section B.2. <u>Renewal Options</u> and Attachment D Performance Management.
Contract	The term "Contract" shall mean Statewide Contract #458 between the State and the Contractor for FM Services and which also governs any Participating Addendums signed by Participating Entities for FM Services provided by the Contractor.
Contractor Standards of Conduct Policy	A code of business ethics, that distinguishes acceptable versus unacceptable behavior, and that provides for the grounds or circumstances under which the Contractor may exercise the right of immediate termination without prior notice or corrective action. Please reference Contract Attachment G Employee and Business Conduct.
Contractor Management Fee	The term "Contractor Management Fee" shall mean the line item in the Operations Budget for the Contractor's fee for providing FM Services to a Participating Entity. This fee shall be paid in twelve (12) equal installments each year during the Term, subject to quarterly and annual true-up in accordance with Contract Section C.3.j <i>Financial True-Up</i> .
Contractor Subcontract	Those contracts by and between Contractor and a Subcontractor to provide services to a Participating Entity under Contract Section A.16.2.
Cost Savings Initiative	Cost Savings Initiative means a proposal developed and presented by the Contractor to the Operational Governance Committee that identifies opportunities to reduce costs within the State of Tennessee's Facility management program. The initiative must include supporting evidence or analysis demonstrating the potential for measurable hard-dollar savings (direct financial reduction) or soft-dollar efficiencies (time, resource, or productivity gains) resulting from implementation. See reference in Contract Section A.8.d.
Daily Maintenance	The term "Daily Maintenance" shall be defined as maintenance activities performed as part of normal, day-to-day Facility operations to maintain systems and equipment in operable condition. Daily maintenance includes labor, materials, and services with an individual cost not to exceed \$25,000 per occurrence and is typically CMMS-generated. Daily maintenance may include but is not limited to replacement of consumables and wear parts, minor repairs or component replacement required to restore equipment to service, emergency operational repairs necessary to maintain continuity of operations, and repair or replacement of failed components where the underlying system remains intact.

Dedicated Employee	The term "Dedicated Employee" means a Contractor or Subcontractor employee assigned to the State FM portfolio, whose time, duties, and responsibilities are limited solely to performing services under the State FM portfolio and are not shared with any other contracts, customers, or assignments outside of the State.
Desired Outcomes	The term "Desired Outcomes" shall mean the State's business goals for FM Services. This term shall also have the meaning as ascribed to it in Contract Attachment C Performance Standards.
Effective Date	The term "Effective Date" shall have the meaning as ascribed to it in Contract Section B.1. and Attachment I Participating Addendum - Section 4.
EH&S Program	The term "EH&S Program" shall mean the Contractor's "Environmental Health & Safety" resource platform. This term shall also have the meaning as ascribed to it in Contract Attachment G Employee and Business Conduct.
ESCP	The acronym "ESCP" shall mean the Engineering Services Compliance Program, which is an abstract of codes, laws, and regulations, as well as internal policies, which all properties in the managed portfolio are measured against on an annual basis.
Facility	The term "Facility" shall mean the building, site, location, or grounds owned or leased by the State or a Participating Entity where FM Services will be performed.
FM Services Rate	The term "FM Services Rate" shall have the meaning ascribed to it in RFP #32110-45825 Attachment 6.3 Cost Proposal and Scoring Guide.
FTE	The term "FTE" shall mean the full-time equivalent employees of the Contractor who provide FM Services under a PA. This term shall also have the meaning ascribed to it in RFP #32110-45825 Attachment 6.3 Cost Proposal and Scoring Guide.
Governance Structure	The term "Governance Structure" shall have the meaning as ascribed to it in Contract Attachments F Relationship Management.
In-Scope Services	The term "In-Scope Services" shall have the meaning ascribed to it in Contract Section A.11.
KPI	The acronym "KPI" shall mean "key performance indicators," which are the metrics used to measure or evaluate the Contractor's performance against the Desired Outcomes and will be used to determine Contractor's entitlement to at-risk fees as set forth in Contract Section C.
LGI	The acronym "LGI" means the "locally governed institutions," which includes Austin Peay State University, East Tennessee State University, Middle Tennessee State University, Tennessee State University, Tennessee Tech University, and the University of Memphis.
Major Maintenance	Major Maintenance shall be defined in accordance with the Bylaws, Policy, and Procedure of the State Building Commission "SBC" as may be amended from time to time. The current policy can be found on the Office of the State Architect's website: https://www.tn.gov/osa/general-information/policy---procedure.html
Minor Maintenance	Minor Maintenance shall mean maintenance, repair, or renovation activities that do not meet the definition of Major Maintenance as established by the Bylaws, Policies, and

	Procedures of the State Building Commission “SBC”, as may be amended from time to time. Minor Maintenance includes work that does not require SBC approval; does not materially alter the building’s structure, life-safety systems, or primary function; does not constitute a capital improvement, building addition, or system replacement as defined by SBC policy; and falls within the authority of the Owner or its designee to perform without formal SBC project classification.
Managed Contract(s)	The term “Managed Contract” shall mean those contracts of the State or a Participating Entity that cannot be assigned to the Contractor but are needed by the Contractor to efficiently provide FM Services.
Objective(s)	The term “Objective” or “Objectives” means a specific result that a person or system aims to achieve within a specific time frame or with available resources.
Onboarding	The term “Onboarding” shall have the meaning as ascribed to these terms in Contract Section A.13.
Operations Budget	The term “Operations Budget” shall consist of the categories of costs enumerated in RFP #32110-45825 Attachment 6.3 Cost Proposal and Scoring Guide and Contract Section C.3.b. Notwithstanding anything to the contrary, the Operations Budget shall not include Major Maintenance or Capital Projects as set forth in Contract Section A.4.6.
Operational Governance Committee	The term “Operational Governance Committee” shall have the meaning as ascribed to it in Contract Attachment F Relationship Management.
Other Facilities Subcontractor Services/Supplies/Materials Costs	The term “Other Facilities Subcontractor Services/Supplies/Materials Costs” shall mean the services, supplies, materials and any other Contractor costs budgeted as part of the Operations Budget required to perform other FM services for the Participating Entity, not covered by the Contractor.
PA	The acronym “PA” shall refer to a “Participating Addendum”, which is a written agreement signed by the Contractor and a Participating Entity that sets forth the duties and responsibilities of a Participating Entity and the Contractor with respect to FM Services. A Model PA is set forth at Contract Attachment I – Model Participating Addendum.
Party or Parties	The term “Party” or “Parties” shall mean the State, the Participating Entities, or the Contractor as their interests appear or as the context requires.
Pass-Through Costs	The term “Pass-Through Costs” means the actual, reasonable, and necessary costs incurred by Contractor solely for the purpose of procuring third-party goods, materials, equipment, or services for the direct benefit of the State or a Participating Entity under this Contract. Pass-Through Costs include: (a) charges invoiced by such third-party providers; (b) associated delivery, freight, or accessorial charges; and (c) any sales, excise, or similar transaction taxes legally imposed in connection with those third-party goods or services. All Pass-Through Costs shall be billed to the State or an Participating Entity at Contractor’s actual cost without markup, overhead, administrative add-on, or profit of any kind, and shall be supported by itemized invoices, receipts, or other reasonable documentation evidencing the amounts incurred.

Participating Entity or Entities	The terms "Participating Entity" or "Participating Entities" shall mean any Tennessee State Agency or Authorized User, as defined in Section E.25. Statewide Contract, that enters into a Participating Addendum (or PA) against the Contract.
Performance Management Plan	The term "Performance Management Plan" shall have the meaning as ascribed to it in Contract Section A.3.3. and Contract Attachment D Performance Management.
Performance Standards	The term "Performance Standards" shall mean the established measures of success that support and are aligned with the Objectives.
Potential In-Scope Services	The term "Potential In-Scope Services" shall mean the FM Services outlined in Contract Section A.12.
Preventative Maintenance	The term "Preventative Maintenance" shall mean planned and proactive maintenance activities performed at predetermined intervals to reduce the likelihood of equipment failure and unplanned downtime. Preventive Maintenance is performed before functional failure occurs and is based on manufacturer recommendations, industry standards, or asset management strategies. Preventative Maintenance is planned, recurring, and non-emergency in nature and may include scheduled inspections, testing, servicing, lubrication, and calibration; adjustments or minor repairs identified during routine inspections; and maintenance tasks intended to preserve designed performance and reliability.
Pricing Model	The term "Pricing Model" shall have the meaning as ascribed to it in RFP #32110-45825 Attachment 6.3 Cost Proposal and Scoring Guide.
Project Management/Renovations	Managing projects that are considered Minor Maintenance or SBC-approved Major Maintenance projects which include renovations.
Reactive Maintenance	Reactive Maintenance refers to maintenance activities performed in response to an unplanned equipment failure that results in partial or total loss of functionality. Reactive Maintenance is initiated after failure has occurred and is necessary to restore the asset to operational condition. This may include repair or replacement of failed components; major repairs or overhauls required due to unexpected breakdown; emergency response work not addressed through Preventative or Daily Maintenance. It excludes planned system upgrades or capital replacements unless specifically authorized.
Remedial Maintenance	The term "Remedial Maintenance" shall mean maintenance activities performed to correct identified deficiencies, faults, or performance issues before complete failure occurs, typically discovered through inspections, monitoring systems, alarms, or routine operations. This may include repairs resulting from fault detection, diagnostics, or operator observations; corrections made to prevent escalation into system failure; and non-emergency corrective actions not classified as Preventative or Reactive Maintenance as the asset remains operational at the time the issue is identified.
Requestor	The term "Requestor" shall have the meaning as ascribed to it in Contract Section A.13.1.a.
Service Level Agreement (SLA)	A Service Level Agreement (SLA) is a contractual commitment that requires the Contractor to meet the performance goals

	established for the Key Performance Indicators (KPIs) set by each Participating Entity. The SLA reflects the Contractor's obligation to adhere to these KPI-based performance expectations and to maintain service levels consistent with those goals as set forth in Contract Attachment C Performance Standards and Attachment D Performance Management.
Site Based Labor	The term "Site Based Labor" shall mean the Total Employee Cash Compensation of the Employees who will be employed by the Contractor to perform FM Services.
Site Level/Local Operations	The term "Site Level/Local Operations" shall have the meaning as ascribed to it in Contract Attachment F Relationship Management.
Statements of Objective	The term "Statement of Objective" shall have the meaning ascribed to it in Contract Section A.3.1.
State Commercial Manager	The term "State Commercial Manager" shall have the meaning as ascribed to it in Contract Attachment F Relationship Management.
State Fiscal Year	Defined as beginning on July 1 st and ending June 30 th of each year.
STREAM	The acronym "STREAM" shall mean the "State of Tennessee Real Estate Asset Management," of the Tennessee Department of General Services.
Subcontractor	The term "Subcontractor" shall mean a vendor, other than the Contractor, that is in direct contractual privity with the Contractor for the purpose of meeting one or more of Contractor's responsibilities under this Contract or a PA and that are approved in writing by the Participating Entity.
TBR	The acronym "TBR" shall mean the "Tennessee Board of Regents" system, which includes Tennessee community colleges and Tennessee colleges of applied technology.
Term	The term "Term" shall have the meaning as ascribed to it in Contract Section B.1.
Terminated Contract(s)	The term "Terminated Contract" or "Terminated Contracts shall have the meaning as ascribed to this term in Contract Section A.16.1.a.
Third Party Contracts	The term "Third Party Contracts" shall mean those contracts of the State or a Participating Entity that are in existence immediately prior to the Effective Date. The term "Third Party Contracts" shall also have the meaning as ascribed to this term in Contract Section A.16.1.
Total Equitable Compensation	The term "Total Equitable Compensation" shall mean a compensation package for Transition Employees that, when evaluated in total, is reasonably comparable to their prior compensation and benefits and does not result in a material reduction due to the transition.
Transition Date	The term "Transition Date" shall mean the date after the Transition Period when the Contractor starts providing the FM Services outlined in the PA. This term shall also have the meaning as ascribed to it in Contract Attachment I – Model Participating Addendum. – Section 5.

Transition Employees	The term "Transition Employees" shall mean any State or Participating Entity employee who, as a result of the award or implementation of the Contract, separates from employment with the State or a Participating Entity and becomes employed by the Contractor or its subcontractor to perform Services under the Contract.
Transition Executive	The term "Transition Executive" shall mean a Contractor representative with overall authority and accountability for all transition activities under this Contract and all PA's awarded from this Contract. The Transition Executive serves as the primary executive liaison with the State and all Participating Entities for transitioning services from an incumbent contractor at Contract Execution, transitioning services to a successor contractor at Contract Expiration or Termination, and onboarding new Participating Entities to the Contract. The Transition Executive is responsible for ensuring transitions are properly resourced, aligned with contractual requirements, completed within State-approved timelines, and escalated as necessary to resolve risks, issues, or disputes.
Transition-In	The term "Transition-In Plan" shall have the meaning as ascribed to it in A.3.5. Contract Transition Management and Contract Attachment E Transition Management.
Transition Out Plan/Transition Out	The term "Transition Out Plan" shall have the meaning as ascribed to it in A.3.5. Contract Transition Management and Contract Attachment E Transition Management.
Transition Period	The term "Transition Period" shall have the meaning as ascribed to it in Contract Attachment E Transition Management.
Transition Period Costs	The term "Transition Period Costs" shall mean costs incurred by the Contractor during the Transition Period.
Transition Team	The term "Transition Team" shall have the meaning as ascribed to it in Contract Attachment E Transition Management.

A.3. **Contract Framework and Background.**

The Contractor shall provide FM Services in accordance with the terms of this Contract. This Contract is intended to be construed and applied consistently with the Revenue Procedure 2017-13, 2017-6 I.R.B. 787, as the same may be amended and supplemented (“Rev. Proc. 2017-13”) and that the Contract will be amended, as necessary, to comply with the guidelines set forth in Rev. Proc. 2017-13 and, thus, to enable the Contract to be treated as a qualified management contract for applicable federal income tax purposes. Contractor agrees that it is not entitled to take, and that it will not advance, a tax position with respect to any Facilities managed by or for the Contractor pursuant to this Contract or any PA entered under this Contract, that is inconsistent with its role as a provider of FM Services to the State and the Participating Entities.

A.3.1. Desired Outcomes and Statements of Objective.

The Contractor shall provide FM Services that meet or exceed the Desired Outcomes and Statements of Objective. The Desired Outcomes that the Parties shall jointly work to achieve in the performance of this Contract are set forth in Contract Attachment C Performance Standards.

A.3.2. Performance Standards.

The Parties shall utilize Contract Attachment C Performance Standards throughout this Contract that links the Performance Standards to each of the State’s Desired Outcomes and Statements of Objective.

The Parties expect the Desired Outcomes to remain consistent with Contract Attachment C Performance Standards, but associated Statements of Objective, Performance Standards, and KPIs may vary based on the customer centric needs of each Participating Entity. Each Participating Entity’s specific Performance Standards are set forth in Contract Attachment I - Model Participating Addendum - Section 11 and Exhibit 2.

A.3.3. Performance Management.

The Performance Management Plan for tracking performance on certain metrics is set forth in Contract Attachment D.

A.3.4. **Relationship Management Framework and Mechanisms.**

A.3.4.1. *Operational Governance Committee.*

The Operational Governance Committee is established to provide structured oversight, strategic direction, and collaborative decision-making for the Contract. The committee is composed of key stakeholders including the Executive State Contract Manager, Operational State Contract Manager, Commercial State Contract Manager, a representative from the Central Procurement Office (CPO), the designated Contractor Director, and, at the State’s discretion, the Participating Addendum (PA) Contract Managers for Participating Entities with PAs may be included. This cross-functional group ensures that all aspects of the Contract—operational, financial, and contractual—are being effectively managed and aligned with statewide objectives.

The committee will convene monthly during the first year of the Contract to closely monitor implementation, address transition issues, and establish baseline performance expectations. After the first year, meetings will occur on a quarterly basis to review Contract performance, assess service delivery against Key Performance Indicators (KPIs) and Service Level Agreements (SLAs), discuss budget and billing matters, evaluate proposed changes or amendments, and resolve escalated issues. These meetings also provide a forum for ongoing collaboration between the State and the Contractor, ensuring transparency, accountability, and continuous improvement in the delivery of facilities management services.

A.3.4.2. *Site-Level/Local Operations Oversight Board.*

The Site-Level/Local Operations Oversight Board is responsible for the direct oversight and management of facilities management services at the individual PA level. This board is composed of the PA Contractor Manager (representing the Contractor) and the PA Contract Manager (representing the Participating Entity participating under the PA). Together, they provide localized

leadership and ensure the effective day-to-day execution of Contract services specific to their agency or Facility portfolio.

The board meets at a frequency specified within each PA (daily, weekly, monthly, etc.), which may vary based on the size, complexity, and operational needs of the participating agency. During these meetings, the PA Contract Manager and PA Contractor Director review service delivery performance, discuss open work orders or service tickets, monitor adherence to SLAs and KPIs, address site-specific issues or escalations, and coordinate on any upcoming operational changes. These meetings also serve as a forum for continuous improvement, ensuring the Contract remains responsive to the unique needs of each site or agency.

A.3.4.3. Roles and Responsibilities of Key Operational Governance Executives.

The following is a description of key roles related to governance of the Contract. The Parties shall designate the individuals assigned to the roles outlined herein no later than thirty (30) days after the date of the Contract. The State reserves the right to change the responsibilities and positions of its team members, including combining or eliminating such positions, in its sole discretion. When changes in leadership occur, the State and Participating Entities will endeavor to provide timely prior notice of the upcoming change and an introduction to the replacement individual assigned to the role.

(1) Executive State Contract Manager (State-Assigned)

The Executive State Contract Manager serves as the highest-level authority for the Contract. This position provides executive leadership, strategic direction, and centralized oversight for the implementation, performance, and compliance of the Contract across all participating entities. The Executive State Contract Manager acts as the primary escalation point and chairs the Operational Governance Committee. Specific responsibilities may include, but not be limited to, the following:

- (a) Provide executive-level leadership and direction of this Contract to ensure consistent, effective service delivery across all participating agencies;
- (b) Chair the Operational Governance Committee, leading quarterly meetings to review contract-wide performance, address systemic issues, and guide strategic decisions;
- (c) Maintain direct engagement with Contractor Director to resolve escalated issues, ensure accountability, and drive continuous improvement; and
- (d) Oversee overall Contract compliance, track performance against KPIs and SLAs and resolve escalated risks or deficiencies as necessary.

(2) Operational State Contract Manager (State-Assigned)

The Operational State Contract Manager serves as the primary day-to-day point of contact for the Contract. This role is responsible for managing the operational relationship with the Contractor, overseeing Contract execution, coordinating with Participating Entities, and ensuring Contract compliance. The Operational State Contract Manager

also serves as the first point of escalation for contract-related issues. Specific responsibilities may include, but not be limited to, the following:

- (a) Providing liaison activities and guidance with Contractor's corporate executive leadership regarding the strategic needs of State;
- (b) Maintain and manage the operational relationship with the Contractor, ensuring adherence to Contract terms, SLAs, and performance standards;
- (c) Working with various staff and organizations within State's corporate structure regarding Contractor's service delivery;
- (d) Developing standard reporting and communication requirements between Contractor and various staff and organizations within State's corporate structure;
- (e) Track key deliverables, reports, and Contractor obligations on a statewide level;
- (f) Conduct regular performance reviews and facilitate issue resolution;
- (g) Participating in the resolution of escalated issues according to the escalation procedures described in and in accordance with the terms of Contract Section A.10.;
- (h) Review and approve all proposed Subcontractors and any changes to the Contractor's delivery model in accordance with Contract terms and ensure subcontractors meet required qualifications and performance expectations;
- (i) Reviewing Contractor's reports regarding its compliance with its obligations under this Contract, including, without limitation, procurements under Contract Section E.13.;
- (j) Managing State's conduct of audit activities;
- (k) Timely approving (or declining) and overseeing all contract-related policies and procedures; and
- (l) Serve as the primary point of contact for Participating Addendum Contract Managers, ensuring alignment of Contract practices, performance expectations, and issue resolution across agencies.

(3) *Commercial Manager (State-Assigned)*

The Commercial State Contract Manager is responsible for the financial and contractual integrity of the Contract. This role represents the State's interests in managing Participating Entity and Contractor compliance with Contract and PA terms and conditions such as expenditures, pricing adjustments, billing, Contract modifications, operations budgets, KPIs, performance measures, Baselines, and Baseline Adjustments. Specific responsibilities may include, but not be limited to, the following:

- (a) Ensuring each Participating Entity has an annual Operations Budget (as defined in Contract Section C.3.);
- (b) Support Participating Entities and Contractor in resolution of any invoice discrepancies and payments.
- (c) Review and approve annual operations budgets, KPIs, Baseline, and/or any adjustments thereto once mutually agreed upon between the Contractor and Participating Entity.
- (d) Provide timely reports to Operational Governance Committee of Contract non-compliance by the Contractor or Participating Entity; and
- (e) Developing and assisting with negotiations related to all amendments, Memorandums of Understanding (MOU), PA Modifications (as described in Contract Section A.13.3. PA Modifications), and updates to this Contract that are

required during the Term and coordinating with other State functions as required (i.e., legal, finance, tax, etc.).

(4) *CPO Representative (State-Assigned)*

The CPO Representative will be a representative from the Central Procurement Office and will not have any functional oversight of the Contract. The CPO Representative will serve as an advisor and procurement subject matter expert to the Operational Governance Committee and shall receive all Quarterly Usage Reports from the Contractor.

(5) *Contractor Director (Contractor-Assigned)*

The Contractor Director will have executive responsibility for the Contract on behalf of Contractor and serve as the single point of contact on behalf of Contractor for the performance, management, leading, coordination and oversight of the following:

- (a) Managing the overall relationship regarding the Contractor and State;
- (b) Managing the successful transition of this Contract to operational status;
- (c) Fulfilling Contractor's obligations under this Contract;
- (d) Working with State's governance team to establish, manage and meet commitments, requirements and expectations;
- (e) Working with State's managers to align the delivery of Services with the strategic needs of State; such activities will be performed in conjunction with the State Contract Manager;
- (f) Informing State about new corporate capabilities and developments within Contractor's organization and proposing ideas and solutions that will provide ongoing benefit to State;
- (g) Working with the State Contract Manager to manage and meet commitments, requirements and expectations;
- (h) Managing Contractor's service delivery to facilitate State's stated business requirements and business objectives;
- (i) Establishing and executing the account management disciplines, business management processes and associated reporting;
- (j) Providing prompt identification and resolution of Service delivery issues;
- (k) Managing overall resource levels in accordance with State's resource requirements;
- (l) Directing the communication forums for the account;
- (m) Interfacing with the State Contract Manager on performance issues; and
- (n) Staffing and leading the Contractor dedicated team and variable support resources.

(6) *Contractor Commercial Manager (Contractor-Assigned)*

The Contractor Commercial Manager is a Contractor-assigned position responsible for overseeing all commercial and contractual aspects of the Contract, ensuring compliance, cost control, and value delivery for both the client and the contractor. Specific responsibilities may include, but not be limited to, the following:

- (a) Manage budgets, forecasts, invoices, and cost reporting to ensure accurate financial performance tracking;

- (b) Prepare, price, and negotiate Contract variations and scope changes in accordance with State procedures;
- (c) Identify and mitigate commercial risks;
- (d) Prepare commercial reports, performance summaries, and audit documentation as requested by the Operational Governance Committee or Participating Entity; and
- (e) Ensure adherence to internal approvals and contribute to process and cost efficiency improvements.

(7) *PA Contract Manager (Agency/Local/University POC-Assigned)*

The Participating Addendum (PA) Contract Manager is responsible for the oversight and operational management of the facilities management services PA specific to the State Agency or other identified Participating Entity. The PA Contract Manager serves as the primary point of contact between their organization and the Contractor and ensures that Contract terms are followed, services are delivered in accordance with the agreed-upon standards defined in the PA, and budgetary parameters are met. Specific responsibilities include, but are not limited to:

- (a) Serve as the primary liaison between the agency and the Contractor for all matters related to the PA;
- (b) Ensure the Contractor's activities comply with the terms, conditions, and scope of the PA;
- (c) Establish and monitor Contractor's performance against KPIs and SLAs;
- (d) Manage and document any changes to the scope of work, amendments, Memorandum of Understanding (MOU) , or PA Modifications (as described in Section 14, PA Modifications, of Contract Attachment I - Model PA);
- (e) Oversee the day-to-day operations of facilities management services within the agency's facilities;
- (f) Facilitate regular meetings with the Contractor to review performance, address issues, and plan future work;
- (g) Ensure that work orders, preventive maintenance, and emergency responses are executed appropriately;
- (h) Monitor Contractor compliance with safety, environmental, and labor regulations;
- (i) Identify and escalate any compliance risks or Contract breaches for resolution;
- (j) Track expenditures and ensure Contract services are delivered within the approved budget;
- (k) Validate and approve Contractor invoices in accordance with Contract terms and actual service delivery;
- (l) Maintain accurate financial records related to Contract performance and expenditures;
- (m) Prepare regular reports on Contract performance, financial status, and compliance issues for the Operational Governance Committee;
- (n) Support audits and internal reviews by providing necessary documentation and analysis; and
- (o) Address and resolve service deficiencies, performance issues, or disputes on the PA level with the Contractor in a timely and professional manner.

A.3.4.4. State Discretion over Contractor Representatives.

- (1) The Contractor shall obtain the Operational Governance Committee's advance approval of the Contractor's Operational Governance Committee representatives, such approval not to be unreasonably withheld.
- (2) The Contractor shall obtain the Operational Governance Committee's approval before transferring or reassigning any of the Contractor's Operational Governance Committee representatives to another, such approval not to be unreasonably withheld.
- (3) The Operational Governance Committee may require the Contractor to dismiss or reassign any Contractor employee assigned to the Contract portfolio, who, in the Committee's sole discretion, is not adding appropriate value to the Contract or who hinders the effective delivery of services, except as prohibited by applicable law.

A.3.4.5. Updates to Performance Management Elements.

Desired Outcomes are consistent throughout the Term, while Objectives, Performance Standards, and Performance Measures may change due to the needs of the Participating Entity.

A.3.4.6. Approvals and Review.

Unless otherwise specified by this Contract, any approval needed by the Participating Entity shall be obtained at the Site Level/Local Operations level of the Governance Structure. The Contractor is encouraged to seek guidance or approval, unless otherwise specified in this Contract, at the Site Level/Local Operations level when possible. If the Contractor feels that additional review would be beneficial to the State with respect to FM Services, the Contractor shall have the right to seek review of any lower-level decisions by the Operational Governance Committee, with respect to review of decisions of the Site Level/ Local Operations.

A.3.5. Contract Transition Management

A.3.5.1. Transition Management.

The Contractor's Transition Management Framework shall address Onboarding of Participating Entities and existing contracts or subcontracts of the Participating Entities, as set forth in Contract Attachment E Transition Management.

A.3.5.2. Right of First Refusal of Employment

- (a) In the event of a Contract transition, the Contractor shall provide current personnel employed under the existing State of Tennessee Facility Management contract the right of first refusal for employment opportunities under this contract, in positions for which they are qualified. This right applies to individuals currently employed by the incumbent contractor who have been or will be adversely affected by the award of this contract, provided such employment is consistent with applicable State of Tennessee conflict-of-interest and employment policies.
- (b) Within thirty (30) days after Contract award, the Operational Governance Committee shall provide the Contractor with a list of all incumbent contractor personnel identified as being adversely affected by the transition.
- (c) The Contractor shall report to the Operational Governance Committee the names of individuals from this list who are hired within ninety (90) days after the start of Contract performance. This report shall be submitted no later than one hundred twenty (120) days after Contract performance begins.

A.3.5.3. Transition Plan.

The Contractor agrees to form a Transition Team to facilitate the orderly transfer of FM Services due to the termination, non-renewal, non-extension, or the award of a Contract for FM Services to a vendor other than Contractor pursuant to a subsequent procurement, or in the event these

services will be performed by the Participating Entity. The requirements of the Transition-In and Transition Out Plan are set forth in Contract Attachment E Transition Management and address the following components:

- (1) The structure of the Contractor's proposed Transition Team, including the personnel roles responsible for planning, managing, and implementing the services transferred;
- (2) The requirements for how the parties will handle personnel and resources during the Transition-In/Transition Out/transfer process;
- (3) High-level desired timelines for the activities related to exiting the Contract or a PA, in whole or in part, including notice periods, transition periods, and final payment periods;
- (4) High-level communication protocols or plans for external customers and stakeholders; and
- (5) The provision for performing a joint risk assessment and mitigation planning is part of the transition.

A.3.6. Employee and Business Conduct

Contractor shall adhere to the State of Tennessee's Employee and Business Conduct policy as set forth in Contract Attachment G.

A.4. **General Facilities Management Services.**

In providing FM Services, the Contractor shall supply or cause to be supplied such services and goods as are usual and customary in the industry for the day-to-day operation of similar facilities, which include, but may not be limited to, the duties listed below in Contract Section A.4.1. with respect to each Facility. Minor additions or deletions to the scope of FM Services may be accomplished through the PA Modifications process as stated in Contract Section A.13.3. PA Modifications.

Material changes to the scope of FM Services shall require an amendment to this Contract or an amendment to a PA as the context requires. Each Participating Entity shall define the scope of services in each individual PA from the list below or additional as deemed necessary.

A.4.1. Operational Facilities Management Services. Optional FM Services include, but may not be limited to:

- a. Interior and exterior Facility cleaning;
- b. Landscape maintenance, grounds care and parking lot maintenance;
- c. Refuse removal;
- d. Vermin and pest control;
- e. Snow and ice removal;
- f. Preventative and Remedial Maintenance, including repair of all systems and structures;
- g. Supply of all facilities-related consumables;
- h. Other services and goods as are otherwise required under any lease;
- i. Disaster Recovery Planning, in conjunction with (and subordinate to) the State's emergency planning, cooperating with the State in implementing, and managing the State's disaster recovery plan including an emergency action plan (or equivalent) for each Facility as requested by the State;
- j. Recycling in accordance with local, State, and federal requirements;
- k. Providing unarmed security;
- l. Furniture, fixture, and equipment maintenance and repair;
- m. Shipping and receiving/dock management;
- n. Special events set up and coordination;
- o. Move services;
- p. Management of off-site warehousing;
- q. Facilities reception services;

- r. Access control and key management;
- s. Parking lot maintenance and management; and
- t. Project Management/Renovations

A.4.2. Remedial Maintenance. Remedial Maintenance includes, but may not be limited to:

- a. Providing an electronic work order system to capture and track service;
- b. Providing a 24/7 Service Response System, including a call center and web-based system;
- c. Service requests and complaints (and any other defects that otherwise come to Contractor's attention through inspection or otherwise);
- d. Maintaining appropriate records to document each request, complaint or other means of notice and showing the action taken;
- e. Providing a system for before and after service follow-up, as applicable, with the affected tenant or occupant and the servicing Subcontractor, Contractor or third-party vendors;
- f. For each service request, Contractor shall provide for the dispatch of appropriate and properly equipped service personnel in accordance with service level standards agreed upon by the Contractor, the State, or a Participating Entity;
- g. Providing consistent emergency service effectiveness on a Facility-to-Facility basis. A service request shall be considered an "emergency" if it involves or threatens to involve injury to persons, material damage to property, inability to make productive use of the affected Facility, or is made by a designated group of people determined during the Transition Period; and
- h. Interaction with the Participating Entity in rendering these services.

A.4.3. Operational Preventative Maintenance Program.

The Contractor shall develop, implement, and manage a long-term Preventative Maintenance program designed to maintain each Facility and its equipment, systems, fixtures, and contents in optimal working condition and to prevent failure, defect, or the accumulation of additional deferred maintenance.

A.4.4. Facility Inspections.

The Contractor shall conduct Facility inspections and utilize any resulting data to inform the Participating Entity about ongoing maintenance, Major Maintenance, and Capital Projects for the Facilities. Facility inspections shall be performed by the Contractor at such frequency as needed to maintain each Facility in a safe and optimal manner free of failure, defect, or the need for additional maintenance. The frequency and detail of these inspections will be as agreed to by the Parties. The Contractor shall also provide inspection data of all factors pertinent to each Facility and report such results in a Facilities Management system to be approved by the Participating Entity and in accordance with the Participating Entity Data Standards, as outlined in Contract Attachment I - Model Participating Addendum - Section 8, all of which shall materially adhere to the Contract Attachment H Template Data Standards.

A.4.5. Facilities Emergency Management Services.

In addition to the regular operational services provided by the Contractor under this Contract, the Contractor shall take whatever measures the Contractor believes, in the exercise of prudent judgment and at the State's expense, are necessary on an emergency basis to support general security and safety for each Facility, its tenants, and each person at a Facility, in accordance with the State's emergency action plan (or equivalent). In the event expenses for providing these services exceed or are expected to exceed normal operating expenses, the Participating Entity's Site Level/Local Operations manager (see Contract Attachment F Relationship Management) should be notified immediately to provide necessary approvals for these expenses. Additional requirements shall be jointly determined through the Governance Structure.

A.4.6. Daily Maintenance, Major Maintenance, and Capital Project Thresholds.

The monetary thresholds for distinguishing between Daily Maintenance, Minor Maintenance, and Capital Projects are as follows:

- a. The Contractor is only required to obtain one (1) quote to award a contract to a vendor for Daily Maintenance. Daily Maintenance shall be maintenance that does not exceed twenty-five thousand dollars (\$25,000.00). In performing Daily Maintenance, the Contractor shall apply its facility management expertise to identify and implement cost-effective solutions that achieve savings for the State. The Contractor shall use such expertise to evaluate whether the pricing received for Daily Maintenance is reasonable, cost-effective, and in the best interest of the State prior to awarding work based on the single quote.
- b. For all Minor Maintenance projects with an estimated value between twenty-five thousand dollars (\$25,000) and two hundred fifty thousand dollars (\$250,000), the Contractor shall seek a minimum of three (3) competitive quotes when multiple qualified vendors that are available, propose alternative materials or methods, or offer creative or value-engineered options to reduce overall project costs. These efforts shall be documented and submitted with each project proposal for review and approval by the Participating Entity prior to commencement of work. **In each instance where it is determined that use of a competitive procurement method was not practicable, Contractor shall seek approval of the individual PA Manager to procure by non-competitive procurement. Receipt of such approval is required for the Contractor to be eligible to submit the associated costs as Pass-Through Costs under Contract Section C.3.e.**
- c. Capital Projects: A Capital Project includes any improvement to real property—such as fabrication, construction, repair, replacement, renovation, or refurbishment—or any related work that meets the definition of a Capital Project under the State Building Commission (SBC) Policy and Procedure. This includes, but is not limited to, any project with a total project cost exceeding two hundred fifty thousand dollars (\$250,000.00). It is a Participating Entity's responsibility to consult Item 2 (Jurisdiction) of the most current version of the SBC Policy and Procedure to determine if the Participating Entity's Capital Projects are subject to the jurisdiction of the SBC. The current policy can be found on the Office of the State Architect's website: <https://www.tn.gov/osa/general-information/policy---procedure.html> . If further clarification is needed, a Participating Entity should contact the Contract Administrator. For Participating Entities whose Capital Projects are subject to the jurisdiction of the SBC, the Contractor, in coordination with the applicable Participating Entity, shall submit all proposed Capital Projects to STREAM or other relevant State Procurement Agency ("SPA"), as defined in Tennessee Code Annotated § 4-15-107(5), for review and determination.

Upon receipt and review of a proposed Capital Project, STREAM or the other relevant SPA, in its sole discretion, may:

- (1) Approve the Capital Project if SBC approval is not required under applicable law, policy, or procedure;
- (2) Submit the Capital Project to the SBC for review and approval, if required; or
- (3) Deny the proposed Capital Project.

No Capital Project subject to SBC jurisdiction shall proceed unless and until all SBC required approvals are obtained. All documentation of SBC approval must be maintained by the Participating Entity.

For Participating Entities whose Capital Projects are not subject to SBC jurisdiction, the Participating Entity shall be solely responsible for defining and documenting its Capital Project submission and approval requirements within each applicable Participating Addendum.

A.5. **Performance Metrics.**

- A.5.1. The State and Contractor shall jointly develop and conduct an annual review of Contractor's performance as part of the governance process. Results shall be tabulated by Contractor and submitted for review by State, or, if requested by State, Contractor shall request all such results to be sent directly to State from the Contractor (business unit leaders and employees).
- A.5.2. Contractor's performance shall be measured using Key Performance Indicators ("KPI") which shall be established prior to the execution of a PA.
- A.5.3. The Contractor shall review its performance against KPIs as stated in each PA or Attachment D, Performance Management, with each Participating Entity at least once annually during a business review. Participating Entities shall have the authority to request additional business reviews per year as specified in their PA.

A.6. **Incidents Reporting/Management.**

The Contractor shall assist the State in the management, response, and remediation to all incidents occurring at any Facility that result in property damage, physical injury or death, or when the threat of the foregoing or liability is perceived.

A.7. **Insurance Matters.**

- A.7.1. The Contractor shall promptly investigate any damage or destruction to the Facilities or injury or death to persons and notify the Participating Entity. The Contractor shall also cooperate with any insurance company authorized by the State in connection the events giving rise to damage or destruction to the Facilities or injury or death to persons in connection with the Facilities.
- A.7.2. The Contractor promptly shall notify the State's Facilities department of any fire or other damage, whether within or outside the coverage of any insurance policies covering any Facility and, if directed by State, complete customary loss reports in connection with fire or other damage to any Facility.

A.8. **Accounting.**

Contractor shall provide the following accounting services to the State that are directly related to FM Services:

a. **Accounts Payable Process.**

- (1) Provide full-service accounts payable support, including invoice coding, property level approval, processing, payment and recording of occupancy and capital related expenses (See Department of Finance and Administration, Policy 33: *Accounting for Capital Assets*).
- (2) Subject to Tenn. Code Ann. §12-4-701, *et seq.*, process all disbursements related to State's properties such that the same is paid before any interest, late fee or penalty accrues or default occurs.
- (3) Central capture of all lease-related expenses within the database by site, vendor number, department cost code and general ledger coding.
- (4) Work with State to implement a complete system of approvals and funding.

b. **Bookkeeping for Budgeting Variance.**

Prepare annual occupancy budgets. Including zero base justifications as appropriate, variance analysis to prior year and related items.

c. CMMS System.

(1) Data Transfer Requirements:

The Contractor shall be responsible for providing and executing the transfer of all State data collected, generated, or stored by the Contractor related to the FM Services. Such data transfers shall be provided upon request by the State, in a format, frequency, and delivery method approved by the State.

(2) Data Transfer Protocols:

The Contractor shall develop, document, and implement data transfer protocols to enable secure and reliable data exchange between the Contractor's technology solution and the State's systems in accordance with Contract Attachment H. Such protocols shall be submitted to the State for review and approval prior to implementation. The Contractor shall collaborate with the State during development and implementation.

(3) Disaster Recovery:

The Contractor shall develop and implement disaster recovery objectives, plans, and procedures applicable to all State data stored, processed, or managed by the Contractor. All disaster recovery plans and procedures shall be submitted to the State for approval, and shall be maintained, tested, and updated by the Contractor in accordance with State-approved requirements.

(4) System Transition and Integration:

If the State replaces, upgrades, or transitions from the State's ERP, IWMS, or any successor systems, the Contractor shall be responsible for supporting and completing, in coordination with the State, all required data transfers, system integrations, configuration changes, upgrades, and connectivity changes. Such support shall be provided within timelines established or approved by the State, and in a manner that minimizes disruption to State operations.

d. Cost Savings Initiative.

Contractor shall introduce specific operational concepts to the State to create savings and increased efficiencies with respect to the Facilities. Such initiatives shall be considered in fulfillment of the Continuous Improvement or cost-saving requirement specified under Contract Section B.2. Renewal Options.

A.9. **Reporting.**

- a. The Contractor shall prepare on an accurate and timely basis, and submit to the State, any reports requested by the State and as described by the State. The Contractor shall meet as requested by the State to review and discuss any reports submitted by Contractor, to answer the Participating Entity's questions, to provide additional supporting detail or other data, and to revise and correct any reports to make such reports accurate and complete.
- b. The Contractor shall prepare for execution and filing, by the Participating Entity, all forms, filings, and reports required by any governmental authority having jurisdiction over the Facilities and shall cooperate with the Participating Entity in providing necessary information for all other forms, filings, or reports related to each Facility.

- c. The Contractor shall submit a monthly report to the Participating Entity no later than the fifth (5th) business day of each month for the preceding month. The monthly report must be in a format approved by the State and include, at a minimum, the following information for each employee assigned under this Contract:
 - i. Employee Information
 - i. Employee Name (as requested by the PA)
 - ii. Job Title
 - iii. Work Location (as determined by the PA)
 - ii. Compensation & Hours
 - i. Pay Rate/Hourly Rate
 - ii. Regular Hours Worked
 - iii. Overtime Hours Worked and Overtime Pay Benefits Provided
 - iii. Work Assignment Details
 - i. Project(s) Worked On (as identified by applicable Work Order(s))

The monthly report shall be complete, accurate, and submitted electronically via email (in an Excel Spreadsheet format) to the State Contract Administrator or PA Manager, as applicable. The Participating Entity reserves the right to request additional supporting documentation as needed to verify the information provided.

- d. If the State requests Contractor to provide financial or other property data reports, there shall be no extra charge to the State for such additional reports provided:
 - i. Such reports can be produced by Contractor using the data fields and ad hoc reporting capabilities of the Contractor's technology solution or the State's computer software platforms; and
 - ii. No data supplementation or manual reporting (e.g., Excel or Word reports requiring data entry or manipulation outside of the computer software platforms) is required.
- e. If the State requests financial or other property data reports that do not meet the criteria in Section A.8.c, then an additional charge is permitted under this section, provided the following conditions are met:
 - i. The Contractor shall advise the State in advance that such report will require an additional charge and provide a good faith estimate of the incremental cost to Contractor to produce such reports; and
 - ii. If the State approves in writing the preparation of such reports and the associated cost estimate, the State shall pay the Contractor for the additional charge to produce the reports.
- f. Additional Data requirements can be found in the PA. The State expects that the Participating Entities will materially adhere to these standards. Any necessary deviations or special requirements around data should be outlined in the Participating Entity's PA.

A.10. **Energy Management.**

As of January 1, 2017, the State Facility Utility Management Division within the Tennessee Department of Environment and Conservation's ("TDEC") Office of Energy Programs will oversee functions related to the energy management program for the Facilities, including the collection and analysis of utility cost and consumption data. (See Tenn. Code Ann. §§ 4-3-1012 and 1017- 1019.) The Contractor shall cooperate with TDEC and Participating Entities to support efforts related to these statutory requirements.

A.11. **In Scope Services.**

The current services that are considered In-Scope Services are outlined in Section A.4. Each Participating Entity that signs a PA to utilize this Contract may outline any of these In-Scope Services that

they wish for the Contractor to perform in Contract Attachment I – Model Participating Addendum - Section 1. It should be noted, however, that this list is not exhaustive of all services that could be provided to the Participating Entity by the Contractor and should a Participating Entity choose additional services (see Contract Section A.12.) offered by the Contractor, these services shall also be set forth in the PA.

A.12. **Potential In-Scope Services.**

A.12.1. While the current In-Scope Services outlined in Section A.4. are the basis of FM Services, it is imperative that FM Services provided by the Contractor continuously transform to meet the diverse and evolving needs of the State's various Participating Entities. As such, this Contract does not contain an exhaustive set of possible FM services. This will allow the Contractor flexibility in its approach to achieving the State's Desired Outcomes and Objectives.

All services that are typically associated with the FM Services, but that differ from the In- Scope Services outlined in Section A.11, will be Potential In-Scope Services if they are reasonably connected to the definition of In-Scope Services outlined in this Contract. In addition to the services detailed in Contract Section A.4, the Contractor shall also provide Potential In-Scope Services to the State.

A.12.2. If a Participating Entity wishes to include a Potential In-Scope Service in the scope of its PA (Contract Attachment I – Model Participating Addendum - Section 1), the Participating Entity must notify and receive approval from the State Commercial Manager. The State Commercial Manager must submit the addition in accordance with Contract Section A.13.3. PA Modifications of the Contract and Section 14, PA Modifications, of the Participating Entity's PA and receive approval before a Potential In-Scope Service can become an In-Scope Service eligible to be performed under this Contract or a PA and to which the Contractor is entitled to be compensated.

A.12.3. Below are examples of Potential In-Scope Services that may be provided by the Contractor if the Contractor receives the prior approval by the State Building Commission ("SBC") prior to performance by the Contractor in accordance with applicable statutes and SBC policies. The use of these Potential In-Scope Services will be approved by the State on a case-by-case basis for each Participating Entity:

- a) Master planning;
- b) Pre-planning; and
- c) Occupancy planning.

A.12.4. The addition of any Potential In-Scope Services that may require transitioning additional employees to the Contractor must be approved using the amendment process, as outlined in Section D.3.

A.13. **Onboarding of Participating Entities.**

A.13.1. **PA Sections and Exhibits.**

The Participating Entities that wish to utilize this Contract shall sign a PA with the Contractor. The Onboarding process for each Participating Entity will be documented and completed by the Participating Entity and Contractor signing a PA containing the information as outlined in Contract Attachment I – Model Participating Addendum. Certain Participating Entities (exempt agencies as defined by Tenn. Code Ann. § 12-3-102) reserve the right to negotiate Participating Entity specific terms and conditions and modify existing terms and conditions in their PA. Any Participating Entity modifications or additions to a PA that differs from this Contract must be outlined in the

Participating Entities signed PA (Contract Attachment I – Model Participating Addendum - Section 14).

Additional information and the formalized Onboarding process is outlined and defined in Contract Attachment E.

- a. If an Participating Entity other than a State agency, member of the UT System, the TBR System, or an LGI University (“Requestor”) wishes to utilize this Contract, the following procedure shall be followed:
 - a) The Requestor shall complete an application to utilize this Contract. The application must follow a form that is mutually agreed upon between the State and the Contractor;
 - b) The application shall be submitted to the Operational Governance Committee (see Contract Attachment F);
 - c) The Operational Governance Committee shall evaluate the application to determine if allowing a Requestor to utilize this Contract through a resulting PA will be mutually beneficial to the State and the Contractor, with the criteria to include, but not be limited to the following:
 - i. Whether the Contractor has sufficient resources to manage the facilities of the Requestor;
 - ii. Whether the addition of the Requestor creates benefit for the Participating Entities already participating in the Contract; and
 - iii. Whether the Contractor is currently meeting or exceeding the Performance Measures and the KPIs for the Participating Entities.
 - d) If the Operational Governance Committee approves the application, the Requestor shall then submit a PA, and follow the standard Onboarding process outlined in this Contract Section A.

A.13.2. Initial Approval of PA.

After a PA is signed by the Participating Entity and the Contractor, it must be sent to the Commercial Manager and the CPO Representative.

A.13.3. PA Modifications. If the Participating Entity and the Contractor agree, after execution of a PA, to changes involving:

- (1) a Potential In-Scope Service not identified in Section 1 of the Participating Entity’s executed PA;
- (2) an increase or decrease in the square footage managed under the PA;
- (3) any change that necessitates an adjustment to Contractor fees or **Pass-Through Costs**,
- (4) the KPIs and a scoring methodology for evaluating KPI performance, Operations Budgets, and changes in governance for a Participating Entity’s specific PA; or
- (5) Performance Measures and a scoring methodology for evaluating Contractor performance;

such changes shall be submitted to the Operational State Contract Manager for review and approval.

The Contractor shall document the proposed change and submit written justification to the Operational State Contract Manager. The cumulative result of such change shall not increase the total approved Operations Budget by more than five percent (5%).

Upon approval by the Operational Governance Committee and the State, a Potential In-Scope Service shall thereafter be deemed an In-Scope Service for the remainder of the Term of the applicable PA.

A.13.4. PA Renewal and Eligibility.

- a) Any PA that is signed will be co-terminus with the anticipated end of the Term of this Contract.
- b) If a renewal option is exercised by the State, any PA will run concurrently with the renewal Term of this Contract, unless the Participating Entity notifies the State and the Contractor, in writing, that it does not wish to extend the PA.
- c) A Participating Entity can only sign a PA if there is a minimum of twenty-four (24) months remaining on the Term of this Contract as it may be renewed, extended, or amended.
- d) Notwithstanding the foregoing, as of the PA Effective Date, the remaining Term of the PA will be limited to a period that does not exceed: (i) eighty percent (80%) of the weighted average reasonably expected economic life of the properties under the new PA, or (ii) eighty percent (80%) of the weighted average reasonably expected economic life of all properties the Contractor manages under any active PAs.

A.13.5. PA Governance Structure.

Each Participating Entity executing a Participating Addendum (PA) under this Contract shall establish an appropriate governance structure to oversee the Contractor's performance specific to that PA. This governance structure shall include designated representatives of the Participating Entity and the Contractor and shall serve as the primary forum for monitoring service delivery, performance, issue resolution, and continuous improvement at the PA level.

The PA-level governance structure shall report to and coordinate with the Contract's Operational Governance Committee to ensure alignment with statewide Contract objectives, consistency in performance standards, and effective communication regarding key operational matters. The Contractor shall participate in both PA-level and Contract-level governance activities as directed by the State.

A.14. **Standards of Performance.**

The Contractor shall maintain Performance Standards that are at or above the current level maintained by a Participating Entity. The Contractor will work with each Participating Entity to determine the desired Performance Standards as part of the customer centric solution the Contractor develops as part of the Onboarding process. The State understands that an increase in the service levels or APPA Levels may require an equitable adjustment, in accordance with Contract Section C.3., to the Baseline to reflect the higher service levels requested by the Participating Entity.

A.15. **Contractor Access to Space and Equipment.**

- A.15.1. In connection with Contractor's rendering of the FM Services, the State may provide the Contractor Employees, at State's expense at State locations where Contractor Employees are assigned, existing space, furniture, and such other equipment, as may be reasonably necessary for Contractor's performance of the FM Services throughout the Term of this Contract. State approval is required for any equipment, furniture, or other resources provided to the Contractor. Any Participating Entity policy in place on the Effective Date shall supersede this Section A.15.1. to the extent of a conflict.

A.15.2. The Contractor's level of access control will vary Facility-to-Facility by Participating Entity. Each Participating Entity will address the necessary level of access control for each Facility in the Contract Attachment I – Model Participating Addendum.

A.15.3. The Contractor and the Participating Entity shall mutually agree upon the treatment and management of the Participating Entities equipment during the development of the PA. The PA shall specifically address matters including, but not limited to, the transition of existing equipment, the allocation of responsibility for such equipment, the permitted scope of use, any potential transfer or sale of ownership, and other related considerations. Reference is made to Tenn. Code Ann. § 12-2-403 regarding the authorized methods for the disposal of surplus property.

All such information shall be documented in Contract Attachment I – Model Participating Addendum - Section 6. Any equipment that the Participating Entity provides to the Contractor for use in fulfilling its obligations under this Contract shall be furnished at no additional cost to the Contractor.

Such equipment may include, as applicable, office space, office furniture, a state-issued laptop, and authorization to operate State-owned equipment or machinery (excluding State vehicles), as deemed necessary and appropriate for the performance of the Contractor's duties under this Contract.

A.15.4. The Contractor shall provide advance notice of its intent to use Contractor-owned equipment that is used for multiple purposes outside of this Contract. The Contractor shall provide an estimate of cost to use of this equipment for review and approval by the Participating Entity.

A.15.5. If movable equipment needs repair, the Contractor shall be responsible for the repair process, and the State shall be responsible for paying for the repair in accordance with Section C.3. of this Contract.

A.15.6. The PA shall identify any office space that will be obligated to the Contractor and the specific types of positions for which such space will be provided.

A.16. Third Party Contracts and Contractor Subcontracts.

A.16.1. Third Party Contracts. Within thirty (30) calendar days prior to the Effective Date of a signed PA, the Participating Entity shall provide a list of the third-party contracts ("Third Party Contracts") entered by the Participating Entity that is relevant to FM Services (e.g. management, operation, and maintenance). Each Third-Party Contract shall be outlined in a Participating Entity's PA.

- (a) Not less than thirty (30) calendar days before the Transition Date, as set forth in Contract Attachment N, PA Section 5, the Contractor and the Participating Entity shall review the Third-Party Contracts (and any other contracts or work in progress) to mutually determine:
- a. Whether the Participating Entity shall terminate certain Third-Party Contracts (the "Terminated Contracts");
 - b. Whether the Contractor shall enter contracts with Subcontractors in accordance with the terms and provisions of Sections A.16.2 and D.7. (the "Contractor Subcontracts"); and
 - c. The Third-Party Contracts (if any) that will not be terminated by the Participating Entity and therefore require the Third-Party Contract to be either managed by the

Contractor (the "Managed Contracts") or assigned to the Contractor (the "Assigned Contracts") in connection with the performance of the FM Services.

- (b) To the extent permitted by the Third-Party Contract, the Participating Entity shall exercise the Participating Entity's right to terminate the Terminated Contracts on or before the Transition Date.
- (c) Subject to Participating Entity approval, and with assistance from the Contractor, the Participating Entity shall obtain any required consents or releases from any subcontractors under the Assigned Contracts on terms and conditions reasonably satisfactory to the Participating Entity. The Participating Entity shall assign the Assigned Contracts to the Contractor, and the Contractor shall assume and agree to perform all obligations related to the Assigned Contracts effective as of the effective date of the assignment of the Assigned Contract.
 - a. If the Participating Entity is unable to obtain the required consent to assign a Third Party Contract prior to the Effective Date, or the Contractor and the Participating Entity are not able to agree to the terms and conditions of assignment of a Third Party Contract, the affected Third Party Contract shall be deemed to be a Managed Contract. The Participating Entity, with assistance from Contractor, shall continue to use commercially reasonable efforts to obtain the required consent and, if such consent is received, the Third-Party Contract shall be assigned to the Contractor and become an Assigned Contract.
 - b. The Contractor has the right to utilize Statewide Contracts of the State, after written request and written approval by the Chief Procurement Officer or their designee, the approval of which will not be unreasonably denied, as the Contractor deems necessary in the best interests of the State and for the efficient and cost-effective performance of FM Services.

A.16.2. Contractor Subcontracts. The Contractor shall enter contracts with Subcontractors ("Contractor Subcontracts") in accordance with the terms and provisions of this Section A.16 and Section D.7.

- (a) Notwithstanding the subcontracting of any portion of the services by Contractor, Contractor shall remain the State's sole point of contact with respect to the FM Services.
- (b) All Contractor Subcontracts shall:
 - a. Be in the name of and executed by the Contractor;
 - b. Identify the State as a third-party beneficiary and permit the assignment of the Contractor Subcontractor, at the State's sole option, to the Participating Entity;
 - c. Include a provision for cancellation by the Contractor, or in the case of assignment to the Participating Entity, upon not more than thirty (30) calendar days written notice (or such longer period approved by the Participating Entity);
 - d. Require that all Subcontractors maintain appropriate insurance coverage; and
 - e. Provide that all warranties provided by Subcontractors under the Contractor Subcontracts shall be expressly for the benefit of, and shall be enforceable by, the Participating Entity (or by the Contractor on the Participating Entity's behalf).

A.16.3. Contractor's Responsibility for Assigned Contracts.

Following execution of this Contract, the State and its Participating Entities may assign to the Contractor certain pre-existing contracts ("Assigned Contracts") upon the Contractor's request. Upon Contractor's acceptance of the Assigned Contract, the Contractor shall perform under each Assigned Contract subject to the following conditions:

- 1) Responsibility for Assigned Contracts: The Contractor shall assume full responsibility for each Assigned Contract as though the Assigned Contract were entered into by between

the Contractor and a subcontractor. The Contractor shall manage and perform all obligations under each Assigned Contract in accordance with the standards and requirements of this Contract.

- 2) Conflict Resolution: In the event of any conflict or inconsistency between the terms of an Assigned Contract and the terms of this Contract, the terms of this Contract shall govern and control until such time as the Assigned Contract is amended to conform to terms of the Contract, is terminated, or expires due to its terms.
- 3) Financial Liability: The Contractor shall be financially liable for all obligations arising under each Assigned Contract following assignment, including but not limited to termination fees, costs, penalties, assessments, or damages.
- 4) Pre-Assignment Claims: The Participating Entity shall remain financially responsible for any claims, costs, or damages under an Assigned Contract that arise prior to the Effective Date of assignment to the Contractor, subject to any applicable defenses the Participating Entity may have.

A.16.4. Contractor's Responsibility for Managed Contracts.

At the direction of the Participating Entity, the Contractor shall act on behalf of the Participating Entity to manage contracts that are not assignable under applicable law or agreement ("Managed Contracts"), but which are necessary for the proper operation and maintenance of the facilities covered by this Contract. The Contractor's responsibilities with respect to Managed Contracts shall be subject to the following conditions:

- 1) Retention of Rights and Remedies: All rights, remedies, and benefits under a Managed Contract shall remain with the State or the applicable Participating Entity. The Contractor may exercise such rights only upon prior written approval from the State or the Participating Entity.
- 2) Dispute Resolution: The Contractor shall be responsible for identifying and attempting to resolve disputes or conflicts arising under a Managed Contract. Prior to taking any action, the Contractor shall provide written notice to the Participating Entity describing the nature of the dispute and recommending a proposed course of action. The Participating Entity shall retain sole discretion to approve, modify, or reject the proposed resolution.
- 3) Contract Oversight Duties: The Contractor shall:
 - i. Monitor the performance of the Managed Contractor;
 - ii. Notify the Participating Entity of any breach, discrepancy in service or deliverables, misuse of facilities, or suspected fraud;
 - iii. Assist in implementing any corrective actions required under the Managed Contract.
- 4) Performance Credits: The Contractor shall ensure that any applicable performance credits under a Managed Contract are properly tracked and delivered to the State or the Participating Entity.
- 5) Notice Requirements: The Contractor shall provide the Participating Entity with no less than ninety (90) days' advance written notice of any upcoming renewal, termination, or cancellation of a Managed Contract, and shall identify any fees or costs associated with such actions.

- 6) Ultimate Authority: The Participating Entity shall retain ultimate authority to modify, terminate, or pay cancellation fees under a Managed Contract. However, if any such fees or costs arise due to the acts or omissions of the Contractor, the Contractor shall be financially responsible for those fees or costs.

A.17. **State and Contractor Deliverables.**

A.17.1 Pre-Work Information Requirements

Before performing any work for a Participating Entity, the Contractor shall identify and request all information necessary to perform the required services. Such information may include property and tenant data, current rent rolls, vendor files, cost codes, tax identification numbers, and any other materials identified in Contract Attachment I – Model Participating Addendum - Section 9.

A.17.2 Ongoing Information Updates

During the Term, each Participating Entity shall provide the Contractor with copies of any new Facility information documents, amendments, or other material updates as they occur.

A.17.3. Alternate Method of Information Delivery

A Participating Entity may fulfill its information-sharing obligations by granting the Contractor access to its databases, archived files, or computer systems and providing necessary orientation to their organization and operation.

A.17.4. Participating Entity Deliverables to Contractor

Prior to transition of Facility Management (“FM”) Services, the Participating Entity may identify any additional information or deliverables required from the Contractor. All such deliverables, including timelines, shall be defined in Contract Attachment I – Model Participating Addendum - Section 10.

A.17.5. PA Proposal

Before commencing FM Services for any Participating Entity, the Contractor shall submit a written report to the relevant Participating Entity that includes:

- a. The scope of services requested by the Participating Entity;
- b. The Contractor’s proposed approach for improving current practices;
- c. A projected operational budget for all services within scope; and
- d. Estimated operational, financial, or efficiency savings from the proposed approach.

A.17.6. Performance Baseline and Measurement

The metrics and projections contained in the Contractor’s PA proposal shall establish the initial performance baseline for the Participating Addendum (“PA”) with the Participating Entity. These metrics shall be incorporated into the Key Performance Indicators (“KPIs”) for the PA. The Contractor’s performance shall be measured and reported periodically against these KPIs throughout the PA Term.

A.18. **KPIs.**

The Contractor shall meet or exceed all agreed Key Performance Indicators (KPIs) and Performance Measures throughout the Contract Term. The State and Contractor shall review performance quarterly through the Operational Governance Committee (or as defined in the Relationship Management Framework, Attachment F). Performance shall be evaluated using approved, objective criteria and scoring methodology as outlined in Attachment C and Attachment D.

A.18.1. Participating Entity KPIs:

Participating Entities may adjust, add, or delete KPIs prior to PA execution, subject to State approval. Any KPI changes after PA execution shall be approved through an MOU in accordance with Section E.4. Any Baseline Adjustments made to ensure parity between current period results and KPI baseline must be documented in writing, mutually agreed upon by the Contractor and Participating Entity, and submitted for approval by both the State and Contractor Commercial Managers.

A.18.2. Performance Measures:

May only be modified by the Operational Governance Committee through the Governance process, with final approval documented via MOU. Where Baselines are required, results from the preceding twelve (12) months shall serve as the baseline. Any Baseline Adjustments made to ensure parity between current period results and performance measure baseline must be documented in writing, mutually agreed upon by the Operational Governance Committee, and signed by both the State and Contractor Commercial Managers.

A.19. **Operations Budget Preparation.**

The Contractor shall cooperate in preparing Operations Budget requirements around FM Services for each Participating Entity that signs a PA in accordance with Section C.3. at the time specified by the Participating Entity. The Contractor shall cooperate with and make recommendations to the Participating Entities for purposes of preparing a preliminary capital budget each fiscal year.

A.20. **Optional Employee Transition Process.**

Any transition of State personnel to the Contractor shall occur **only** by mutual agreement and must be expressly detailed in the applicable Participating Entity's Participating Addendum ("PA"). Nothing in this Master Contract requires any Participating Entity to transition personnel.

Employee Considerations.

Participating Entities may consider salary, benefits, work location, required training or certifications, and other relevant factors when determining whether a transition is appropriate.

No Transfer Rights.

The Contractor has no right or expectation to receive State employees except as expressly provided in an Participating Entity's PA.

Compliance.

All transitions must comply with applicable federal and State laws and policies.

A.21. **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 generally 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.22. 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:

- B.1. This Contract shall be effective on **DATE** (“Effective Date”) and extend for a period of sixty (60) 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.
- a. A Participating Entity’s PA Effective Date is set forth in Contract Attachment I - Model Participating Addendum Section 4. A Participating Entity’s anticipated completion date of transition is set forth in Contract Attachment I - Model Participating Addendum - Section 5.
 - b. An Participating Entity’s PA may be extended to run concurrently with the expiration date of the Contract, unless otherwise notified in accordance with A.13.4.b. Notwithstanding the foregoing, as of the PA Effective Date, the remaining Term of the PA will not exceed (i) eighty percent (80%) of the weighted average reasonably expected economic life of the properties to which the new PA relates, and (ii) eighty percent (80%) of the weighted average reasonably expected economic life of all properties managed by the Contractor under all PAs then in effect.
- B.2. Renewal Options. This Contract may be renewed upon satisfactory completion of the Term. The State reserves the right to execute up to four (4) renewal options under the same terms and conditions for a period not to exceed twenty-four (24) months for the first renewal option and not to exceed twelve (12) months for the remaining three (3) renewal options each by the State, at the State’s sole option. These renewal options will be exercised successively at the State’s option and are contingent upon the Contractor meeting the agreed-upon performance expectations. Renewal options shall not be earned or exercised in advance of the preceding option period being completed and exercised. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of one hundred and twenty (120) months.

To be eligible for renewal, the Contractor is expected to:

- a. Maintain at least ninety percent (90%) compliance with all Service Level Agreements (SLAs) as defined in this Contract across all users; and

- b. Propose and implement at least one (1) Continuous Improvement or Cost Saving Initiative annually, subject to approval by the State. These initiatives may include enhancements to service delivery, reporting, pricing, or operational efficiency.

If the Contractor falls short of either requirement, the State may, at its discretion, allow the Contractor to submit a corrective action plan within thirty (30) calendar days of notification. If the corrective action plan is accepted and successfully implemented to the State's satisfaction within a timeframe defined by the State, the Contractor may still be considered for renewal. Nothing in this clause shall be construed to limit the State's sole discretion to determine whether renewal is in its best interest.

Below is a table outlining the Contract term:

Term	Length (months)
Base Period	60
Option 1	24
Option 2	12
Option 3	12
Option 4	12

- B.3. Term Extension. The State may extend the Term an additional period, not to exceed one hundred-eighty (180) days beyond the expiration date of this Contract, under the same terms and conditions, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of one hundred and twenty (120) months.

C. PAYMENT TERMS AND CONDITIONS

- C.1. Estimated Liability. The total purchases of any goods or services under the Contract are not known. The State estimates the purchases during the Term shall be one billion five hundred million dollars (\$1,500,000,000.00) ("Estimated 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.

The Participating Entity is responsible for certain operating costs as set forth in the Operations Budget approved by the Participating Entity and as set forth in Section C.3. Payment Methodology. Neither this Contract nor any PA under this Contract grants the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract or any PA under this Contract. Subject to the terms and conditions of any PA under this Contract, the Contractor will only be paid for goods or services provided under any PA under this Contract after a purchase order is issued to the Contractor by the State or a Participating Entity or as otherwise specified by this Contract or a Participating Entity's PA.

- 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 rates for goods or services contained in RFP #32110-45825 Attachment 6.3 Cost Proposal and Scoring Guide and as authorized by the Operational Governance Committee, with respect to this Contract, or a Participating Entity with respect to a PA, in a total amount as set forth in Section C.1. Estimated Liability. The Contractor's compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A.

- a. Payment obligations for all orders placed by a Participating Entity shall be the sole responsibility of the Participating Entity and not of the State.
- b. Operations Budget Process.
 - (1) Operations Budget Submission and Approval

For each Participating Entity that has signed a PA, the Contractor shall work with the Participating Entity to provide a proposed Operations Budget for the next fiscal year of operation which shall be based on the Contractor's Pricing Model (RFP #32110-45825 Attachment 6.3 Cost Proposal and Scoring Guide). The Participating Entity may require additional information from the Contractor necessary to finalize their Operations Budget. The timeframes for these deliverables may vary by each Participating Entity. This additional information and timeframes, where practicable, will be outlined in the PA. The Operations Budget shall include line items for the following categories of fees and costs:

- Management Fee
- Janitorial Labor
- Janitorial Burden Costs
- Janitorial Supplies/Materials
- Janitorial Fee
- Landscaping & Grounds Labor
- Landscaping & Grounds Burden Costs
- Landscaping & Grounds Supplies/Materials
- Landscaping & Grounds Fee
- CMMS Fee
- Call Center Direct Call Fee
- Call Center Web Entry Fee
- Site Based Labor
- Labor Burden Costs
- Labor Admin Fee
- Central Management Team Labor
- Central Management Team Labor Burden Costs
- Governance Team Labor
- Governance Team Labor Burden Costs
- Insurance premium
- Other Facilities Subcontractor Services/Supplies/Materials Costs
- Transition Period Costs

As part of the governance process, the Contractor and the Participating Entity shall review the proposed Operations Budget and reach agreement on the Operations Budget and specified FM Services. The Contractor shall submit a proposed budget to each Participating Entity by June 1st of each calendar year, or as otherwise defined in the Participating Entity's PA.

If the proposed Operations Budget is not approved by the Participating Entity for a subsequent year, the Contractor shall continue to provide the FM Services under the PA in accordance with the approved Operations Budget for the previous calendar year, as adjusted for changes in occupancy, use of Facilities, service levels, APPA Levels, site additions or deletions that may result in a change in costs of operation, until a new Operations Budget is approved.

The Operations Budget for Participating Entities and any special requirements is outlined in Contract Attachment I - Model Participating Addendum - Section 7 and Exhibit 1.

- (2) *Operations Budget Revisions.* The Contractor shall notify the State promptly in the event actual expenses are projected to exceed the approved Operations Budget. In such event, the Contractor shall work with the State and the Participating Entity to prepare a new Operations Budget for the Participating Entity's review and approval. The Participating Entity shall have the right, exercisable at any time at its reasonable discretion, to revise the approved Operations Budget, provided that no such revision shall change the Contractor's rights to receive compensation and **Pass-Through Costs** for any FM Services previously provided. If Operations Budget revisions are necessary, the Contractor and the Participating Entity will mutually agree upon necessary changes in accordance with Contract Section A.4.6.
- (3) *Rate Lock.* The Contractor's payment rates for services under this Contract are established on a fiscal year basis and shall remain firm and not subject to increase or adjustment during each respective State Fiscal Year.

The payment rates applicable for each fiscal year are set forth in RFP #32110-45825 Attachment 6.3 Cost Proposal and Scoring Guide and are based on the pricing submitted by the Contractor in response to the State's solicitation.

The Contractor shall not increase rates, fees, or unit prices within a fiscal year under any circumstance. Any proposed rate modification for a subsequent fiscal year must be based on the pricing submitted in RFP #32110-45825 Attachment 6.3 Cost Proposal and Scoring Guide and must be submitted in writing to the State no later than ninety (90) calendar days prior to the beginning of the next fiscal year.

Any rate modification approved by the State in accordance with this Section shall apply uniformly to all Participating Entities of this Contract. All Participating Entities shall receive the benefit of any approved rate decrease, and shall be subject to any approved rate increase, effective on the same date as the State's approval of such modification.

The Contractor shall not apply differing rates to separate Participating Entities for identical services performed under this Contract. The State reserves the right to audit Contractor invoices to verify compliance with this provision.

- (4) *Adjustments to and Reporting of Operations Budget.* The Parties recognize that changed circumstances occurring after the Effective Date of this Contract or a PA may occur and that it is in the best interests of all Parties to allow for equitable adjustments to the Operations Budget. The Parties agree that the Operations Budget may be equitably adjusted in accordance with Contract RFP #32110-45825 Attachment 6.3 Cost Proposal and Scoring Guide, provided the Party submits for Participating Entity's approval, in writing within thirty (30) days of becoming aware of the circumstances giving rise to the Party's request for an equitable adjustment, the circumstances and the Party's proposed adjustments to the Operations Budget. The Contractor shall not request equitable adjustment in relation to the fees defined in RFP #32110-45825 Attachment 6.3 Cost Proposal and Scoring Guide. The Party shall report the circumstances giving rise to the Party's request for an equitable adjustment and any recommended adjustments. Approval by the Participating Entity is required before any requested equitable adjustments shall become effective. The

following is a partial list of operational elements that may cause an adjustment to the Operations Budget (including any costs or fees set forth in the Operations Budget):

- i. Changes in levels of service (APPA Levels, when applicable);
 - ii. The amount or significance of deferred maintenance;
 - iii. The condition or useful life of Facility equipment;
 - iv. Cost reconciliation information;
 - v. The quality of FM Services accounted for in the Baseline compared to Participating Entity's requirements;
 - vi. The use of Facilities and buildings;
 - vii. The entry of a Participating Entity or any MOU or amendment, the terms of which have an impact on the Baseline or the Operations Budget;
 - viii. Capital improvements to facilities or buildings that increase or decrease the scope of FM Services needed; and
 - ix. Major Maintenance and Capital Projects as set forth in Contract Section A.4.6.
- d. Within sixty (60) calendar days following termination of this Contract or any PA under this Contract, the Contractor shall deliver to the Participating Entity as applicable, a final report that includes a calculation of the balance of any compensation due and payable to Contractor or of any refund due and payable to the Participating Entity. A Party owing any money based on such final report shall promptly pay the sum due. The Contractor shall also deliver to the Participating Entity all documents, books, records, equipment, materials, disks and related items associated with the performance of the FM Services and other property of the Participating Entity in the possession of Contractor. The Contractor may retain any copies deemed necessary by the Contractor.
- e. *Pass-Through Costs.* Contractor may recover from the State or a Participating Entity only those Pass-Through Costs, as defined in this Contract, that are (a) actually incurred by the Contractor in procuring third-party goods, materials, equipment, or services solely for the direct benefit of the State or an Authorized Entity; (b) expressly authorized under this Contract or pre-approved in writing by the State or an Authorized Entity; and (c) supported by itemized invoices, receipts, or other documentation reasonably satisfactory to the State or an Authorized Entity. All Pass-Through Costs shall be billed to the State or an Authorized Entity at Contractor's actual, out-of-pocket cost without markup, overhead, administrative fees, allocation of internal labor, or profit of any kind. Pass-Through Costs may include sales, excise, or similar transactions taxes legally imposed in connection with such third-party goods or services, but only to the extent actually paid by Contractor directly attributable to the third-party transaction. Contractor shall not pass through any taxes that are unrelated to the specific transaction, improperly calculated, avoidable under applicable law, or attributable to Contractor's own purchases or operations. Contractor shall use commercially reasonable efforts to ensure that third-party pricing, fees, and tax charges are accurate, competitive, and consistent with applicable law. The State shall have the right, upon reasonable notice, to review and audit Contractor's records relating to any Pass-Through Costs. Owner may withhold or reject reimbursement of any Pass-Through Costs that are unsupported, excessive, duplicative, not incurred for the State or an Authorized Entity's benefit, not pre-approved when required, or otherwise inconsistent with this Contract. If Contractor invoices the State or an Authorized Entity for any improper Pass-Through Cost, Contractor shall promptly correct the error and refund any overpayment.

- f. As between the Contractor and Participating Entity, title to goods and services purchased by the Contractor for the Participating Entity's benefit under this Section, and all warranties provided with respect to such goods and services, shall pass directly to the State or a Participating Entity as applicable.
- g. *Sales and Use Taxes.* The Contractor may engage third-party providers to furnish goods or services for the benefit of the State or Participating Entities as permitted under this Contract. Invoices submitted by the Contractor relating to these pass-through third-party services may only include actual and unavoidable sales, excise, or similar transaction taxes that third-party providers actually paid to a taxing authority in connection with taxable goods or services. Contractor shall not charge any markup, administrative fee, overhead percentage, or other add-on to such tax amounts. Contractor shall (a) only invoice the State or a Participating Entity for the third-party's actual and unavoidable sales, excise, or similar transaction taxes incurred and paid by the third-party; and (b) provide reasonable documentation substantiating such taxes, including third-party invoices and evidence of tax remittance. The State shall have the right, upon reasonable notice, to review and audit Contractor's tax-related records associated with amounts charged to the State. If any tax amount invoiced to the State is incorrect, not legally owed, or improperly calculated, the Contractor shall promptly correct the error with the taxing authority and reimburse the State for any overpayment.
- h. *Discounts and Rebates.* The Contractor agrees that the Participating Entity shall receive the benefit of all discounts and rebates obtainable by the Contractor in its fulfillment of the obligations under this Contract or any PA under this Contract. The Contractor shall approve and process all bills or invoices to take full advantage of all early payment discounts or rebates but shall not be responsible for any loss of discount or rebate due to the timing of funding or payment by the Participating Entity.
- i. *Contractor Payments.* The Contractor shall promptly pay or ensure that all fees, costs, and expenses incurred by or on behalf of the Contractor or any of its representatives, agents, Subcontractors or vendors in performing the FM Services, other than those for which a Participating Entity is required under this Contract to pay directly, are timely paid, thus avoiding additional surcharges, fees, or interest. The Contractor shall not be liable for late payments to project contractors, subcontractors, vendors or other third parties if the Participating Entity directs the Contractor, in writing, to delay or withhold payment.
- j. *Financial True-Up.*
- i. Management Fee. The Parties shall conduct a financial true-up of the Contractor Management Fee on a State Fiscal Year basis during the Term.
 - ii. Adjustments to the Janitorial Fee, Landscaping & Grounds Fee, the Contractor Labor Administration Fee, and the CMMS Fee, shall occur on a State Fiscal Year basis during the Term in accordance with RFP #32110-45825 Attachment 6.3 Cost Proposal and Scoring Guide.
- k. *Transition Related Pass-Through Costs.* In addition to other Pass-Through Costs permitted under this Contract, the Contractor may invoice the State or an Participating Entity for Transition-Related Pass-Through Costs incurred solely for the purpose of transitioning the State or Participating Entities facilities or operations onto the services provided under this Contract. Transition-Related Costs are limited to the actual, reasonable, and necessary third-party costs incurred by the Contractor for goods, materials, equipment, or services that directly support such transition, including but not limited to: temporary staffing services, technical onboarding support, data migration assistance, facility assessments, equipment inventories, and other third-party services required to implement the transition plan approved by the State or a Participating Entity. All Transition-Related Pass-Through Costs shall be billed at Contractor's actual costs without markup, overhead, administrative fee, or profit of any kind. Contractor shall

obtain the State or a Participating Entity's prior written approval for any third-party engagement exceeding limits established by the State, a Participating Entity, or this Contract. The Contractor shall provide the State or a Participating Entity with itemized invoices, receipts, and other documentation reasonably necessary to substantiate the amounts incurred. The State or a Participating Entity reserve the right to audit any Transition-Related Pass-Through Costs in accordance with this Contract. Any amounts invoiced to the State or a Participating Entity that are unsupported, unnecessary, unreasonable, or not directly related to an approved transition activity shall be disallowed, and Contractor shall promptly reimburse the State or a Participating Entity for any over payments.

- i. *Call Center/CMMS Transaction Fee.* Call Center/CMMS Transaction Fee will be based on the Participating Entity's consumption as outlined in RFP #32110-45825 Attachment 6.3 Cost Proposal and Scoring Guide. The Contractor's technology applications and tools for accounting or analytics, shall be provided to a Participating Entity at no additional charge.
- m. *Cost Savings Initiatives.* The Contractor shall introduce specific operational concepts to the State to create savings and increased efficiencies with respect to the Facilities. These strategies shall be presented by the Contractor to the Operational Governance Committee for approval. The approval by the Operational Governance Committee of a Cost Savings Initiative shall be a prerequisite for Contractor's entitlement to the Contract Term Incentive referenced in Contract Section A.8.d. Cost Savings Initiative, B.2. Renewal Options, and Attachment E Performance Management.
- n. *Prompt Pay Discount.* Any prompt pay discounts offered by The Contractor shall be extended to all Participating Entities of the Contract as specified in RFP #32110-45825 Attachment 6.3 Cost Proposal and Scoring Guide.

- C.4. Travel Compensation. Compensation to the Contractor for travel, meals, or lodging shall be subject to amounts and limitations specified in the current "State Comprehensive Travel Regulations" and must be approved in advance by the Participating Entity.

The Contractor must include (in addition to other invoice requirements of this Contract) a complete itemization of requested travel compensation and appropriate documentation and receipts as required by the "State Comprehensive Travel Regulations."

- 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 every two (2) weeks unless requested by a Participating Entity, and no later than thirty (30) days after goods or services have been provided to the Billing Address outlined in the PA for that Participating Entity. Note that each Participating Entity that is an exempt agency according to Tenn. Code Ann. § 12-3-102 may request specific invoicing requirements or modifications based on their needs. These modifications will be outlined in Contract Attachment I - Model Participating Addendum - Section 14. Contractor's invoicing requirements can be met by providing the Participating Entity with online access to Contractor's invoicing details.
- a. Each invoice, on Contractor's letterhead, shall clearly and accurately detail all 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: Participating Entity name;
 - (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 goods or service; and
 - (14) Total amount due for the invoice period.
 - b. Contractor's invoices shall:
 - (1) 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;
 - (2) 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;

- (3) Not including Contractor's taxes, which include without limitation, Contractor's sales and use tax, excise taxes, franchise taxes, real or personal property taxes, or income taxes; and
- (4) Include shipping or delivery charges only as authorized in this Contract.

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

C.6. Invoice Frequency and Payment of Invoice. The Contractor shall invoice the Participating Entity in accordance with the PA, or if not specified in the PA, by the fifteenth (15th) day of the month following the month in which FM Services were provided. The Participating Entity shall pay each undisputed invoice, or portion thereof in accordance with the Prompt Pay Act (See Tenn. Code Ann. § 12-4-703). Payment by a Participating Entity shall not prejudice the Participating Entity's right to object to or question any payment, invoice, or other matter. A payment by the Participating Entity 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 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:

State Contact Name & Title
State Agency Name
Address
Email Address
Telephone # Number
FAX # Number

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. The State's exercise of a valid Renewal Option or Term Extension does not constitute an amendment so long as there are no other changes to the Contract's terms and conditions.
- 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 or any PA 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 three hundred sixty-five (365) 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.

Any Participating Entity may terminate its PA without cause for any reason. The terminating Participating Entity shall give the Contractor at least one hundred eighty (180) days' written notice before the termination date. All other conditions listed above shall apply.

- 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 or a Participating Entity, with respect to a PA. 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, PA, 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. 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 by submitting to the State a completed Attestation (accessible through the Edison Supplier Portal) and included at Contract Attachment A. Attestation Re Personnel Used in Contract Performance, 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.11. 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.12. 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.13. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.14. 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.15. Independent Contractor. The Parties shall not act as employees, partners, joint venturers, 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.16 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 from any costs to the State arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.

- D.17. 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, 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.18. 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 Estimated 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. For clarity, except as otherwise expressly set forth in this Section, Contractor's indemnification obligations and other remedies available under this Contract are subject to the limitations on liability set forth in this Section.
- D.19. 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 or any PA. The Contractor further agrees it shall be liable for the reasonable cost of attorneys' fees, court costs, expert witness fees, and other litigation expenses for the State to enforce the terms of this Contract or any PA.

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.20. HIPAA Compliance. As applicable, 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.

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.21. RESERVED.

D.22. 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.23. 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, disqualified, or presently fall under any of the prohibitions of sections a-d.

D.24. 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 for the affected obligations 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 State and federal laws and regulations applicable to Contractor in the Contractor's 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, without regard to its conflict or choice of law rules. 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 - 408.
- 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:
 - a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;
 - b. this Contract with any attachments or exhibits (excluding the items listed at subsections
 - c. through f., below), which includes:
 - a. Contract Attachment A: Attestation Form

- b Contract Attachment B: Statewide Contract Report Template
 - c Contract Attachment C: Performance Standards
 - d Contract Attachment D: Performance Management
 - e Contract Attachment E: Transition Management
 - f Contract Attachment F: Relationship Management
 - g Contract Attachment G: **Employee and Business Conduct**
 - h Contract Attachment H: Template Data Standards
 - i Contract Attachment I: Model Participating Addendum
 - i PA Exhibit 1: Participating Entity Budget and Pricing
 - ii PA Exhibit 2: Performance Management
 - iii PA Exhibit 3: Transition Acknowledgement Agreement
 - j Contract Attachment K: Payment Bond Template
 - k Contract Attachment L: APPA Service Levels;
- d. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
 - e. the State solicitation, as may be amended, requesting responses in competition for this Contract;
 - f. any technical specifications provided to proposers during the procurement process to award this Contract; and
 - g. the Contractor's response seeking this Contract.

D.31. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Contract. The Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.

D.32. Insurance. Contractor shall maintain insurance coverage as specified in this Section. The State reserves the right to amend or require additional insurance coverage, coverage amounts, and endorsements required under this Contract. Contractor's failure to maintain or submit evidence of insurance coverage, as required, is a material breach of this Contract. If Contractor loses insurance coverage, fails to renew coverage, or for any reason becomes uninsured during the Term, Contractor shall immediately notify the State. All insurance companies providing coverage must be: (a) acceptable to the State; (b) authorized by the Tennessee Department of Commerce and Insurance ("TDCI"); and (c) rated A- / VII or better by A.M. Best. All coverage must be on a primary basis and noncontributory with any other insurance or self-insurance carried by the State. Contractor agrees to name the State as an additional insured on any insurance policy with the exception of workers' compensation (employer liability) and professional liability (errors and omissions) insurance. All policies must contain an endorsement for a waiver of subrogation in favor of the State. Any deductible or self-insured retention ("SIR") over fifty thousand dollars (\$50,000) must be approved by the State. The deductible or SIR and any premiums are the Contractor's sole responsibility. 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.

To achieve the required coverage amounts, a combination of an otherwise deficient specific policy and an umbrella policy with an aggregate meeting or exceeding the required coverage amounts is acceptable. For example: If the required policy limit under this Contract is for two million dollars (\$2,000,000) in coverage, acceptable coverage would include a specific policy covering one million dollars (\$1,000,000) combined with an umbrella policy for an additional one million dollars (\$1,000,000). If the deficient underlying policy is for a coverage area without aggregate limits (generally Automobile Liability and Employers' Liability Accident), Contractor

shall provide a copy of the umbrella insurance policy documents to ensure that no aggregate limit applies to the umbrella policy for that coverage area. In the event that an umbrella policy is being provided to achieve any required coverage amounts, the umbrella policy shall be accompanied by an endorsement at least as broad as the Insurance Services Office, Inc. (also known as "ISO") "Noncontributory—Other Insurance Condition" endorsement or shall be written on a policy form that addresses both the primary and noncontributory basis of the umbrella policy if the State is otherwise named as an additional insured.

Contractor shall provide the State a certificate of insurance ("COI") evidencing the coverages and amounts specified in this Section. The COI must be on a form approved by the TDCI (standard ACORD form preferred). The COI must list each insurer's National Association of Insurance Commissioners (NAIC) number and signed by an authorized representative of the insurer. The COI must list the State of Tennessee – CPO Risk Manager, 312 Rosa L. Parks Ave., 3rd floor Central Procurement Office, Nashville, TN 37243 as the certificate holder. Contractor shall provide the COI ten (10) business days prior to the Effective Date and again thirty (30) calendar days before renewal or replacement of coverage. Contractor shall provide the State evidence that all subcontractors maintain the required insurance or that subcontractors are included under the Contractor's policy. At any time, the State may require Contractor to provide a valid COI. The Parties agree that failure to provide evidence of insurance coverage as required is a material breach of this Contract. If Contractor self-insures, then a COI will not be required to prove coverage. Instead, Contractor shall provide a certificate of self-insurance or a letter, on Contractor's letterhead, detailing its coverage, policy amounts, and proof of funds to reasonably cover such expenses. The State reserves the right to require complete copies of all required insurance policies, including endorsements required by these specifications, at any time.

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.

The insurance obligations under this Contract shall be: (1)—all the insurance coverage and policy limits carried by the Contractor; or (2)—the minimum insurance coverage requirements and policy limits shown in this Contract; whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and minimum required policy limits, which are applicable to a given loss, shall be available to the State. No representation is made that the minimum insurance requirements of the Contract are sufficient to cover the obligations of the Contractor arising under this Contract. The Contractor shall obtain and maintain, at a minimum, the following insurance coverages and policy limits.

a. Commercial General Liability ("CGL") Insurance

- 1) The Contractor shall maintain CGL, which shall be written on an ISO Form CG 00 01 occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from property damage, premises and operations products and completed operations, bodily injury, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

The Contractor shall maintain single limits not less than two million dollars (\$2,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project or location of

occurrence or the general aggregate limit shall be twice the required occurrence limit.

b. Workers' Compensation and Employer Liability Insurance

1) For Contractors statutorily required to carry workers' compensation and employer liability insurance, the Contractor shall maintain:

i. Workers' compensation and employer liability insurance in the amounts required by appropriate state statutes.

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:

i. The Contractor employs fewer than five (5) employees; ii.

The Contractor is a sole proprietor;

iii. The Contractor is in the construction business or trades with no employees;

iv. The Contractor is in the coal mining industry with no employees;

v. The Contractor is a state or local government; or

vi. The Contractor self-insures its workers' compensation and is in compliance with the TDCI rules and Tenn. Code Ann. § 50-6-405.

c. Cyber Liability Insurance

1) The Contractor shall maintain cyber liability insurance in an amount not less than three million dollars (\$3,000,000) per occurrence or claim and five million dollars (\$5,000,000) annual aggregate. Such insurance shall be sufficiently broad to respond to the Contractor's duties and obligations under this Contract, and shall include coverage for all acts, claims, errors, omissions, negligence, infringement of intellectual property (including copyright, patent and trade secret); network security and privacy risks, including but not limited to unauthorized access, failure of security, information theft, damage to destruction of or alteration of electronic information, breach of privacy perils, wrongful disclosure and release of private information, collection, or other negligence in the handling of confidential information, and including coverage for related regulatory fines, defenses, and penalties.

2) Such coverage shall include data breach response expenses, in an amount not less than three million dollars (\$3,000,000) and payable whether incurred by the State or Contractor, including but not limited to consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services and expenses in the performance of services for the State or on behalf of the State hereunder.

d. Crime Insurance

- 1) The Contractor shall maintain crime insurance, which shall be written on a “loss sustained form” or “loss discovered form” providing coverage for third party fidelity, including cyber theft and extortion. The policy must allow for reporting of circumstances or incidents that may give rise to future claims, include an extended reporting period of no less than two (2) years with respect to events which occurred but were not reported during the term of the policy, and not contain a condition requiring an arrest or conviction.
- 2) Any crime insurance policy shall have a limit not less than one million dollars (\$1,000,000) per claim and one million dollars (\$1,000,000) in the aggregate. Any crime insurance policy shall contain a Social Engineering Fraud Endorsement with a limit of not less than two hundred and fifty thousand dollars (\$250,000). This insurance may be written on a claims-made basis, but in the event that coverage is cancelled or non-renewed, the Contractor shall purchase an extended reporting or “tail coverage” of at least two (2) years after the Term.

e. 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.

f. Umbrella/Excess Liability Insurance

- 1) The Contractor shall maintain umbrella or excess liability insurance written on an occurrence basis providing coverage in excess of the Commercial General Liability, Automobile Liability, and Employer’s Liability insurance required under this Contract.
- 2) For a low-risk scope of work, such umbrella or excess liability insurance shall have limits of not less than one million dollars (\$1,000,000) per occurrence and in the aggregate.
- 3) For a moderate-risk scope of work, such umbrella or excess liability insurance shall have limits of not less than five million dollars (\$5,000,000) per occurrence and in the aggregate.
- 4) The State shall determine, in its sole discretion, whether the scope of work is low-risk or moderate-risk for purposes of this subsection.

D.33. Major Procurement Contract Sales and Use Tax. Pursuant to Tenn. Code Ann. § 4-39-102 and to the extent applicable, the Contractor and the Contractor’s subcontractors shall remit sales and use taxes on the sales of goods or services that are made by the Contractor or the Contractor’s subcontractors and that are subject to tax.

D.34. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with the requirements of this Contract and applicable state and federal law. All material, information, and data regardless of form, medium or method of

communication, that the Contractor will have access to, acquire, or is provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as "Confidential Information." The State grants the Contractor a limited license to use the Confidential Information but only to perform its obligations under the Contract. 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 under state or federal law or otherwise authorized in writing by the State. Contractor shall take all necessary steps to safeguard the confidentiality of such Confidential Information in conformance with the requirements of this contract and with applicable state and federal law.

As long as the Contractor maintains State Confidential Information, the obligations set forth in this Section shall survive the termination of this Contract.

D.35. Boycott of Israel. The Contractor certifies that it is not currently engaged in, and covenants that it will not, for the duration of the Contract, engage in a Boycott of Israel, as that term is defined in Tenn. Code Ann. § 12-4-119.

D.36. Prohibited Contract Terms. The prohibited contract terms and conditions enumerated in Tenn. Code Ann. § 12-3-515, shall be a material provision of this Contract. The Contractor acknowledges, understands, and agrees that the inclusion of a term or condition prohibited by Tenn. Code Ann. § 12-3-515, shall be null and void and the Contract shall be enforceable as if the Contract did not contain such term or condition.

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. Printing Authorization. The Contractor agrees that no publication coming within the jurisdiction of Tenn. Code Ann. §§ 12-7-101, et. seq., shall be printed pursuant to this Contract unless a printing authorization number has been obtained and affixed as required by Tenn. Code Ann. § 12-7-103 (d).

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. Additional lines, items, or options. At its sole discretion, the State may make written requests to the Contractor to add lines, items, or options that are needed and within the Scope but were not included in the original Contract. Such lines, items, or options will be added to the Contract through a Memorandum of Understanding ("MOU"), not an amendment.

a. After the Contractor receives a written request to add lines, items, or options, the Contractor shall have ten (10) business days to respond with a written proposal. The

Contractor's written proposal shall include:

- (1) The effect, if any, of adding the lines, items, or options on the other goods or services required under the Contract;
- (2) Any pricing related to the new lines, items, or options;
- (3) The expected effective date for the availability of the new lines, items, or options; and
- (4) Any additional information requested by the State.

- b. The State may negotiate the terms of the Contractor's proposal by requesting revisions to the proposal.
 - c. To indicate acceptance of a proposal, the State will sign it. The signed proposal shall constitute a MOU between the Parties, and the lines, items, or options shall be incorporated into the Contract as if set forth verbatim.
 - d. Only after a MOU has been executed shall the Contractor perform or deliver the new lines, items, or options.
- E.5. **Intellectual Property Indemnity.** 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, 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.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. **Extraneous Terms and Conditions.** Contractor shall fill all orders submitted by the State under this Contract. No purchase order, invoice, or other documents associated with any sales, orders, or supply of any good or service under this Contract shall contain any terms or conditions other than as set forth in the Contract. Any such extraneous terms and conditions shall be void, invalid and unenforceable against the State. Any refusal by Contractor to supply any goods or services under this Contract conditioned upon the State submitting to any extraneous terms and conditions shall be a material breach of the Contract and constitute an act of bad faith by Contractor.
- E.9. **Comptroller Audit Requirements.** When requested by the State or the Comptroller of the Treasury, the Contractor must provide the State or the Comptroller of the Treasury with a detailed written description of the Contractor's information technology control environment, including a description of general controls and application controls. The Contractor must also assist the State or the Comptroller of the Treasury with obtaining a detailed written description of the information technology control environment for any third or fourth parties, or Subcontractors, used by the Contractor to process State data and/or provide services under this Contract.

Contractor will maintain and cause its Subcontractors to maintain a complete audit trail of all transactions and activities in connection with this Contract, including all information technology logging and scanning conducted within the Contractor's and Subcontractor's information technology control environment. Upon reasonable notice and at any reasonable time, the Contractor grants the State or the Comptroller of the Treasury with the right to audit the Contractor's information technology control environment, including general controls and application controls. The audit may include testing the general and application controls within the Contractor's information technology control environment and may also include testing general and application controls for any third or fourth parties, or Subcontractors, used by the Contractor

to process State data and/or provide services under this Contract. The audit may include the Contractor's and Subcontractor's compliance with the State's Enterprise Information Security Policy and all applicable requirements, laws, regulations, or policies.

Upon reasonable notice and at any reasonable time, the Contractor and Subcontractor(s) agree to allow the State, the Comptroller of the Treasury, or their duly appointed representatives to perform information technology control audits of the Contractor and all Subcontractors used by the Contractor. Contractor will provide to the State, the Comptroller of the Treasury, or their duly appointed representatives access to Contractor and Subcontractor(s) personnel for the purpose of performing the information technology control audit. The audit may include interviews with technical and management personnel, physical or virtual inspection of controls, and review of paper or electronic documentation.

The Contractor must have a process for correcting control deficiencies that were identified in the State's or Comptroller of the Treasury's information technology audit. For any audit issues identified, the Contractor and Subcontractor(s) shall submit a corrective action plan to the State or the Comptroller of the Treasury which addresses the actions taken, or to be taken, and the anticipated completion date in response to each of the audit issues and related recommendations of the State or the Comptroller of the Treasury. The corrective action plan shall be provided to the State or the Comptroller of the Treasury upon request from the State or Comptroller of the Treasury and within 30 days from the issuance of the audit report or communication of the audit issues and recommendations. Upon request from the State or Comptroller of the Treasury, the Contractor and Subcontractor(s) shall provide documentation and evidence that the audit issues were corrected.

Each party shall bear its own expenses incurred while conducting the information technology controls audit.

E.10. **Information Technology Security Requirements (State Data, Audit, and Other Requirements).**

a. The Contractor shall protect State Data as follows:

- (1) The Contractor shall ensure that all State Data is housed in the continental United States, inclusive of backup data. All State data must remain in the United States, regardless of whether the data is processed, stored, in-transit, or at rest. Access to State data shall be limited to US-based (onshore) resources only.

All system and application administration must be performed in the continental United States. Configuration or development of software and code is permitted outside of the United States. However, software applications designed, developed, manufactured, or supplied by persons owned or controlled by, or subject to the jurisdiction or direction of, a foreign adversary, which the U.S. Secretary of Commerce acting pursuant to 15 CFR 7 has defined to include the People's Republic of China, among others are prohibited. Any testing of code outside of the United States must use fake data. A copy of production data may not be transmitted or used outside the United States.

- (2) The Contractor shall encrypt Confidential State Data at rest and in transit using the current version of Federal Information Processing Standard ("FIPS") 140-2 **or** 140-3 (or current applicable version) validated encryption technologies. The State shall control all access to encryption keys. The Contractor shall provide installation and maintenance support at no cost to the State.
- (3) The Contractor and any Subcontractor used by the Contractor to host State data, including data center vendors, shall be subject to an annual engagement by a licensed CPA firm in accordance with the standards of the American Institute of Certified Public Accountants ("AICPA") for a

System and Organization Controls for service organizations (“SOC”) 2 Type 2 examination. The scope of the SOC 2 Type 2 examination engagement must include the Security, Availability, Confidentiality, and Processing Integrity Trust Services Criteria. In addition, the Contractor services that are part of this Contract, including any processing or storage services, must be included in the scope of the SOC 2 Type 2 examination engagement(s).

- (4) The Contractor must annually review its SOC 2 Type 2 examination reports. Within 30 days of receipt of the examination report, or upon request from the State or the Comptroller of the Treasury, the Contractor must provide the State or the Comptroller of the Treasury a non-redacted copy of the Contractor’s SOC 2 Type 2 examination report(s). The Contractor must review the annual SOC 2 Type 2 examination reports for each of its Subcontractors and must also assist the State or Comptroller of the Treasury with obtaining a non-redacted copy of any SOC examination reports for each of its Subcontractors, including data centers used by the Contractor to host or process State data.

If the Contractor’s SOC 2 Type 2 examination report includes a modified opinion, meaning that the opinion is qualified, adverse, or disclaimed, the Contractor must share the SOC report and the Contractor’s plan to address the modified opinion with the State or the Comptroller of the Treasury within 30 days of the Contractor’s receipt of the SOC report or upon request from the State or the Comptroller of the Treasury. If any Subcontractor(s) SOC 2 Type 2 examination report includes a modified opinion, the Contractor must assist the State or Comptroller of the Treasury with obtaining the Subcontractor(s) SOC report and the Subcontractor(s) plan to address the modified opinion.

The Contractor must have a process for correcting control deficiencies that were identified in the SOC 2 Type 2 examination, including follow-up documentation providing evidence of such corrections. Within 30 days of receipt of the examination report, or upon request from the State or the Comptroller of the Treasury, the Contractor must provide the State or the Comptroller of the Treasury with a corrective action plan and evidence of correcting the control deficiencies. The Contractor must require each of its Subcontractors, including data centers used by the Contractor to host State data, to have a process for correcting control deficiencies identified in their SOC examination reports and must assist the State or Comptroller of the Treasury with obtaining a corrective action plan and obtaining evidence of correcting control deficiencies identified in Subcontractor(s) SOC reports.

No additional funding shall be allocated for these examinations as they are included in the Maximum Liability of this Contract.

- (5) The Contractor must annually perform Penetration Tests and Vulnerability Assessments against its Processing Environment per the NIST 800-115 definition. “Processing Environment” shall mean the combination of software and hardware on which the Application runs. “Application” shall mean the computer code that supports and accomplishes the State’s requirements as set forth in this Contract. “Penetration Tests” shall be in the form of attacks on the Contractor’s computer system, with the purpose of discovering security weaknesses which have the potential to gain access to the Processing Environment’s features and data. The “Vulnerability Assessment” shall be designed and executed to define, identify, and classify the security holes (vulnerabilities) in the Processing Environment. The Contractor shall allow the State, at its option, to perform Penetration Tests and Vulnerability Assessments on the Processing Environment. The Contractor shall provide a letter of attestation on its processing environment that penetration tests and vulnerability assessments has been performed on an annual basis and taken corrective action to evaluate and address any findings.

In the event of an unauthorized disclosure or unauthorized access to State data, the State Strategic Technology Solutions (STS) Security Incident Response Team (SIRT) must be notified and engaged by calling the State Customer Care Center (CCC) at 615-741-1001. Any such event

must be reported by the Contractor within twenty-four (24) hours after the unauthorized disclosure has come to the attention of the Contractor.

- (6) If a breach has been confirmed a fully un-modified third-party forensics report must be supplied to the State and through the STS SIRT. This report must include indicators of compromise (IOCs) as well as plan of actions for remediation and restoration. Contractor shall take all necessary measures to halt any further Unauthorized Disclosures.
- (7) Upon State request, the Contractor shall provide a copy of all Confidential State Data it holds. The Contractor shall provide such data on media and in a format determined by the State
- (8) Upon termination of this Contract and in consultation with the State, the Contractor shall destroy, and ensure all subcontractors shall destroy, all Confidential State Data it holds (including any copies such as backups) in accordance with the current version of National Institute of Standards and Technology ("NIST") Special Publication 800-88. The Contractor shall provide a written confirmation of destruction to the State within ten (10) business days after destruction.

b. Minimum Requirements

- (1) The Contractor and all data centers used by the Contractor to host State data, including those of all Subcontractors, must comply with the State's Enterprise Information Security Policies as amended periodically. The State's Enterprise Information Security Policies document is found at the following URL: <https://www.tn.gov/finance/sts/sts/sec-policies.html>.
- (2) The Contractor agrees to maintain the Application so that it will run on a current, manufacturer-supported Operating System. "Operating System" shall mean the software that supports a computer's basic functions, such as scheduling tasks, executing applications, and controlling peripherals.
- (3) If the Application requires middleware or database software, Contractor shall maintain middleware and database software versions that are always fully compatible with current versions of the Operating System and Application to ensure that security vulnerabilities are not introduced.
- (4) In the event of drive/media failure, if the drive/media is replaced, it remains with the State and it is the State's responsibility to destroy the drive/media, or the Contractor shall provide written confirmation of the sanitization/destruction of data according to NIST 800-88.

c. Business Continuity Requirements. The Contractor shall maintain set(s) of documents, instructions, and procedures which enable the Contractor to respond to accidents, disasters, emergencies, or threats without any stoppage or hindrance in its key operations ("Business Continuity Requirements"). Business Continuity Requirements shall include:

- (1) "Disaster Recovery Capabilities" refer to the actions the Contractor takes to meet the Recovery Point and Recovery Time Objectives defined below. Disaster Recovery Capabilities shall meet the following objectives:
 - i. Recovery Point Objective ("RPO"). The RPO is defined as the maximum targeted period in which data might be lost from an IT service due to a major incident

1 hour

- ii. Recovery Time Objective (“RTO”). The RTO is defined as the targeted duration of time and a service level within which a business process must be restored after a disaster (or disruption) in order to avoid unacceptable consequences associated with a break in business continuity:

24 hours

- (2) The Contractor and the Subcontractor(s) shall maintain a documented Disaster Recovery plan and shall share this document with the State when requested. The Contractor and the Subcontractor(s) shall perform at least one Disaster Recovery Test every three hundred sixty-five (365) days. A “Disaster Recovery Test” shall mean the process of verifying the success of the restoration procedures that are executed after a critical IT failure or disruption occurs. The Disaster Recovery Test shall use actual State Data Sets that mirror production data, and success shall be defined as the Contractor verifying that the Contractor can meet the State’s RPO and RTO requirements. A “Data Set” is defined as a collection of related sets of information that is composed of separate elements but can be manipulated as a unit by a computer. The Contractor shall provide written confirmation to the State after each Disaster Recovery Test that its Disaster Recovery Capabilities meet the RPO and RTO requirements.

- E.11. **Artificial Intelligence (AI) Use and Compliance Requirements.** The Contractor agrees that any product, service, or solution incorporating Artificial Intelligence (AI), including Generative AI (GenAI), procured under this Agreement shall comply fully with the State of Tennessee’s Enterprise Artificial Intelligence Policy (Policy 200-POL-007), available at: <https://www.tn.gov/content/dam/tn/finance/artificial-intelligence/200-POL-007%20Enterprise%20Artificial%20Intelligence%20Policy.pdf>

The Contractor further agrees to the following:

- a. Data Privacy and Security

Contractor shall not use, access, store, transmit, or process any State Data—including but not limited to confidential, privileged, personally identifiable information (PII), protected health information (PHI), Payment Card Industry (PCI) data, criminal justice information (CJIS), federal tax information (FTI), Centers for Medicare & Medicaid Services (CMS) data, Social Security Administration (SSA) data, Family Education Rights & Privacy Act (FERPA) data, or internal communications—through any AI tools or platforms unless:

- (1) The AI tool is explicitly approved in writing by the State.
- (2) The tool is operated within a secure State-controlled or approved environment.

- a. Prohibition on Model Training

Contractor shall not use State Data to train, fine-tune, or otherwise improve AI models, unless expressly authorized in writing by the State and in accordance with Policy No. 200-OL-007.

- b. Transparency and Accountability

Contractor shall clearly disclose when AI tools are used in providing services or generating content on behalf of the State. Contractor is responsible for the accuracy, reliability, and appropriateness of all AI-generated outputs.

c. Use of Approved Tools Only

Only State-approved AI platforms, systems, or services may be used in the performance of this contract. Use of public, consumer, or non-State-managed AI platforms (e.g., ChatGPT, Google Gemini, etc.) with State Data is strictly prohibited unless authorized in writing.

d. Ongoing Compliance and Risk Mitigation

Contractor shall ensure continued compliance with evolving State and federal regulations related to AI. The State reserves the right to audit or review AI usage under this Contract at any time.

e. Indemnification

Contractor shall further indemnify and hold harmless the State in accordance with the Hold Harmless section of this Agreement for any unauthorized disclosure, misuse, or compromise of State Data resulting from AI-related processing that violates this Contract or State policy.

- E.12. **Family Educational Rights and Privacy Act & Tennessee Data Accessibility, Transparency and Accountability Act**. The Contractor shall comply with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232(g)) and its accompanying regulations (34 C.F.R. § 99) ("FERPA"). The Contractor warrants that the Contractor is familiar with FERPA requirements and that it will comply with these requirements in the performance of its duties under this Contract. The Contractor agrees to cooperate with the State, as required by FERPA, in the performance of its duties under this Contract. The Contractor agrees to maintain the confidentiality of all education records and student information. The Contractor shall only use such records and information for the exclusive purpose of performing its duties under this Contract. The obligations set forth in this Section shall survive the termination of this Contract.

The Contractor shall also comply with Tenn. Code Ann. § 49-1-701, *et seq.*, known as the "Data Accessibility, Transparency and Accountability Act," and any accompanying administrative rules or regulations (collectively "DATAA"). The Contractor agrees to maintain the confidentiality of all records containing student and de-identified data, as this term is defined in DATAA, in any databases, to which the State has granted the Contractor access, and to only use such data for the exclusive purpose of performing its duties under this Contract.

Any instances of unauthorized disclosure of data containing personally identifiable information in violation of FERPA or DATAA that come to the attention of the Contractor shall be reported to the State within twenty-four (24) hours. Contractor shall indemnify and hold harmless State, its employees, agents and representatives, from and against any and all claims, liabilities, losses, or

- E.13. causes of action that may arise, accrue, or result to any person or entity that is injured or damaged as a result of Contractor's failure to comply with this section. **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 ordinary 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.14. **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.15. **Public Accountability.** If the Contractor is subject to Tenn. Code Ann. §§ 8-4-401, *et seq.*, or if this Contract involves the provision of services to citizens by the Contractor on behalf of the State, the Contractor agrees to establish a system through which recipients of services may present grievances about Contractor's operation of the service program. The Contractor shall also display in a prominent place, located near the passageway through which the public enters in order to receive contract-supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating the following:
- NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY THAT YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454
- The sign shall be of the form prescribed by the Comptroller of the Treasury. The contracting state agency shall request copies of the sign from the Comptroller of the Treasury and provide signs to contractors.
- E.16. **Environmental Tobacco Smoke.** Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years. The Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.
- E.17. **Prison Rape Elimination Act (PREA).** The Contractor must comply with the Prison Rape Elimination Act (PREA) of 2003 (Federal law 42 U.S.C. 15601 *et. seq.*), with all applicable Federal PREA standards, and with all State policies and standards related to PREA for preventing, detecting, monitoring, investigating, and eradicating any form of sexual abuse within facilities/programs/offices owned, operated, or contracted.
- E.18. **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.19. **Payment Bond.** For all Purchase Orders on public works in excess of \$100,000 (in accordance with Tenn. Code Ann. §12-4-201), Contractor shall provide to the State with respect to this Contract, or a Participating Entity with respect to a PA, a payment bond guaranteeing that the Contractor's subcontractors, laborers, and material suppliers will be paid for performance under this Contract with the additional obligation that such contractor shall promptly make payment of all taxes, licenses, assessments, contributions, penalties, and interest. The payment bond will be in an amount equal to twenty-five percent (25%) of the Purchase Order total amount. The Contractor shall submit the bond no later than the day immediately preceding the date of the Purchase Order and in the manner and form prescribed by the State with respect to this Contract, or a Participating Entity with respect to a PA, at Contract Attachment P. The bond shall be issued by a company licensed to issue such a bond in the State of Tennessee. The State with respect to this Contract, or a Participating Entity with respect to a PA, reserves the right to review the bond amount and bond requirements at any time during the Term. Failure to provide to the State with respect to this Contract, or a Participating Entity with respect to a PA, the payment bond as required under this Contract may result in this Contract being terminated by the State with respect to this Contract, or a Participating Entity with respect to a PA,. The payment bond required under this Contract shall not be reduced during the Term without the prior written approval of the State with respect to this Contract, or a Participating Entity with respect to a PA.
- E.20. **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.21. **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.22. **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 or ensure 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. The obligations set forth in this Section shall survive the termination of this Contract.
- E.23. **Drug-Free Workplace.** The Contractor shall provide a drug-free workplace pursuant to the Drug Free Workplace Act of 1988, Title 41 U.S.C. §§ 701, *et seq.*, and the regulations in Title 41 U.S.C.A. §§ 8101 through 8106.
- E.24. **Statewide Contract.** This Contract establishes a source or sources of supply for all Tennessee State Agencies. "Tennessee State Agency" refers to the various departments, institutions, boards, commissions, and agencies of the executive branch of government of the State of

Tennessee with exceptions as addressed in Tenn. Comp. R. & Regs. 0690-03-01-.01. The Contractor shall provide all goods or services and deliverables as required by this Contract to all Tennessee State Agencies. The Contractor shall make this Contract available to the following entities, who are authorized to and who may purchase off of this Statewide Contract (“Authorized Users”):

1. all Tennessee State governmental entities (this includes the legislative branch; judicial branch; and, commissions and boards of the State outside of the executive branch of government);
2. Tennessee local government, its agencies, boards, commissions, instrumentalities, or authorities;
3. the board of trustees of the University of Tennessee system; the Tennessee Board of Regents systems; the state university boards; the Tennessee higher education commission; and the Tennessee student assistance corporation;
4. any private nonprofit institution of higher education chartered in Tennessee; and,
5. any corporation which is exempted from taxation under 26 U.S.C. Section 501(c) (3), as amended, and which contracts with the Department of Mental Health and Substance Abuse Services to provide services to the public (Tenn. Code Ann. § 33-2-1001).

These Authorized Users may utilize this Contract by purchasing directly from the Contractor according to their own procurement policies and procedures. An Authorized User shall have the right to request additional terms as may be necessary to ensure compliance with applicable local, State and federal laws, regulations, or requirements. Any requested changes should not impact the competitive nature of the contractor selection process. Any modification pursuant to this section is subject to the procurement policies and procedures of the Authorized User and subject to agreement by the Contractor and Authorized User. The State is not responsible or liable for the transactions between the Contractor and Authorized Users.

- E.25. **Statewide Contract Reports.** All reports shall be submitted electronically in Microsoft Excel format. Reports shall include the ability to sort or summarize data in accordance with the Contract Administrator's specifications. All reports shall be provided at no additional cost to the State.

Quarterly Reports: Contractor(s) will submit quarterly reports to the CPO Representative no later than thirty (30) days after the end of the State's quarter (e.g. a fiscal year quarter 2 report for October - December is due no later than January 30th). At the CPO Representative's sole discretion, the State may extend the time allowed to complete quarterly reports. Quarterly reports shall provide statistical data on all purchases under this Contract by Participating Entities. Contractor shall use Contract Attachment B Statewide Contract Report Template as the template for submitting quarterly reports.

Custom Reports: When requested by the State, the Contractor shall submit custom reports to the Contract Administrator within thirty (30) days of the request.

- E.26. **Prohibition on Unmanned Aircraft Systems Manufactured or Assembled by American Security Drone Act-Covered Foreign Entities.**

a. Definitions. As used in this clause—

American Security Drone Act-covered foreign entity means an entity included on a list developed and maintained by the Federal Acquisition Security Council (FASC) and published in the System for Award Management (SAM) at <https://www.sam.gov> (section 1822 of the National Defense Authorization Act for Fiscal Year 2024, Pub. L. 118-31, [41 U.S.C. 3901](#) note prec.).

FASC-prohibited unmanned aircraft system means an unmanned aircraft system manufactured or assembled by an American Security Drone Act-covered foreign entity.

Unmanned aircraft means an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft ([49 U.S.C. 44801\(11\)](#)).

Unmanned aircraft system means an unmanned aircraft and associated elements (including communication links and the components that control the unmanned aircraft) that are required for the operator to operate safely and efficiently in the national airspace system ([49 U.S.C. 44801\(12\)](#)).

b. Prohibition. The Contractor is prohibited from—

(1) Delivering any FASC-prohibited unmanned aircraft system, which includes unmanned aircraft (i.e., drones) and associated elements (sections 1823 and 1826 of Pub. L. 118-31, [41 U.S.C. 3901](#) note prec.);

(2) On or after December 22, 2025, operating a FASC-prohibited unmanned aircraft system in the performance of the contract (section 1824 of Pub. L. 118-31, [41 U.S.C. 3901](#) note prec.); and

(3) On or after December 22, 2025, using Federal funds for the procurement or operation of a FASC-prohibited unmanned aircraft system (section 1825 of Pub. L. 118-31, [41 U.S.C. 3901](#) note prec.).

c. Procedures. The Contractor shall search SAM at <https://www.sam.gov> for the FASC-maintained list of American Security Drone Act-covered foreign entities prior to proposing, or using in performance of the contract, any unmanned aircraft system. Additionally, the Contractor shall ensure any effort or expenditure associated with a FASC-prohibited unmanned aircraft system is consistent with a corresponding exemption, exception, or waiver determination expressly stated in the contract.

d. Exemptions, exceptions, and waivers. The prohibitions in this clause do not apply where the agency has determined an exemption, exception, or waiver applies and the contract indicates that such a determination has been made. [See sections 1823 through 1825 and 1832 of Public Law 118-31 ([41 U.S.C. 3901](#) note prec.) for statutory requirements pertaining to exemptions, exceptions, and waivers.].

e. Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial products or commercial services.

IN WITNESS WHEREOF,

CONTRACTOR LEGAL ENTITY NAME:

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

STATE OF TENNESSEE CENTRAL PROCUREMENT OFFICE:

NAME & TITLE

DATE

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	
EDISON VENDOR IDENTIFICATION NUMBER:	

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

Refer to Attachment B Statewide Contract Report Template.

PERFORMANCE STANDARDS

Desired Outcomes	Performance		
	Objective	Standard	
<p style="text-align: center;">1</p> <p style="text-align: center;">Provide safe, appealing and high-quality facilities and grounds through operational excellence</p>	Ensure both interior and exterior spaces meet agreed-upon appearance standards	Establish standards and scope for facilities and grounds maintenance within X months Validate work against standards, correct deviations and report through Quality Assurance (QA) process X often.	
	Meet or exceed agreed-upon service levels for routine and priority service requests	Review / examine work requests for Remedial Maintenance (RM) and other requests by priority and measure against agreed-upon standards	
	Maximize asset life cycle	Inventory all assets and determine asset conditions and age within X months and update annually	Prescribe Preventative Maintenance (PM) and schedules for all assets and generate PM schedule within X months and update as agreed
		Perform Cost-Benefit analysis for RM and PM identified issues to repair vs. replace, and implement agreed-upon corrective actions	
		Determine the condition of the facilities under management	Provide Facility inspections of all facilities annually
	Ensure continuity of systems and services	Eliminate controllable unplanned downtime	
	Adhere to regulatory and code requirements	100% of applicable staff will attend codes training	Reduce violations to zero within agreed time period and maintain thereafter
		Utilize safety and risk management programs to reduce incidents	100% of staff attend applicable safety training
	<p style="text-align: center;">2</p> <p style="text-align: center;">Exhibit good stewardship of state resources</p>		Achieve optimal cost savings within responsible budgets
		Achieve annual X% savings from Baseline	
		Annually establish benchmarked budget standards	
		Identify current space usage opportunities	Biannual reporting of all buildings ♦ 20k sq. ft.
		Reduce the State's environmental footprint	Reduce energy consumption per sq. ft. by X% of baseline
Reduce landfill waste by X% of baseline			Establish and maintain site specific recycling programs where appropriate
100% of storm / waste water management permits by due date			Storm / waste water incidents responded

<p style="text-align: center;">3</p> <p style="text-align: center;">Foster an environment and culture that promotes flexible customer centric solutions</p>	<p>Be accountable for service delivery to requestors and affected parties</p>	<p>Work order survey response about communication results average equal satisfied or very satisfied</p>
		<p>All mutually agreed scheduled reports issued on time</p>
		<p>Follow mutually agreed communication standards for:</p> <ul style="list-style-type: none"> - unique scheduled events - recurring events - emergency / urgent events
	<p>Improve customer satisfaction</p>	<p>Achieve / maintain a customer satisfaction level of "X" or greater</p>
<p style="text-align: center;">4</p> <p style="text-align: center;">Enable employees to be engaged, motivated and innovative</p>	<p>Establish a customer service training program</p>	<p>All employees complete appropriate customer service training annually</p>
	<p>Provide training programs and cross-training at all levels</p>	<p>Achieve a standard of X% improvement over year 1 baseline on employee engagement survey that incorporates all Objectives</p>
	<p>Provide employment growth opportunities</p>	
	<p>Provide guardrails to empower employees</p>	
<p>Establish and maintain a high level of employee morale to ensure engagement</p>		
<p style="text-align: center;">5</p> <p style="text-align: center;">Sustain transparency, collaboration and programs that inspire public trust</p>	<p>Mutually develop and maintain required reporting that meets or exceeds the needs of all State entities</p>	<p>All specified reports submitted by due date</p>
	<p>Publicly communicate accurate and informative results of key metrics</p>	<p>Monthly reporting of key projects and cost savings, aggregated and published quarterly</p>

PERFORMANCE MANAGEMENT

1. Performance Management Plan – Generally.

The Contractor shall develop, subject to the Operational Governance Committee’s review and approval, a Performance Management Plan that will measure the Contractor’s performance and progress by comparing Performance Measures against Desired Outcomes. The Operational Governance Committee will have oversight responsibility and work collaboratively with the State Participating Entity’s to put in place agreed-upon Performance Measures to compare the Contractor’s performance against the Desired Outcomes across the State portfolio.

A summary of performance management activities and their frequency are set forth below:

Activity	Timing / Frequency	Details
Management and Operational Audits	Annually	Contractor’s annual audits are performed by off-account Contractor employees or third-party vendors focused on ensuring all aspects of managerial practices and operational processes are being adhered to.
Performance Measure and KPI Performance	Reviewed monthly and quarterly	Ensure Performance Measure and KPI adherence specific for State, consistency at both Facility and portfolio levels Compliance with laws and regulations
Customer and Client Satisfaction Surveys	Annually	Evaluates performance based on State feedback, including Client, Occupancy / Customer, Work Order Close-Out surveys and more.

2. Approval of KPIs.

KPIs shall be developed by the Contractor in consultation with the Participating Entity. The KPIs developed by the Contractor shall be submitted to Site Level / Local Operations Oversight Board for approval and once approved, shall be set forth in the PA. Sample KPIs are as follows:

KPI	Goal
<i>Financial (These KPIs would be individually weighted, but would total about 50% of the weight)</i>	
Savings Creation Operational	Year 1 goal of 7% off Operations Budget
<i>Operational (These KPIs would be individually weighted, but would total about 30% of the weight)</i>	
Reactive Maintenance Completion	90% are completed on time within SLA
Preventative Maintenance Completion (Standard Equipment)	90% compliant based on monthly cycle

Preventative Maintenance Adherence (Critical Equipment, Critical Tasks)	90% compliant based on monthly cycle
Equipment up time/down time (Critical Environments)	Zero unplanned downtime
Dedicated Employee Retention	90% annual retention of Dedicated Employees to the State portfolio
<i>Customer Satisfaction (These KPIs would be individually weighted, but would total about 20% of the weight)</i>	
Customer (Tenant) Satisfaction	90% Satisfaction ("satisfied or highly satisfied")
Customer (Client) Satisfaction	90% Satisfaction ("satisfied or highly satisfied")

3. Meeting Desired Outcomes.

Information related to KPIs, and Performance Measures linked to the Desired Outcomes can be found in Contract Section A.18. KPIs. The Operational Governance Committee shall have ninety (90) days until the Effective Date to review these Performance Measures.

Contractor shall adhere to the following at-risk and incentive elements to tie Contractor's performance to the State's Desired Outcomes (Reference Contract Attachment C Performance Standards):

- 3.1. **Shared-Risk:** Contractor's Management Fee, shall be fifty percent (50%) "at-risk" and promptly reimbursed to the State, if the Contractor does not achieve a satisfactory KPI scorecard with each Participating Entity, as mutually agreed to and outlined in its signed PA.
- 3.2. **Contract Term Incentive:** The Contract Term Incentive is set forth in Contract Section B.2. Renewal Options. The Operational Governance Committee must agree on the performance expectations entitling Contractor to a Contract Term Incentive. These specific metrics are set forth in Exhibit 2 of each PA. The draft Performance Measures, subject to approval by the Operational Governance Committee, to achieve this incentive outlined in Contract Section B.2. Renewal Options will consist of the following areas:
 - (a) Maintain at least ninety percent (90%) compliance with all Service Level Agreements (SLAs) as defined in this Contract; and
 - (b) Propose and implement at least one (1) Continuous Improvement or Cost-Saving Initiative annually, subject to approval by the State. These initiatives may include enhancements to delivery service, reporting, pricing, or operational efficiency.
 - i. Scope

Each initiative shall:

 - (1) **Statewide Application:** Provide measurable benefit, efficiency, or cost savings available to all Participating Entities participating under this Master Contract; or
 - (2) **PA Application:** If a statewide initiative is not practicable, provide an initiative applicable to individual PA's such that a minimum of ninety percent (90%) of all PA's receive a directly applicable initiative to their program within each fiscal year.
 - ii. Eligible Initiative Types

Initiatives may include, but are not limited to:

 - (1) Enhancements to service delivery, responsiveness, or operational efficiency;
 - (2) Implementation of new technologies, digital tools, or automation that improve performance or reduce costs;

- (3) Adjustments to pricing structures, volume discounts, or cost models that result in measurable savings;
 - (4) Process standardization or reporting enhancements that reduce administrative burden;
 - (5) Sustainability measures or waste-reduction practices that produce lifecycle or operational cost savings.
- iii. Proposal and Approval Process
 - (1) The Contractor shall submit proposed initiatives to the Participating Entity's PA Contract Manager, and the Operational Governance Committee if a statewide initiative is being proposed, no later than ninety (90) calendar days prior to the end of the fiscal year.
 - (2) Each proposal shall include a description of the initiative, anticipated benefits, estimated cost savings or performance improvements, implementation timeline, and applicability (statewide or by PA).
 - (3) The Participating Entity's PA Contract Manager and Operational Governance Committee reserves the right to approve, modify, or reject any proposed initiative at its sole discretion.
 - iv. Reporting and Performance Measurement
 - (1) The Contractor shall provide an annual written report to the Operational Governance Committee detailing:
 - a. Each approved initiative and its implementation status;
 - b. Quantifiable results, including cost savings, efficiencies, or service improvements achieved; and
 - c. Identification of PA's benefiting from each initiative.
 - (2) Failure to achieve the required statewide or 90% PA coverage may result in the Operational Governance Committee requiring a corrective action plan and shall be considered in performance evaluations, renewals, or other contractual determinations.
4. Audit Programs.

In addition to cooperating with internal audits, as outlined in Section D.11 and Section E.9., Contractor shall utilize the audit and compliance programs outlined below throughout the Term:

- 4.1. **Contractor Management Audit** – Contractor shall review the administrative and accounting systems in place at facilities that have been managed by Contractor for at least one (1) year. This audit shall measure compliance with Contractor's operating procedures.
- 4.2. **Annual Financial and Control Over Operations Audit Reports** – Contractor shall provide annual financial and control over operations audits the Operational Governance Committee. This audit shall measure the Contractor's adherence to applicable regulations.
- 4.3. **Annual Reports on customer satisfaction surveys.**
- 4.4. **Contractor's Engineering Services Compliance Program ("ESCP")**
 The ESCP is an abstract of codes, laws, and regulations, as well as internal policies, which all Facilities in the managed portfolio are measured against on an annual basis. A Quality Assuredness Operations Audit ("QAOA") is reviewed and updated annually by the Contractor's Engineering Services ("ES") group.
- 4.5. **Customer and Client Satisfaction Surveys** – The purpose of the customer and client satisfaction surveys is to measure and evaluate the Contractor's performance based on client and customer feedback and for the Contractor to adjust or re-align the Contractor's priorities with each Participating Entity. Surveys shall be developed by the Contractor in consultation with the Participating Entity. The surveys developed by the Contractor shall be submitted to Site Level / Local Operations Oversight Board for approval. These surveys include, but may not be limited to, the following types:
- (a) Occupant/customer satisfaction surveys, including work close-out surveys, client- specific surveys, verbal surveys, random end user satisfaction surveys and leadership satisfaction surveys; and
 - (b) Employee satisfaction surveys.

TRANSITION MANAGEMENT

A. Transition-In Requirements

1. Transition-In Plan

The Contractor shall submit a detailed Transition-In Plan to the Operational Governance Committee within ten (10) business days of the Effective Date. The Transition-In Plan shall include:

- i. Timeline for assuming full operational control of all currently managed facilities (to include all facilities managed by the incumbent at the time of award for all Participating Entities with active PAs).
- ii. Staffing and onboarding schedule for Key Personnel (Contractor-held positions on Operational Governance and PA Managers) and other personnel (e.g., custodial, maintenance, HVAC technicians).
- iii. Inventory and inspection procedures for Government-furnished property and equipment.
- iv. Risk mitigation strategies to prevent service disruption.
- v. Coordination protocols with the outgoing Contractor and State Facility Managers.

2. Site Familiarization and Access

The Contractor shall coordinate with the Participating Entities to conduct site walkthroughs, review building layouts, and receive access credentials for all relevant facilities and systems (e.g., CMMS, security systems).

3. Continuity of Services

The Contractor shall ensure uninterrupted delivery of all facilities management services—including janitorial, groundskeeping, preventive maintenance, and emergency response—during the transition period. Full operational responsibility shall be assumed no later than one hundred eighty (180) calendar days after Contract Effective Date.

4. Participating Entity Support

The Participating Entity will provide access to facilities, existing service records, equipment inventories, and personnel necessary to support the transition.

B. Transition Out Requirements

1. Transition Out Plan

The Contractor shall work with the Operational Governance Committee and Site Level/Local Operations Oversight Board to ensure that the continuity of operations is not interrupted following Contract termination, expiration, or non-renewal. The Transition Out Period shall commence upon written notice of termination or ninety (90) days prior to Contract expiration, whichever occurs first. This period shall continue until all transition obligations are completed and accepted by the Operational Governance Committee and Site Level/Local Operations Oversight Board.

The Contractor shall submit a Transition Out Plan to the Operational Governance Committee no later than ninety (90) calendar days prior to Contract expiration or termination. The Transition Out Plan and Contractor responsibilities shall include:

- i. **Finalizing Pending Work Orders:** Complete all outstanding tasks in progress as of the

- Transition Out start date.
- ii. **Knowledge Transfer:** Provide operational documentation, maintenance schedules, equipment lists, SOPs, emergency protocols, existing post orders, and relevant historical data to the Operational Governance Committee.
 - (1) Contractor shall provide a list of current Contract employees with current background packets and certification expiration dates, and employee seniority list, when requested by the State.
 - (2) Contractor shall provide personnel records, including but not limited to, training, medical, background information, and security records to the incoming-Contractor and the State, at least 135 days prior to expiration of current contract.
 - iii. **Support Transition Activities:** Cooperate with incoming Contractor as directed by the Operational Governance Committee, including on-site orientation and walkthroughs.
 - iv. **Inspections & Reconciliation:** Final inspections and reconciliation of State- or Participating Entity-furnished property must be completed and submitted to the Participating Entities.
 - v. **Access Termination & Handover:** Return all State-issued credentials, badges, and keys issued by the Participating Entity by end of Transition Out.
 - vi. **Inventory Reconciliation:** Review and reconcile all State-owned or State-leased equipment, tools, and supplies that were under the Contractor's control, in coordination with the new contractor and the State.
 - vii. **Staffing:** Contractor shall maintain a level of staffing sufficient to support ongoing operations and transition activities through the Transition Out Period.
 - viii. **Quality of Service:** No reduction in service quality or responsiveness shall occur during this time.
 - ix. **Reporting:** The Contractor shall submit weekly transition progress reports to the Operational Governance Committee. Contractor shall attend transition planning meetings, exit interviews, and provide written confirmation of all completed tasks.

All transition obligations shall be subject to review and acceptance by the State. Written sign-off by the Operational Governance Committee shall constitute formal completion of Transition Out responsibilities.

2. Documentation and Asset Transfer

The Contractor shall provide updated Facility condition reports, preventive maintenance schedules, and custodial service logs. All State- and Participating Entity-furnished property shall be returned in good working order, with documentation of any outstanding repairs or deficiencies.

3. Personnel Support

The Contractor shall make Key Personnel available during the transition period to support knowledge transfer, including walkthroughs, system demonstrations, and procedural briefings.

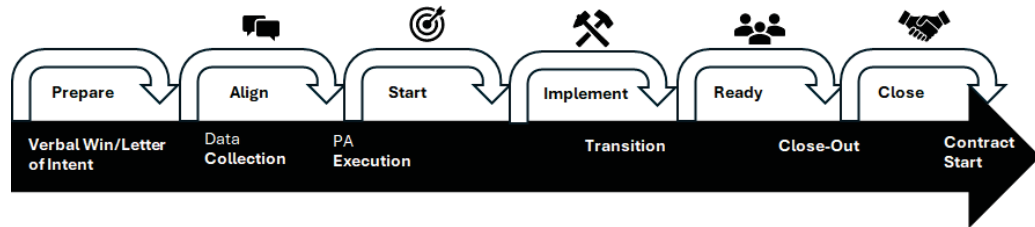
4. Cooperation and Coordination

The Contractor shall cooperate fully with the incoming contractor and Participating Entity representatives to ensure a seamless transition of facilities management responsibilities.

C. Transition Requirements for Participating User PAs

1. PA Transition Management.

The Contractor shall prepare a PA Transition Management Plan, subject to Participating Entity approval, that addresses the Transition Period, which consists of the six phases of PA Transition Management. The six phases of PA Transition Management are:



(a) Phase-In

A smooth and orderly transition between Contractors is necessary to assure minimum disruption to vital services and State activities.

i. *Preparation*

The preparation phase consists of a meeting with key Participating Entity stakeholders and Site Level/Local Operations leadership, the Contractor, and Participating Entity roles and responsibilities, provide an assessment of current Participating Entity conditions, and collectively define KPIs that support the Participating Entity.

The Contractor and Participating Entity roles involved in a Participating Entity's transition shall include one or more leads representing each of the following subject matter areas:

- Transition
- Human Resources
- Facility Operations
- Finance & Accounting
- Data Management & IT
- Call Center

ii. *Alignment*

During this phase, the Participating Entity will provide the Contractor with a projected scope of work, Facility locations, details on the current program, and any additional information required for the Contractor to provide an analysis on how the Contractor plans to support the Participating Entity and any benefits the Contractor can bring to the current program. The Contractor and Participating Entity will work collaboratively to review and validate data collected during the onboarding process. The Participating Entity's key stakeholders and Contractor will engage in a Transition Management Plan review.

iii. *Transition Start*

After a PA has been executed, the Contractor will plan three (3) meetings to start this phase: (1) Transition Preparation and Planning, which is a meeting where current and future states are reviewed, risks are identified and team roles and responsibilities are defined; (2) Transition Launch, which is a virtual or in-person meeting where the Contractor's team of subject matter experts introduce their service lines, project plans, and transition approach to the Participating Entity, and (3) High-level Requirements meeting, which is an in-depth discussion involving the Contractor and the Participating Entity regarding the decisions that impact multiple service lines transitioning together.

iv. *Implementation*

This phase begins once the team of subject matter experts finalizes the data collection and there is joint alignment on the plan by the Contractor and Participating Entity. This phase consists of

transition routines that include weekly status summaries, regular transition meetings, and monthly progress schedule reviews provided by the Contractor.

Contractor will hold ongoing weekly transition status calls or agreed upon frequencies with Participating Entity stakeholders or Site Level/Local Operations leadership in order to provide a clear understanding of progress and identify potential issues or roadblocks. The Contractor will create a dedicated web portal to keep all team members informed about activities taking place and enable team-wide online access to the transition plan, templates, contacts details and other information the Contractor will collectively leverage through the Transition Period.

To ensure all new processes are documented, during this phase technology is configured and staffing is filled appropriately, the Contractor's Transition Team, led by the Transition Executive outlined in Contract Attachment H Relationship Management, will host a "Transition Preparedness" evaluation with Participating Entity and on-site Contractor teams in advance of the Transition Date. Additionally, the teams will determine final plans for day one support and the timing of new employee orientation activities.

v. *Transition Close-Out*

The Transition Close-Out phase is the final phase of the Transition Period and includes the Transition Date for the Contractor. In the weeks following the Transition Date, the Transition Team will host calls between the Participating Entity's Site Level/Local Operations team and Contractor Operational Governance Committee representatives in order to ensure business continuity. The team also hosts internal meetings to review lessons learned as well as collect feedback via anonymous surveys with the Contractor's client teams and new Contractor account team employees. The Transition Period shall end approximately ninety (90) calendar days following the Transition Date with a final meeting between the Transition Team and the Site Level/Local Operations team.

vi. *Contract Start*

Upon successful completion of the transition, as determined by the Participating Entity stakeholders or Site Level/Local Operations leadership, the Contract can officially start. Contractor shall work with the Participating Entity to ensure that the scope of work is followed as described in the PA and KPIs are consistently met or exceeded in accordance with defined KPIs in the PA.

(b) Transition of Employees (Optional by Participating Entity)

During the Transition Start phase, the Contractor shall, subject to Participating Entity approval, develop communications to personnel regarding the transition process only if the Participating Entity elects to participate in the Employee Transition program. For any Participating Entity choosing to pursue employee transition, the Contractor shall conduct an introductory meeting with the identified Transition Employees within seventy-two (72) hours of the Effective Date of the signed PA for that Participating Entity. This meeting shall outline the transition process, the overall timeline, and provide an opportunity for employees to ask questions.

Participating Entities are not required to transition their employees. At their discretion, an Participating Entity may elect to reassign or retain employees on their own payroll, in which case the Contractor will serve solely as the property manager and coordinate with those retained staff to fulfill the FM Services.

During the Transition Period, for any employees designated for transition, a reconciliation process will be undertaken to align Total Equitable Compensation between the Contractor and the Participating Entity's compensation structure. The Contractor shall make appropriate adjustments to the following areas of compensation in order to achieve Total Equitable Compensation for Transition Employees:

- Employee tenure
- Pay and bonus by job levels

- Vacation policy
- General benefits (health, dental, vision, etc.)
- 401k

(c) Sourcing, Contract Management, and Contract Assignment

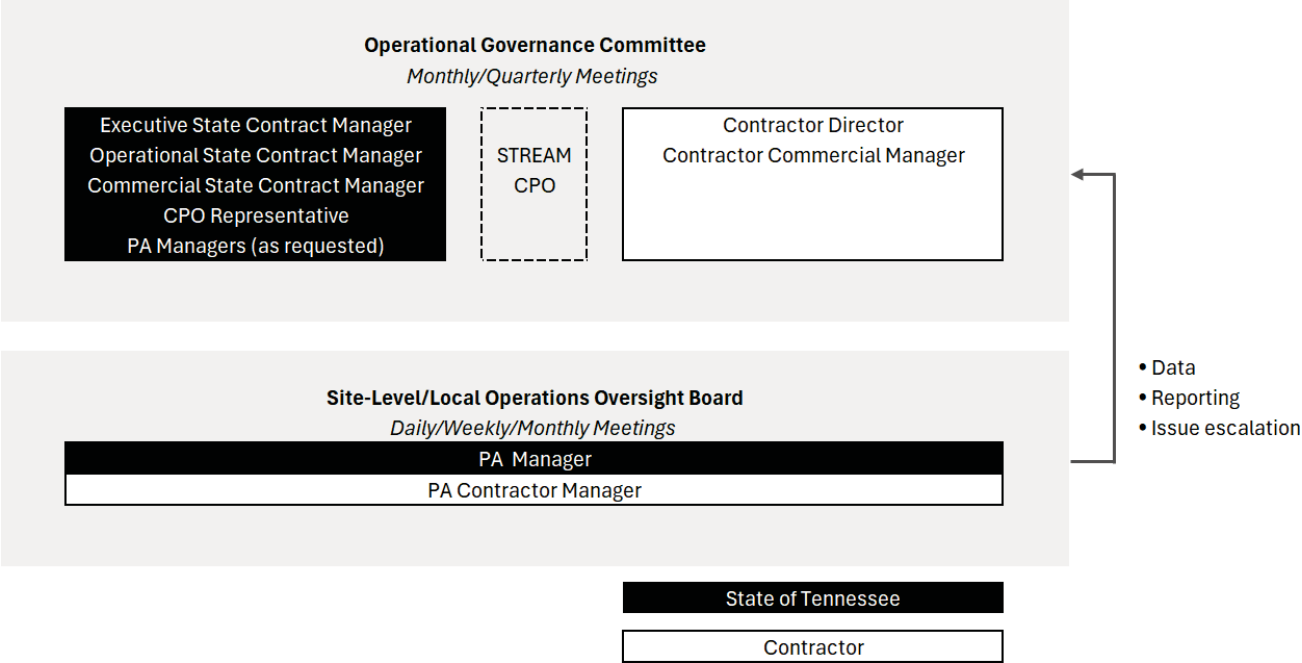
During the Transition Period, the Contractor will provide a dedicated transition sourcing resource who will work with the Participating Entity to evaluate existing Participating Entity Third-Party Contracts and to manage the change control process with existing subcontractors, in accordance with Contract Section A.16. Third Party Contracts and Contractor Subcontracts.

The Contractor will transfer information prior to the termination effective date and will coordinate with legal resources to ensure a complete list of data for transfer is included in the final termination letter. The Contractor will track contractor registration and monitor the status of any contractor resignation.

RELATIONSHIP MANAGEMENT

1. Governance Structure.

This Contract shall be managed by the Parties through the Governance Structure that is set forth below:



2. Communications.

The Governance Structure shall have two (2) tiers and be comprised of the following two (2) committees, which shall collectively manage the relationship between the State and Contractor and meet as follows:

- Operational Governance Committee – Quarterly, Monthly, or as needed; and
- Site Level/Local Operations Oversight Board – Daily, Weekly, Monthly.

A. Operational Governance Committee.

The Operational Governance Committee shall be comprised of governance executives from both the State and the Contractor. This committee shall have responsibility for reviewing both long-term and short-term activities, as well as plans for the delivery of services. This committee shall meet, at a minimum, three (3) times annually, or shall convene monthly or on a quarterly basis, and review Contractor’s performance through KPIs, Operations Budget versus actual results, anticipated annual cost savings, customer service issues, and problem resolution. The committee shall also manage conflict resolution issues that cannot be solved at the site level. The duties this committee shall be charged with include, but may not be limited to, the following:

- Ensuring that the Contractor understands the strategy and evolving needs of the Participating Entities, to give the Contractor the opportunity to enhance this strategy with relevant insights and emerging trends;
- Oversight of any new or modified services during the Term;

- Review and approval of any proposed changes to Performance Measures, service levels or KPIs, in accordance with Contract Sections A.18. KPIs and B.2. Renewal Options;
- Review and approval of any Requestor that wishes to utilize this contract, in accordance with Contract Section A.13.1.a.; and
- Review and approval of any recommended changes to the Governance Structure, in accordance with Contract Section A.3.4. Relationship Management Framework and Mechanisms.
- Annual review of performance against Performance Measures and award of Renewal Options, in accordance with Contract Section B.2. Renewal Options.

B. Site Level/Local Operations Oversight Board.

The Site Level/Local Operations Oversight Board shall be comprised of on-site leaders for engineering, operations, custodial services, and grounds maintenance. These leaders shall meet daily, weekly, or at a minimum, monthly, to discuss short-term and long-term plans, upcoming projects, customer feedback, problem resolution, personnel issues, and new ideas or innovations.

Representatives from the State shall be invited to attend but shall not be required to attend every meeting.

EMPLOYEE AND BUSINESS CONDUCT

1. Employee Conduct.

a. Progressive Disciplinary and Corrective Action Program.

The Contractor shall have a personnel policy applicable to all its employees performing FM Services under the Contract. The Contractor's personnel policy shall require the following progressive discipline when required:

- Documented Verbal Counseling;
- Documented Written Warning;
- Administrative Leave; and
- Termination.

b. Standards of Conduct

The Contractor shall have a standards of conduct policy ("Contractor Standards of Conduct Policy") that at a minimum prescribes a code of business ethics, that distinguishes acceptable versus unacceptable behavior, and that provides for the grounds or circumstances under which the Contractor may exercise the right of immediate termination without prior notice or corrective action.

The Contractor Standards of Conduct Policy shall also, at a minimum, address the following, including any related disciplinary action:

- Harassment;
- Disorderly conduct, incapacitation or impairment due to use of alcohol, drugs or other controlled substance, or arranging or participating in the sale of such substances;
- Unauthorized release of Contractor information or violation of any Contractor or client confidence;
- Theft from the Contractor, fellow employees, vendors, or clients;
- Use or possession of firearms, fireworks, or any other weapon on Contractor property;
- Insubordination to any member of management;
- Willful destruction or misuse of Contractor property, including Contractor documents, equipment and supplies;
- Obscene, abusive, intimidating or threatening behavior with employees, managers, clients or non- employees;
- Dishonesty or falsification of employment records or Contractor documents;
- Repeated absenteeism, tardiness, or absences for three or more consecutive workdays without proper notification;
- Sleeping during work time;
- Gambling during work time;
- Audio or video recording of others without the written consent of all present;
- Failure to comply with safety procedures;
- Failure to comply with Contractor policies or procedures, including but not limited to the Contractor's Code of Business Ethics;
- Violation of applicable statutes, rules, regulations, or policies of the State or any Participating Entity; and
- Misconduct occurring outside working hours of any work performed under this Contract.

2. Business Continuity Program Capabilities.

The Contractor shall fully cooperate with the State in order to ensure business continuity throughout the Term.

3. Compliance with Applicable Laws and Regulations.

In accordance with Section D.24, the Contractor shall maintain compliance with all applicable State and federal laws and regulations. The following areas are of particular concern under this Contract:

a. *Environmental, Health, and Safety Compliance*

In order to ensure environmental, health, and safety law compliance with Section D.25. State and Federal Compliance, Contractor shall train all Site-Level and Local Operations employees at each Participating Entity within the scope of a signed PA, and the Operational Governance Committee in the use of Contractor's environmental, health, and safety policies, procedures and best practices, which are accessed through the Contractor's internal information systems (EH&S Program).

During the Transition Period for a Participating Entity, the Contractor shall immediately begin to prepare and implement a health and safety program for each managed location (in accordance with the EH&S Program).

In order to further ensure health and safety compliance with Section D.25. State and Federal Compliance, Contractor shall maintain a strong safety culture through all of its FM Services being provided for the State and promote a philosophy that is aimed at achieving zero injuries.

b. *Quality Assurance*

To ensure further compliance with Section D.25. State and Federal Compliance, Contractor shall implement a quality control and operational assurance program and its Engineering Services compliance program.

c. *Ethics, Compliance and Social Responsibility*

At the beginning of each year, every Contractor employee shall sign and acknowledge Contractor's Code of Business Ethics, which demands ethical behavior, accountability, and transparency.

4. Publicity and Marketing.

The Contractor shall not respond to any public inquiry without prior State approval. Upon request, Contractor shall work with communications officials from the Participating Entities to address any inquiries in a timely manner.

TEMPLATE DATA STANDARDS

Introduction:

This attachment and each of its sections describes a State-approved template on data gathering requirements and data standards for the Contractor when performing the following business functions:

- Facilities Maintenance – includes preventative maintenance and on-demand maintenance.
- Equipment Inventory
- Tool inventory
- Facilities Condition Assessments
- All ancillary or primary data that is collected, maintained in the performance of Contract duties

Specific Data Standards will be defined in the PA by the Participating Entity.

Section 1: Management, Maintenance, and Delivery of Data

1.1 Facilities Maintenance Data

The Contractor will manage work orders and maintain Facilities Maintenance data. Historical extracts of this data will be provided to the Participating Entity in a file format, delivery method, and schedule agreed upon between the Participating Entity and the Contractor. See Section 2: Facilities Maintenance (FM) Data Extract for further details.

1.2 Equipment Inventory and Facilities Conditions Assessment Data

The Participating Entity may require the Contractor to –

- manage and maintain an inventory of equipment data; or
- perform Facilities Conditions Assessments; or
- both

The data gathered during these processes must be delivered directly to the Participating Entity's integrated workplace management system, IWMS. The data must match the exact format and standards used in the Participating Entity's IWMS. The Contractor may opt to enter the data directly into the IWMS, in which case the Participating Entity will provide the Contractor with instructions on the proper procedures and standards for entering data into the system. An alternative to keying data directly into the Participating Entity's IWMS is the electronic transmission of interface files, as described in Section 1.2.2.

1.2.1 Timeliness / Time-sensitivity of Data

Conditions Assessment and Equipment Inventory, Tool inventory, data must be delivered to IWMS within one week of when the information was gathered. Conditions Assessment and Equipment Inventory, Tool inventory, data must be delivered to the IWMS within one week of when the information was gathered. This includes all photos taken.

1.3 Reports

The Contractor is responsible for providing Facilities Maintenance reports and dashboards as required by the Participating Entity.

1.4 Central Point of Contact for Data Issue

The Contractor will assign a point person responsible for ensuring compliance with the data requirements and standards in this document. This individual will serve as the central point of communication between the Contractor and the Participating Entity for data and reporting matters.

Section 2: Facilities Maintenance (FM) Data Extract:

The Contractor will maintain a set of preventative maintenance and on demand work order data. Incremental historical extracts of this data must be provided to the Participating Entity in a file format, method of delivery, and schedule agreed upon between the Participating Entity and the Contractor. The extract must include the data elements listed below and follow the data standards and requirements as defined.

Note that when the term “work order” is used below, it includes to both preventative maintenance and on-demand requests.

A Mock Extract can be found at Attachment M.1 below:

Required Facilities Maintenance Data Elements and Data Standards –

Name:	Work Order ID
Definition:	A unique identifier for each work order record.
Required:	Yes.
Format:	CHAR(Up to 16).
Example:	See Column A on Section X.

Name:	Department Code
Definition:	A unique ID that identifies the State Agency that initiated the complaint or request. The Participating Entity will provide a list of valid division codes and descriptions to the Contractor upon request, or these values can be looked up in the Participating Entity’s IWMS.
Required:	Yes.
Format:	CHAR. A specific list of values will be provided to the Contractor upon request, or these values can be looked up in the Participating Entity’s IWMS.
Example:	See Column B on Section X.

Name:	Building Code
Definition:	A unique ID that allows users to identify building. The Participating Entity will provide a list of valid building codes and descriptions to the Contractor upon request or these values can be looked up in the Participating Entity’s IWMS.
Required:	Yes.
Format:	CHAR(8).
Example:	See Column C on Section X.

Name:	Floor
Definition:	The floor number where the work was performed. Floor numbers specified in Section 3.4 in this document.
Required:	Yes.
Format:	CHAR(2). Leading zeros must be included.
Example:	See Column D in Section X.

Name:	Work Order Type
--------------	------------------------

Definition:	A field that will allow the Contractor to select “On Demand Work” or “Preventative Maintenance” for the work order.
Required:	Yes.
Format:	CHAR(2*). Selection from a specific list of values. <i>The option to substitute the listed values for other values is subject to approval by the Participating Entity.</i>
Selection:	*Preventative Maintenance *Reactive Maintenance
Example:	See Column E on Section X.

Name:	Work Order Priority
Definition:	A field that will allow the Contractor to select the priority level of the work order.
Required:	Yes.
Format:	CHAR(32). Selection from a specific list of values. <i>*The option to substitute the listed values for other values is subject to approval by the Participating Entity.</i>
Selection:	*Emergency *Urgent *Normal *Routine
Example:	See Column F on Section X.

Name:	Date Received
Definition:	The date the work order was generated.
Required:	Yes.
Format:	DATE(MM/DD/YYYY).
Example:	See Column G on Section X.

Name:	Requested By
Definition:	Name of individual who requested the work order.
Required:	Yes.
Format:	CHAR(Up to 32) (Last Name, First Name).
Example:	See Column H on Section X.

Name:	Requestor Email
Definition:	The valid Email address of individual who requested the work order.
Required:	Yes.
Format:	CHAR(Up to 32) Freeform.
Example:	See Column I on Section X.

Name:	Created By
Definition:	Name of individual who created the work order. If work order was computer generated use “System.”
Required:	Yes.
Format:	CHAR(Up to 32) (Last Name, First Name).
Example:	See Column J in Section X.

Name:	Assigned To Name
--------------	-------------------------

Definition:	Unique identifier that shows the employee that was assigned the work order.
Required:	Yes.

Format:	CHAR(Up to 32) Freeform. (Last Name, First Name)
Example:	See Column K in Section X.

Name:	Date Assigned
Definition:	The date of the work order was assigned to the technician.
Required:	Yes.
Format:	DATE(MM/DD/YYYY)
Example:	See Column L in Section X.

Name:	Date Started
Definition:	The date technician began working on request.
Required:	Yes.
Format:	DATE(MM/DD/YYYY)
Example:	See Column M on Section X.

Name:	Completion Due Date
Definition:	The scheduled due date for the completion of the work order.
Required:	Yes.
Format:	DATE(MM/DD/YYYY)
Example:	See Column N on Section X.

Name:	Completion Date
Definition:	The date of the work was completed and closed out.
Required:	Yes.
Format:	DATE(MM/DD/YYYY)
Example:	See Column O on Section X.

Name:	SLA Met?
Definition:	Field that shows if the Service Level Agreement (SLA) was met.
Required:	Yes.
Format:	CHAR. Selection from a specific list of values.
Selection:	Yes No
Example:	See Column P on Section X.

Name:	Why Wasn't SLA Met?
Definition:	Freeform field that contains the reason why the SLA is not met or work order is past due. Ex: "The filter needed to be replaced but part needs to be special ordered."
Required:	Yes, if past due or SLA was not met.
Format:	CHAR(No limit) Freeform.
Example:	See Column Q on Section X.

Name:	Work Order Category
Definition:	A list of work types by categories.
Required:	Yes.

Format:	CHAR(32). Selection from a specific list of values. <i>*The option to substitute the listed values for other values is subject to approval by the Participating Entity.</i>
Selection:	*Electrical *Exterior R&M

	*Fire and Life Safety *General Maintenance *HVAC *Interior R&M *Janitorial *Landscaping *Pest Control *Plumbing *Preventative Maintenance *Security *Supplies
Example:	See Column R on Section X.

Name:	Original Message
Definition:	A freeform field that contains the original work order request message. For on demand work orders this will be the message the customer entered for the original request/problem. For preventative maintenance this will be the procedure and steps taken to perform the maintenance.
Required:	Yes.
Format:	CHAR(No limit) Freeform.
Example:	See Column U on Section X.

Name:	Statement of Work
Definition:	A freeform field that describes the work performed. Should be used for any comments about work performed.
Required:	Yes.
Format:	CHAR (No limit) Freeform.
Example:	See Column V on Section X.

Name:	Equipment Involved?
Definition:	Field to depict if a piece of equipment is involved in the work order. Answer "Yes" when equipment has failed to function properly or normally, or has stopped functioning altogether. For example, a customer complains about the room temperature and the technician determines that a chiller needs repair. In this case, select "Yes." On the other hand, if a simple thermostat adjustment resolves the problem, then select "No."
Required:	Yes.
Format:	CHAR. Selection from a specific list of values.
Selection:	Yes No
Example:	See Column S in Section X.

Name:	Equipment Code
--------------	-----------------------

Definition:	In accordance with the State of Tennessee BIM Standards Appendix D, the equipment code must be entered for new or replacement equipment in the format of the Equipment Naming Standard. Please reference Section 3 for additional information regarding the use of the naming standard
Required:	Yes, when equipment has failed to function properly or normally, or has stopped functioning altogether.
Format:	Please refer to the Equipment Code Naming Standard shown below in Diagram 1 and described in detail in Section 2 of this document.
Example:	See Column T in Section X.

In addition to the data fields defined above, the Contractor may capture other useful Facilities Maintenance data as part of their normal business practices. The Participating Entity reserves the right to request that these data fields be added to the extract described here in Section 2.

Section 3: Equipment Inventory Data Standards

The Participating Entity may require the Contractor to gather and maintain an inventory of equipment data for the Participating Entity; and for that data the Contractor will follow the data standards and requirements described in this section. The Contractor will deliver the equipment and tool data directly to the Participating Entity’s IWMS or STREAM’s IWMS using the specified naming convention provided below. This data includes new equipment data and updating previously added equipment.

The information provided here is not intended to be all inclusive, but rather, provides general guidance on the Participating Entity’s equipment coding standards. The Contractor may opt to enter equipment data directly into the IWMS, in which case the Participating Entity will provide the Contractor with instructions on the proper procedures and standards for entering data into the system. An alternative to keying data directly into the Participating Entity’s IWMS is the electronic transmission of interface files, as described in Section 1.2.2.

Equipment Code Naming Format

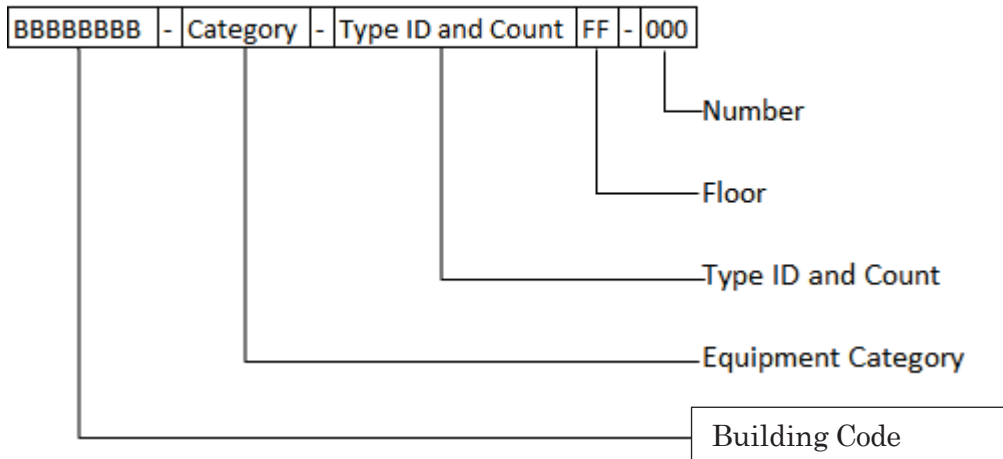
The Equipment Code Naming Standard is made up of six pieces of information: Building Number, Equipment Category, Type ID and Count, Floor and Number. When defined, the combination of this information creates a unique identifier for each piece of equipment and is referred to as the “Equipment Code.” In IWMS, the Equipment Code field must be completed and the “Define Equipment” tab filled out whenever the Assessor is installing or replacing a single, specific piece of equipment per the Building Information Modeling (BIM) Requirements, Appendix D, State of Tennessee.

URL:

https://www.tn.gov/content/dam/tn/statearchitect/bim/TN%20OSA%20BIMs%20v2.1_April%202023.pdf

Diagram 1

Equipment Code Naming Standard



3.1 Building ID

The first part of the equipment code is the Building ID. The Building ID is an 8-digit unique ID that allows the user to identify the specific building in which an asset resides.

The Participating Entity will provide a list of valid building codes and descriptions to the Contractor upon request or these values can be looked up in the Participating Entity's IWMS or STREAM's IWMS .

E.g.: **19000030**-HVAC-AHU01-01-001

3.2 Equipment Category

The second part of the equipment code is the "Equipment Category." The Equipment Category is the specific mechanical category in which a piece of equipment is classified as. The Participating Entity will provide a list of valid equipment categories to the Contractor.

E.g.: **19000030**-**HVAC**-AHU01-01-001

3.3 Type ID & Count

The third part of the equipment code is Type ID and Count. "Type ID" is the identifier of the type of equipment the asset is and the "Count" is the sequential number that, in conjunction with the Type ID, represents the make and manufacturer of a piece of equipment within the building. A list of valid Type IDs can be found in Appendix D, of the State of Tennessee BIM Standards or they can be looked up in STREAM's IWMS or the Participating Entity's IWMS.

E.g.: **19000030**-HVAC-**AHU01**-02-001

"AHU" is the abbreviation for air handling unit and the "01" represents the first make and model of air handling unit within building 19000030. In this case assume AHU01 in building 19000030 is a Trane 5000.

19000030-HVAC-**AHU01**-02-002

This AHU01 is a Trane 5000 because it is in the same building as the first one listed.

19000030-HVAC-**AHU02**-02-001

In this case AHU02 represents the second type of air handling unit in building 19000030 which can be a Mitsubishi 2000.

19000020-HVAC-~~AHU01~~-02-001

In this case AHU01 is not the same as the previous AHU01 because it is in another building. This AHU01 is entirely different than the one located in building 19000030 and may represent a different manufacturer and model.

3.4 Floor

The Participating Entity will provide the Contractor with instruction on the proper procedures and standards for entering floor data into IWMS.

E.g.: 19000030-HVAC-AHU01-~~02~~-001

This piece of equipment is on the second floor.

3.5 Number

The last part of the equipment code is the "Number." Number refers to the instance number, or instance of the equipment. If there is more than one of the same types of equipment on the same floor, the equipment code will be the same except for the Number. Number is what will distinguish one piece of equipment from another.

E.g.: 19000030-HVAC-AHU01-02-~~001~~

Above states that there is an "AHU01" on the 2nd floor of building 19000030.

19000030-HVAC-AHU01-02-~~002~~

In contrast, above tells us that there is the second "AHU01" on the 2nd floor of building 19000030. It is same make and model but different instance of the unit.

19000030-HVAC-AHU01-02-~~003~~

Above states that there is a third "AHU01" on the 2nd floor that is the same make and model but different instance. Each instance of identical equipment on the same floor will contain unique information in its portfolio including serial number, warranty date etc.

Additional Details:

In some cases, there are preexisting numbering systems that are physically present on equipment. These numbers are referred to as "legacy numbers" and oftentimes are located on a name plate or written in permanent marker on the equipment. When available, use the legacy numbering currently on the equipment for the "Number." If legacy numbering is not present, or if it is a new piece of equipment, use a sequential number beginning with "001." Use leading zeros if the number is less than three characters.

3.6 Other Equipment Data Elements

Below are additional data elements the contractor will capture, maintain, and update for equipment.

- Building Number
- Floor Number
- Location
- Asset/Equipment Classification
- Manufacturer
- Model Number
- Serial Number
- State Tag Number

- Warrantee Start Date
- Comments

The Participating Entity may request other equipment data elements that the Contractor captures as part of their normal business practices.

Section 4: Facilities Conditions Assessments (FCA)

When the Contractor performs Facilities Conditions Assessments for the Participating Entity, the Contractor will deliver the data and photos directly to the Participating Entity's Conditions Assessment module in the IWMS. The data must match the exact format required by the IWMS. The Contractor may opt to enter the data directly into the IWMS, in which case the Participating Entity will provide the Contractor with instructions on the proper procedures and standards for entering data and uploading photos to the system. An alternative to keying data directly into STREAM's IWMS is the electronic transmission of interface files and photos, as described in Section 1.2.2.

FCA Data Elements

Below is a list of data elements used in the IWMS Conditions Assessment module. This list is not intended to be all inclusive, but rather, provide general guidance on the types of data the Contractor will gather for the Participating Entity.

- Assessment Project – A unique code that identifies the scope of the assessment project, often a building. Multiple items may be assessed under one Assessment Project.
- Title – A brief description of the asset, equipment, or item being assessed.
- Equipment – A unique code that identifies the equipment or asset being assessed. See Section 3 for additional information.
- Asset Classification – Categories of building elements and systems. Identifies an asset group the equipment or asset belongs to. For example, HVAC, Plumbing, or Fire Protection.
- Building Code – A unique ID that allows user to identify building. See Sections 2 and 3 for additional information.
- Floor Code – The floor number of the asset, equipment, or item being assessed.
- Room – The floor number of the item being assessed.
- Contact / Assessed By – The name and contact information of the individual responsible for the assessment.
- Date Assessed – The date the item was assessed.
- Problem Location – A short free form field to describe further details about the location of the item being assessed.
- Condition Priority – A descriptive and numeric rating of how important this problem is from a business standpoint.
- Condition Value – A ranking of the items condition from Unacceptable to Very Good.
- Recommended Action – The action that is needed to correct any issues found. For example, No Action, Clean, Adjust, Remove, Repair, or Replace.
- Status – the status of any actions needed to correct any issues found. For example, Budgeted, Planned, Scheduled, In Progress, Completed, etc.
- Upload Photos / Documents – Slots to upload multiple pictures or documents.
- Comments / Description – A description of the problem or other useful information about item being assessed.
- Costs – Estimated / Actual / Replacement – The costs to remedy a condition.

Definitions

Below are definitions for some of the terminology used in Section 2 above.

CHAR(Number): "CHAR" means character, which is a letter or number, and the number in between the parenthesis is the maximum number of characters the entered value can be. This term limits the amount of data that can be entered into the cell.

Freeform: Freeform is a format that allows the user to input unstructured data. Most freeform fields required in this document have character limits.

NUM(Number): NUM means number, which is a numerical value, and the number in between the parenthesis is the maximum number of numbers that can be entered.

Selection: means values will be provided to the Contractor to maintain consistency and allow for accurate reports to be extracted. User (technician or data entry person) should be able to select these values from a list and not able to enter.



CONTRACT ATTACHMENT I.

MODEL PARTICIPATING ADDENDUM

PARTICIPATING ADDENDUM
STATE OF TENNESSEE, STATEWIDE CONTRACT #458
FACILITIES MANAGEMENT SERVICES
Administered by the State of Tennessee

MASTER AGREEMENT
Statewide Contract #458, Edison
Contract #XXXXX

CONTRACTOR
(hereinafter
"Contractor")
And
INSERT PARTICIPATING ENTITY NAME
(hereinafter "Participating Entity")

- 1. Scope: This Participating Addendum ("PA") allows for purchase from the State of Tennessee's Facilities Management Services Statewide Contract #458 ("Contract") for use by Participating Entities.
The original solicitation contains the requirements and definitions establishing the services allowed under the Contract.
The Participating Entity has selected the following services:
SPECIFY SELECTED SERVICES (AS WELL AS ANY IDENTIFIED POTENTIAL IN-SCOPE SERVICES), SQUARE FOOTAGE, WHICH SITES OR PORTIONS OF THE PARTICIPATING ENTITY WILL BE IN-SCOPE.
i. Workload Allocation- The Participating Entity and the Contractor shall identify the appropriate workload allocation between the Participating Entity and Contractor to meet the customer centric needs of this PA. This process involves identifying the processes and sub-processes within the Scope of FM Services above and assigning which party is responsible for that process or sub-process. This workload allocation does not include the specific governance responsibilities which are handled separately in the Contract.
2. Participation: Issues of interpretation and eligibility for participation are solely within the authority of the Chief Procurement Officer, or their designee, of the Central Procurement Office of the State.
3. Primary Contacts: The primary contact individuals for this PA are as follows (or their named successors):

Table with 2 columns: Participating Entity, and rows for Name, Address, Telephone, Fax, E-mail.



Contractor

Name	
Address	

Telephone	
Fax	
E-mail	

4. **Effective Date:** This PA shall be effective on **DATE** ("PA Effective Date") and extend for a period of **number (#)** months after the Effective Date ("Term"). Notwithstanding the foregoing, as of the PA Effective Date, the remaining Term of the PA will not exceed (i) eighty percent (80%) of the weighted average reasonably expected economic life of the properties to which the new PA relates, and (ii) eighty percent (80%) of the weighted average reasonably expected economic life of all properties managed by the Contractor under all PAs then in effect. The Participating Entity shall have no obligation for goods or services provided by the Contractor prior to the PA Effective Date. The PA Effective Date must align with and cannot extend beyond the Term as outlined in Contract Section B.1.
5. **Transition Date:** **OUTLINE TIMELINE AND ANTICIPATED COMPLETION DATE OF TRANSITION OF SCOPE OUTLINED IN PA SECTION 1.** Transition of services and employees to the Participating Entity must be done in accordance with Contract Section A and Contract Attachment E. Transition Management.
6. **Transition of Equipment:** Any equipment that the State wishes to sell, transfer, etc. must be done in accordance with Tenn. Code Ann. § 12-2-403. Tennessee local government entities as defined in Contract Section E.25.2. are exempt from Tenn. Code Ann. § 12-2-203; however, they must follow all State Rules such as 0690-02-01 when handling surplus property. Higher education and private nonprofit institutions of education as defined in Section E.25.3 and E.25.4. shall follow Tenn. Code Ann. § 12-2-403; however, they may operate independently when handling their surplus property. **INSERT ANY DECISION MADE ABOUT SPECIFIC EQUIPMENT RESPONSIBILITY AND USE.**
7. **Pricing:** The Operations Budget must be calculated in accordance with the terms of Statewide Contract #458 and the Pricing Model below. The Year 1 Operations Budget for the FM Services being provided to this Participating Entity is **\$NUMBER**. Additional information and the Contractor Pricing Model that governs this Operations Budget can be found in Exhibit 1. This exhibit shall be updated to add the Operations Budgets for future years, as those Operations Budgets are developed. This Contractor Pricing Model must align with Contract Section C.3. Payment Methodology. Contractor shall be responsible for making adjustments as necessary to costs and obtaining Participating Entity approval.
8. **Special Requirements-** **INSERT KNOWN SPECIAL REQUIREMENTS SUCH AS REPORTING, COMPLIANCE, OR ANY DEVIATIONS FROM THE DATA STANDARDS OUTLINED IN CONTRACT ATTACHMENT H TEMPLATE DATA STANDARDS.**
9. **Deliverables:** **OUTLINE PARTICIPATING ENTITY DELIVERABLES AND NECESSARY TIMELINES IN ACCORDANCE WITH CONTRACT SECTION A.17. PARTICIPATING ENTITY AND CONTRACTOR DELIVERABLES.** Throughout the Term, the Participating Entity will provide copies of new Facility information documents, amendments, and any other material new information or changes to new or existing Facility information documents, as they occur during the Term.



10. **Contractor Deliverables:** OUTLINE CONTRACTOR DELIVERABLES AND NECESSARY TIMELINES IN ACCORDANCE WITH CONTRACT SECTION A.17. STATE AND CONTRACTOR DELIVERABLES.
11. **Performance Standards and Performance Measurement:** PA Exhibit 2 contains the Performance Standards in accordance with Contract Section A.3.2. Performance Standards. INSERT PERFORMANCE STANDARDS AS EXHIBIT 2. This exhibit may be updated periodically as necessary.
12. **Employee Transition Acknowledgement Agreement:** PA Exhibit 3 contains the employee transition acknowledgement agreement. INSERT EMPLOYEE TRANSITION ACKNOWLEDGEMENT AGREEMENT, AS WELL AS A LIST OF SALARY AND BENEFITS OF ALL TRANSITION EMPLOYEES IF APPLICABLE. IF NOT APPLICABLE, REMOVE PA EXHIBIT 3 AND RESERVE SECTION.
13. **Orders:** Any Order placed by a Participating Entity for a Product or Service available from Statewide Contract #458 shall be deemed to be a request for goods or services under (and governed by the prices and other terms and conditions) of Statewide Contract #458 unless the parties to the Order agree in writing that another contract or agreement applies to such Order.
14. **PA Modifications.** If the Participating Entity and the Contractor agree, after execution of a PA, to changes involving:
 - (1) a Potential In-Scope Service not identified in Section 1 of the Participating Entity's executed PA;
 - (2) an increase or decrease in the square footage managed under the PA;
 - (3) any change that necessitates an adjustment to Contractor fees or Pass-Through Costs,
 - (4) the KPIs and a scoring methodology for evaluating KPI performance, Operations Budgets, and changes in governance for a Participating Entity's specific PA; or
 - (5) Performance Measures and a scoring methodology for evaluating Contractor performance;

such changes shall be submitted to the Operational State Contract Manager for review and approval.

The Contractor shall document the proposed change and submit written justification to the Operational State Contract Manager. The cumulative result of such change shall not increase the total approved Operations Budget by more than five percent (5%).

Upon approval by the Operational Governance Committee and the State, a Potential In-Scope Service shall thereafter be deemed an In-Scope Service for the remainder of the Term of the applicable PA.

15. **Participating Entity Modifications or Additions to Contract:** INSERT SPECIFIC CHANGES TO TERMS AND CONDITIONS OR A STATEMENT THAT NO CHANGES ARE REQUIRED. Only exempt agencies as defined by Tenn. Code Ann. § 12-3-102 are permitted to modify the terms and conditions of Statewide Contract #458. Executive branch state agencies are not allowed to modify or deviate from the terms and conditions of Statewide Contract #458.



IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

CONTRACTOR:

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

PARTICIPATING ENTITY NAME:

PARTICIPATING ENTITY SIGNATURE

DATE

PRINTED NAME AND TITLE OF PARTICIPATING ENTITY SIGNATORY (above)



PA EXHIBIT 1.

PARTICIPATING ENTITY OPERATIONS BUDGET AND PRICING

Sample Operations Budget

Insert Name of Participating Entity	
Cost Breakdown	Year 1
Operating Cost Baseline (provided by State)	\$ -
Management Fee	\$ -
Janitorial Labor	\$ -
Janitorial Burden Costs	\$ -
Janitorial Supplies/Materials	\$ -
Janitorial Fee	\$ -
Landscaping & Grounds Labor	\$ -
Landscaping & Grounds Burden Costs	\$ -
Landscaping & Grounds Supplies/Materials	\$ -
Landscaping & Grounds Fee	\$ -
CMMS Fee	\$ -
Call Center Direct Call Fee	\$ -
Call Center Web Entry Fee	\$ -
Site Based Labor	\$ -
Labor Burden Costs	\$ -
Labor Admin Fee	\$ -
Central Management Team Labor	\$ -
Central Management Team Labor Burden Costs	\$ -
Governance Team Labor	\$ -
Governance Team Labor Burden Costs	\$ -
Insurance Premium	\$ -
Other Facilities Subcontractor Services/ Supplies Materials Costs	\$ -
Transition Period Costs	\$ -
Operations Budget	\$ -

INSERT CONTRACTOR PRICING AND OPERATIONS BUDGET BY YEAR. UPDATE THIS EXHIBIT TO ADD THE OPERATIONS BUDGETS FOR FUTURE YEARS AS THE OPERATIONS BUDGETS ARE DEVELOPED AND INFORMATION BECOMES AVAILABLE.

PA EXHIBIT 2.

PERFORMANCE STANDARDS

The Contractor and the Participating Entity shall utilize Performance Standards throughout this Contract that links the Performance Standards to each of the Participating Entity's Desired Outcomes and Statements of Objective, as outlined in Contract Attachment C Performance Standards. Sample KPIs are set forth in Contract Attachment D Performance Management.

INSERT PERFORMANCE STANDARDS LINKING DESIRED OUTCOMES TO PERFORMANCE OBJECTIVES AND STANDARDS.



PA EXHIBIT 3.

TRANSITION ACKNOWLEDGEMENT AGREEMENT

INSERT THE PARTICIPATING ENTITY'S TRANSITION ACKNOWLEDGEMENT AGREEMENT, AS OUTLINED IN CONTRACT ATTACHMENT I - MODEL PARTICIPATING ADDENDUM SECTION 12 EMPLOYEE TRANSITION ACKNOWLEDGEMENT AGREEMENT. TRANSITION ACKNOWLEDGEMENT, AS WELL AS A LIST OF SALARY AND BENEFITS OF ALL TRANSITION EMPLOYEES.

CONTRACT ATTACHMENT J.**PAYMENT BOND TEMPLATE****PAYMENT BOND FOR LABOR AND MATERIALS**

This bond (the "Bond") made **date**, by **contractor name** ("Principal"), a corporation organized under the laws of **name of state**, having its principal office at **contractor's address**, as principal, and **surety name** ("Surety"), a corporation organized under the laws of **name of state**, and licensed to transact a surety business in the State of Tennessee, having its principal office at **surety's address**, as surety.

OBLIGATION

WHEREAS, the parties are obligated to the State of Tennessee Department of General Services Central Procurement Office ("State"), whose principal address is 312 Rosa L. Parks Avenue, 3rd Floor, Nashville, TN 37243, as obligee, for the benefit of Claimants as defined below, in the amount of **written amount** (\$ **number**), for the payment of which Principal and Surety bind themselves, their heirs, representatives, successors and assigns, jointly and severally, firmly by this Bond.

WHEREAS, Principal has by written agreement, dated **date of agreement**, entered into a contract with State for **description of work** in accordance with the drawings and specifications prepared by **name of architect or engineer**, which contract is made a part of this Bond by this reference, and is referred to as the "Contract."

CONDITION

The condition of this obligation is such that if the Principal shall promptly make payment to all Claimants as defined in SECTION ONE of this Bond for all labor and materials used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise, it shall remain in full force and effect.

AGREEMENT

For the reasons recited above, and in consideration of the parties' mutual covenants, the parties agree as follows:

SECTION ONE. CLAIMANT DEFINED

"Claimant" is defined as one having a direct contract with Principal or with a subcontractor of Principal for labor, materials, or both, used or reasonably required for use in the performance of the Contract, "labor and material" including that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

SECTION TWO. ACTION ON SUMS DUE CLAIMANT

Principal and Surety jointly and severally agree with State that every Claimant who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such Claimant's work or labor was done or performed, or on which the last of such materials were furnished by Claimant, may sue on this Bond for the use of Claimant in the name of State, prosecute the suit to final judgment for such amount as may be justly due Claimant, and have execution, provided, however, that State shall not be liable for the payment of any costs or expenses of any such suit.

SECTION THREE. LIMITATIONS ON SUIT BY CLAIMANT

Any suit or action commenced under this Bond shall comply with Tenn. Code Ann. § 12-4-205. Claimant shall give written notice to any two of the following: Principal, State, or Surety, above named, within ninety (90) days after completion of the public work. The claim shall state with substantial accuracy the amount claimed and the name of the party to whom materials were furnished, or for whom the work or labor was done or performed. Such notice shall be personally served or sent by certified mail, return receipt requested, in an envelope addressed to Principal, State, or Surety, at any place where an office is regularly maintained for the transaction of business.

SECTION FOUR. PAYMENTS MADE

The amount of this Bond shall be reduced by and to the extent of any payment or payments made in good faith under this Bond, inclusive of the payment by Surety of mechanics' liens which may be filed of record against the improvement, whether or not claim for the amount of such lien be presented under and against this Bond.

The parties have executed this Bond at **place of execution** the day and year first above written.

PRINCIPAL:

Contractor name

By: _____
Contractor's authorized signatory

Printed name and title

SURETY:

Surety Name

By: _____
Surety's authorized signatory

Printed name and title

APPA SERVICE LEVELS

1. APPA Custodial Service Levels.

The APPA custodial service levels are as follows:

- *APPA 1 – Orderly Spotlessness* [show-quality cleaning for corporate officer suite]
 - *APPA 2 – Ordinary Tidiness* [baseline cleaning for most institutions]
 - *APPA 3 – Casual Inattention* [lowering of normal expectations]
 - *APPA 4 – Moderate Dinginess* [areas becoming unacceptable]
 - *APPA 5 – Unkempt Neglect* [lowest level – unacceptable level of cleaning]
- a. *APPA 1 – Orderly Spotlessness:*
- Floors and cove base molding shine and/or are bright and clean; colors are fresh. There is no buildup in corners or along walls.
 - All vertical and horizontal surfaces have a freshly cleaned or polished appearance and have no accumulation of dust, dirt, marks, streaks, smudges or fingerprints.
 - Washroom and shower tile and fixtures gleam and are odor-free. Supplies are adequate.
 - Trash containers and pencil sharpeners are empty, clean and odor free.
- b. *APPA 2 – Ordinary Tidiness:*
- Floors and cove base molding shine and/or are bright and clean. There is no buildup in corners or along walls, but there can be up to two days' worth of dirt, dust, stains or streaks.
 - All vertical and horizontal surfaces are clean, but marks, dust, smudges and fingerprints are noticeable with close observation.
 - Washroom and shower tile and fixtures gleam and are odor-free. Supplies are adequate.
 - Trash containers and pencil sharpeners are empty, clean and odor free.
- c. *APPA 3 – Casual Inattention:*
- Floors are swept clean, but upon close observation, dust, dirt and stains, as well as a buildup of dirt, dust and/or floor finish in corners and along walls can be seen.
 - There are dull spots and/or matted carpet in walking lanes, and streaks and splashes on base molding.
 - All vertical and horizontal surfaces have obvious, dust, dirt, smudges and fingerprints.
 - Lamps all work and fixtures are clean.
 - Washroom and shower tile and fixtures gleam and are odor-free. Supplies are adequate.
 - Trash containers and pencil sharpeners are empty, clean and odor free.
- d. *APPA 4 – Moderate Dinginess:*
- Floors are swept clean but are dull. Colors are dingy, and there is an obvious buildup of dust and/or floor finish in corners and along walls. Molding is dull and contains streaks and splashes.
 - All vertical and horizontal surfaces have conspicuous dust, dirt, marks, smudges, fingerprints and marks that will be difficult to remove.
 - Less than 5% of lamps are burned out and fixtures are dingy.
 - Trash containers and pencil sharpeners have old trash and shavings. They are stained and marked. Trash cans smell sour.

e. *APPA 5 – Unkempt Neglect:*

- This is the final and lowest level of cleanliness. The Facility is always dirty, with cleaning accomplished at an unacceptable level.
- Floors and carpets are dirty and have visible wear and/or pitting. Colors are faded and dingy, and there is a conspicuous buildup of dirt, dust, and/or floor finish in corners and along walls.
- Base molding is dirty, stained and streaked. Gum, stains, dirt, dust balls and trash are broadcast.
- All vertical and horizontal surfaces have major accumulations of dust, dirt, marks, smudges, fingerprints and marks that will be difficult to remove, as well as damage. It is evident that no maintenance or cleaning is done on these surfaces.
- Washroom and shower tile and fixtures are dirty and have unpleasant odor. Supplies are inadequate.
- More than 5% of lamps are burned out and fixtures are dirty, with dust balls and flies.
- Trash containers and pencil sharpeners overflow. They are stained and marked. Trash cans smell sour.

2. APPA Plant Operations and Maintenance Service Levels.

The APPA plant operations and maintenance service levels are as follows:

- *APPA 1 – Showpiece Facility*
- *APPA 2 – Comprehensive Stewardship*
- *APPA 3 – Managed Care*
- *APPA 4 – Reactive Management*
- *APPA 5 – Crisis Management*

a. *APPA 1 – Showpiece:*

- Able to respond to virtually any type of service – immediate response
- Proud of facilities, have high level of trust for the facilities organization
- All recommended preventive maintenance (PM) is scheduled and performed on time. Emergencies are very infrequent and are handled efficiently
- Like new finishes
- Windows, doors, trim, and exterior are like new
- Bright and clean, attractive lighting
- Maintenance activities appear highly organized and focused. Service and maintenance calls are responded to immediately.
- Breakdown maintenance is rare and limited to vandalism and abuse repairs.

b. *APPA 2 – Comprehensive Stewardship:*

- Responsive to most service needs, including non-maintenance activities – typically in one week or less.
- Satisfied with facilities related services, usually complimentary of facilities staff.
- Well-developed preventive maintenance program. Most required PMs are performed at a frequency slightly less than per defined schedule. Occasional emergencies caused by pump failures, cooling failures, etc.
- Crisp Clean finishes
- Watertight, good appearance of exterior
- Bright and clean, attractive lighting

- Maintenance activities appear organized with direction. Service and maintenance calls are responded to in a timely manner
- Breakdown maintenance is limited to system components short of mean time between failures

c. *APPA 3 – Managed Care:*

- Services available only by reducing maintenance, with response times of one month or less.
- Accustomed to basic level of facilities care. Generally able to perform mission duties. Lack of pride in physical environment.
- Reactive maintenance predominates due to systems failing to perform, especially during harsh seasonal peaks. The high number of emergencies causes report to upper administration.
- Average finishes
- Minor leaks and blemishes, average exterior appearance
- Small percentage of lights out, generally well-lit and clean
- Maintenance activities appear to be somewhat organized but remain people dependent. Service and maintenance calls are variable and sporadic, with apparent cause.
- Building and systems components periodically or often fail.

d. *APPA 4 – Reactive Management:*

- Services available only by reducing maintenance, with response time of one year or less.
- Generally critical or cost, responsiveness and quality of facilities services
- Worn-out systems require staff to be scheduled to react to systems that are performing poorly or not at all. PM work possibly consists of simple tasks and is done inconsistently.
- Dingy finishes
- Somewhat drafty and leaky, rough looking exterior, extra painting necessary.
- Numerous lights out, some missing diffusers, secondary areas dark.
- Maintenance activities appear somewhat chaotic and are people dependent. Service and maintenance calls are typically not responded to in a timely manner.
- Many systems are unreliable. Constant need for repair. Backlog of repair needs exceed resources.

e. *APPA 5 – Crisis Management:*

- Services not available unless directed from top administration; none provided except emergencies.
- Consistent customer ridicule, mistrust of facilities services.
- No PM performed due to more pressing problems. Reactive maintenance is a necessity due to worn out systems. Good emergency response because of skills gained in reacting to frequent system failures.
- Neglected finishes
- Inoperable windows, leaky windows, unpainted cracked panes, significant air and water penetration, poor appearance overall.
- Dark, lots of shadows, bulbs and diffusers missing, cave-like damaged hardware missing
- Maintenance activities appear chaotic without direction. Equipment and building components are routinely broken and inoperable. Services and maintenance calls are never responded to in a timely manner.
- Many systems are non-functional. Repairs are only instituted for life safety issues.

3. APPA Grounds Service Levels.

The APPA grounds service levels are as follows:

- *APPA 1* – State of the Art (estate/arboretum quality).
- *APPA 2* – High level maintenance
- *APPA 3* – Normal maintenance
- *APPA 4* – Moderately to low-level maintenance.
- *APPA 5* – Minimum level maintenance.

a. *APPA 1 – State-of-the-Art Level:*

This level of service is one of very high expectations (estate/arboretum quality). State-of-the-art maintenance applied to a high-quality diverse landscape. Associated with high traffic, urban areas, such as public squares, malls, government grounds, large college/university campuses.

- \$1500 per acre/5 acres per FTE.
- General turf maintenance
 - Turf mowed every 3 days
 - Sodding over seeding as needed
 - Weeds < 5% present in lawn/3 pre-emerge applications
 - Sidewalks edged weekly
 - Bed edging not less than 4 times per year
 - Fertilize at optimum requirements for species
 - Overseed all areas for consistent green
 - Irrigation system is functional for 90% of campus
- Litter Control
 - Minimum policing of once per day, 7 days a week
 - Trash receptacles should never overflow
 - Recycling occurs next to inside and outside trash receptacles
- Pruning
 - Frequency of pruning is dictated by species and design intent.
 - Heavy pruning done at low demand periods Pruning of trees up to 15'
- QA Inspections
 - Grounds Manager conduct weekly QA inspection in all zones with zone maintenance supervisor and groundskeeper of zone
 - GM conduct monthly QA Inspection of campus with Grounds Manager
- Disease and Insect Control
 - Disease and Insect control following IPM aesthetic injury level
- Hard Surfaces
 - Broom cleaning, pothole patching, small scale sealing and striping as needed. Snow and ice abatement materials included for average storms, Snow removal starts immediately after .5-inch snowfall.
- Floral Plantings
 - Change out annuals a minimum of 4 times or per partner request
 - Perennials used widely
- Sports turf maintenance
 - Disease and Insect using IPM aesthetic injury level of control
 - Weed infestation < 5%
 - Top-dress 3x/season
 - Aerification 5 times per year
 - Overseed at 10lbs/1000 sq. ft. to affected area
- Special Events
 - Set-ups as needed. A one year tracked history of events will be done

to determine who should pay for any “new” events.

b. APPA 2 – Turf - High Level:

Very high-level maintenance (between estate/arboretum and average campus grounds) associated with well-developed public areas, malls, government grounds or colleges/university campuses.

- \$1100 per acre/10 acres per FTE
- General turf maintenance
 - Turf mowed every 4 working days
 - Sodding or seeding as needed
 - Weeds < 20% present in lawn/2 pre-emerge applications Edison
 - Sidewalks edged bi-weekly
 - Bed edging 3 times per year
 - Fertilize at normal recommendations of turf species
 - Overseed as needed plus high impact areas
 - Irrigation system functional for 80% of campus
- Litter Control
 - Minimum policing of once per day, 5 days a week
 - Trash receptacles should never overflow
 - Some recycling occurs at key points outside on campus
- Pruning
 - Frequency of pruning is dictated by species and design intent.
 - Heavy pruning done at low demand periods Pruning of trees up to 15'
- QA Inspections
 - Grounds Manager conduct weekly QA inspection in all zones with zone maintenance supervisor
 - GM conduct monthly QA Inspection of campus with Grounds Manager
- Disease and Insect Control
 - Disease and Insect control following IPM aesthetic injury level
- Hard Surfaces
 - Broom cleaning, patching, sealing and striping on zone schedule
 - Snow removed by noon the day of the storm and ice abatement materials applied for average storms
- Floral Plantings
 - Change out of annuals a minimum of 3 times
 - Perennials used
- Sports turf maintenance
 - Disease and Insect control at aesthetic injury level
 - Weed infestation <10%
 - Top-dress 2 times per season
 - Aerification 3 times per year
 - Overseed at 7#/1,000 sq. ft. to affected areas
- Special Events
 - Set-ups as needed. A one year tracked history of events will be done to determine who should pay for any “new” events.

c. APPA 3 – Turf - Moderate Level:

This level of maintenance is the norm one would expect to see on a regular, recurring basis. This level of attention is required for most campuses.

- \$700 per acre/15 acres per FTE
- General turf maintenance

- Turf mowed a minimum of every 5 working days
- Seeding when needed, sodding as requested
- Weeds < 30% present in lawn/1 pre-emerge application
- Sidewalks edged monthly
- Bed edging 1 time per year
- Fertilize at normal requirements for turf vigor
- Overseed only at key points
- Irrigation system at key points only, manual irrigation used as needed
- Litter Control
 - Minimum policing 3 times per week
 - Trash receptacles can overflow during weekend
 - No recycling occurs within DFM
- Pruning
 - Frequency of pruning is dictated by species only.
 - Heavy pruning should be done as needed at times available to grounds crew Tree pruning to 15 feet.
- QA Inspections
 - Grounds Manager conduct weekly QA inspection in one zone with groundskeeper of zone
 - GM conduct monthly QA Inspection of campus with Grounds Manager
- Disease and Insect Control
 - Disease and Insect control following an IPM economic injury level
- Hard Surfaces
 - Broom cleaning and patching only
 - Snow removed by noon the day following snowfall and ice abatement materials applied for average storms.
- Floral Plantings
 - Change out annuals only 2 times
 - Use of perennials as needed
- Sports turf maintenance
 - Disease and Insect control following economic injury level
 - weed infestation <25%
 - Aerification 2 times per year
 - Overseed at 5#/1,000 sq. ft. to affected areas
- Special Events
 - Set-ups as needed. A one year tracked history of events will be done to determine who should pay for any "new" events.

d. *APPA 4 – Moderately - Low Level:*

Moderately to low-level maintenance - Associated with locations that have moderate to low levels of development or visits, or with operations that, because of budget restrictions, cannot afford a higher level of maintenance.

- \$400 per acre/25 acres per FTE
- General turf maintenance
 - Turf mowed a maximum of 4 times per month
 - Seeding only when needed
 - No Pre-emerge used other than key points
 - Weeds > 50% in other than key points
 - Sidewalks edged quarterly
 - No bed edging
 - Fertilize at minimum requirements for turf vigor
 - Overseed only at key points if at all
 - Manual irrigation system used at key point
- Litter Control
 - Minimum policing of key points 3 times per week

- Trash receptacles emptied as possible
- Pruning
 - Frequency of pruning is dictated by ability of grounds crew
 - All pruning done at low demand periods
- QA Inspections
 - Grounds Manager conduct monthly QA inspection in one zone
 - GM conduct monthly QA Inspection of campus with Grounds Manager
- Disease and Insect Control
 - None except where the problem is epidemic and the epidemic condition threatens resources of the public.
- Hard Surfaces
 - Patching only, some manual blowing as needed
 - Snow removal is done based on local law requirements but generally accomplished by the day following the snow fall. Some crosswalks or surfaces may not be cleared at all.
- Floral Plantings
 - No annual plantings except at key points
 - All other areas use perennials
- Sports turf maintenance
 - Weed, Disease and Insect control at economic injury level
 - No topdressing
 - Aerification once per year if equipment is available
 - Overseed in goal mouth areas only
- Special Events
 - No special participation.

e. *APPA 5 – Turf – Minimum Level:*

Low frequency mowing scheduled based on species. Low growing grasses may not be mowed. High grasses may receive periodic mowing. Weed control limited to legal requirements for noxious weeds.