

CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF TRANSPORTATION
AND
CONTRACTOR NAME

This Contract, by and between the State of Tennessee, Department of Transportation (“State”) and **Contractor Legal Entity Name** (“Contractor”), is for the provision of aviation grant management system, as further defined in the “SCOPE.” State and Contractor may be referred to individually as a “Party” or collectively as the “Parties” to this Contract.

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

Contractor Place of Incorporation or Organization: **Location**

Contractor Edison Registration ID # **Number**

A. SCOPE:

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

A.2. Definitions. For purposes of this Contract, definitions shall be as follows and as set forth in the Contract:

- a. Airport Capital Improvement Plan (“ACIP”) means the document that serves as the primary planning tool for identifying and prioritizing critical airport development and associated capital needs.
- b. Airport Compliance means a module in the System that assists the State with the process of inspecting and licensing airports and tracking of airport asset inventory.
- c. Airport Data and Information Portal (“ADIP”) means the FAA’s web based portal for airport and aeronautical data.
- d. Aeronautics Economic Development Fund means the fund created by the Tennessee State Legislature in Tennessee Code Annotated 4-03-2313.
- e. Airport Geographic Information System (“AGIS”) means an aeronautical survey which collects geospatial information on an airports features and related data.
- f. Airport Improvement Program (“AIP”) means the FAA’s program to provide grants to public agencies for the planning and development of public-use airports that are included in the National Plan of Integrated Airport Systems (“NPIAS”).
- g. Airport Layout Plan means a set of drawings that provides a graphic representation of the sponsor’s long-term development plan for an airport as described in Advisory Circular 150/5070-6.
- h. Airport Sponsor means public or private owner of a public use airport.
- i. Contract Management means a module in the system that assists the State with the generation of contract documents, contract execution, contract invoicing, project status reports and documentation, and contract close out.
- j. Data means all State data uploaded to TDOT Tennessee Aviation Management System (“TAMS”) and all data generated through operation of TDOT TAMS.
- k. FAA 5010 Data means FAA Form 5010-1 also known as the Airport Master Record. It is the data describing the physical infrastructure, characteristics, and services of an airport. The information is maintained in the FAA’s Airport Data Information Portal (“ADIP”).
- l. Grant means all aspects of a Grant Program, including all aspects of a Grant Program, including all Grant Projects, Grant Project Applications, Grant Project Contracts, etc.
- m. Grant Applicant is a non-profit or public organization applying for a Grant from the State, and is identified by the Federal Employee Identification Number (“FEIN”) associated with the grant project application.
- n. Grant Management means a module in the system that assists the State with funding opportunities, funding applications, funding application scoring and approvals, funds assignment to grants, and contract amendment approval to meet state and federal requirements.

- o. Grant Project means a State defined initiative and associated funding that is a subset of a Grant Program. A Grant Project is identified by its State assigned Grant Project code and name.
- p. Grant Project Applications means a formal request by a non-profit or public organization to receive Grant Funds from a Grant Program to be used to accomplish a specific initiative enhancement, improvement, or other service in accordance with the goals and requirements of the Grant Program.
- q. Grant Project Contract is a formal agreement between the State and Grantee to receive Grant funds from a Grant Program to be used to accomplish a specific initiative, enhancement, improvement, or other service in accordance with the goals and requirements of the Grant Program.
- r. Grant Program Group is a group of one or more Grant Programs that utilize the same forms, and have the same workflows.
- s. Non-Primary Entitlements (“NPE”) means federal funding allotted to non-primary airports classified in the NPIAS.
- t. National Plan of Integrated Airport Systems (“NPIAS”) identifies public-use airports that are included in the national airport system, the roles they currently serve, and the amounts and types of airport development eligible for Federal funding under the Airport Improvement Program (“AIP”) over the next 5 years. The FAA is required to publish a 5-year estimate of AIP eligible development every other year. The NPIAS contains all commercial service airports, all reliever airports, and selected public-owned general aviation airports.
- u. Overall Development Objectives means the ability to track related project phases to accomplish an overall objective.
- v. System error means an instruction that is either not recognized by the operating system or is in violation of procedural rules within the operating system
- w. Tennessee Aviation Management System (“TAMS”) means fully functional and integrated contractor hosted, web-based software as a service instances for the management of grants by the State as outlined in A.3.
- x. Transportation Equity Fund (“TEF”) means the state revenue collected for aviation from the state aviation fuel sales tax.
- y. Trouble Tickets means the system the Contractor shall maintain on-line that allows state users to submit TAMS performance, maintenance, support and any other TAMS technical issues or defects to the Contractor.
- z. Work Breakdown Structure (“WBS”) means a deliverable-oriented breakdown of a project into smaller components.

A.3. The Contractor shall provide fully functional and integrated contractor hosted, web-based software as a service (“SaaS”) instances for the management of grants by the State. These instances shall be collectively referred to the Tennessee Aviation Management System (“TAMS” or the “System”). TAMS shall be a software solution designed around a customizable off-the-shelf core and tailored to fit the specific needs of the State, with features including:

- a. Support of state and federal transportation grant programs
- b. Organizational data relative to the airport and sponsor
- c. Automated compliance with statutory funding requirements
- d. The ability to be formatted for integration as possible with state and federal systems, such as Edison and the Federal Aviation Administration (“FAA”) Airport Data and Information Portal (“ADIP”)
- e. Federally required reports, including (i.e., (SF) 270, (SF) 271, (SF) 425)
- f. Production reporting that tracks the timing and status of funding disbursements
- g. Ad Hoc querying capabilities
- h. ACIP
- i. Funding application entry and process workflow
- j. Funding review and approval process, including agendas
- k. Funding allocation
- l. Grant tracking and draw down
- m. Invoicing workflow

- n. Project milestone tracking and compliance review
 - o. Grant closeout
- A.4. The System shall support multiple aviation grant programs each having independent application and eligibility requirements, scoring criteria, and contract management requirements. Current grant programs include:
- a. Airport Improvement Program
 - b. Aeronautics Economic Development Fund
 - c. Aviation education and outreach program
 - d. Annual aviation maintenance grant program
- A.5. The Contractor shall host and maintain a web-based data module system. This system shall allow State employees the ability to access and maintain the following information:
- a. Organizational and/or airport data
 - b. Contact information and role of airport personnel
 - c. FAA 5010 Data per airport
 - d. Contract routing information within TDOT
 - e. Airport geographical data
 - f. Edison vendor data
 - g. Airport planning data and facility document which includes:
 - (i) Airport Layout Plans
 - (ii) Airport inspection documents.
- A.6. Airport Capital Improvement Plan. Within thirty (30) business days of contract award, the Contractor shall provide a state and federal Airport Capital Improvement Plan (“ACIP”) process which serves as the primary planning tool for identifying and prioritizing critical airport development and associated capital needs for Tennessee airports. The State and Airport Sponsors shall have access to and be able to edit and update, as applicable the following information:
- a. The ability to receive existing Airport Capital Improvement Plan (“ACIP”) data through a crosswalk with the existing aviation data management system or system data export.
 - b. The ability for Airport Sponsors to submit or edit anticipated short term and long term development needs (three (3) to five (5) years, or more), as required by the FAA
 - c. The ability to manage and maintain project-level details and data including text fields, drop-down menus, system generated scoring fields, and system generated project identification numbers
 - d. The ability to maintain project funding details and data including: requested and allocated amounts by year, funding type, and amount. This process must also be capable of showing projected budget impacts based on funding allocations.
 - e. The ability to track related project phases to accomplish an overall objective also known as Overall Development Objectives (“ODOs”) and calculate a cumulative amount/s for interrelated projects.
 - f. The ability for the State to approve the project details and requested funding amounts by marking the project as “approved” in the System and subsequently locking the ACIP entry from further editing by Airport Sponsors unless permitted to do so by the State.
 - g. The ability for projects to be reviewed and state and federal funding programmed/approved for selected projects based on statewide priority ranking and available program budget (funding sources).
 - h. The ability to meet process requirements as defined by FAA Order 5090.5, Formulation of the NPIAS-ACIP.
 - i. A system generated ACIP Report that is required by the FAA annually
 - j. The ability to meet all state and federal requirements.
 - k. The State shall facilitate the annual update process to the ACIP with Airport Sponsors. The process is ongoing throughout the year and repeats each year. If

new data fields are needed at any time, the Contractor shall add the fields within twenty (20) business days of the request from the State, provided sufficient information is given by the State.

- A.7. Program/Budget Management. The Contractor shall create a program/budget management module for state and federal funding sources. This module shall have the ability to create, monitor and recover the following:
- a. The ability to create a funding source, such as Transportation Equity Fund, federal apportionment, federal discretionary, federal Non-Primary Entitlements (“NPE”)
 - b. The ability to monitor awards, allocations, encumbrances, and expenditures for all funding sources created
 - c. The ability to monitor FAA AIP Non-Primary Entitlements per airport, per federal award, and per FAA requirements
 - d. The ability to recover funding through the contract close-out process to the appropriate funding source
 - e. The ability to meet all applicable state and federal requirements
- A.8. Grant Management. The Contractor shall create a Grant Management module for State and Federal funding sources. This module shall have the ability to create, monitor and recover the following:
- a. Schedule and manage grant funding opportunities/announcements
 - b. The ability to develop a grant contract using a system generated grant template
 - c. Airports shall have the ability to convert approved ACIP entries to grant application/funding request without duplication of information
 - d. Grant application, including a line-item budget
 - e. Grant application workflow
 - f. Multilevel grant application scoring process
 - g. The ability to fund grants per available funding sources
 - h. The ability to award a grant
 - i. The ability to meet all state and federal requirements
 - j. The ability to amend a contract term, budget, or scope
 - k. The ability for amendments to require contract execution
 - l. The ability for amendments to be allocated to a different funding source than the original contract
- A.9. Contract Management: The Contractor shall create a Contract Management module for State and Federal funding sources. This must have the ability to create, monitor and recover the following:
- a. The ability to develop a contract using a system generated template
 - b. The ability to monitor contracts and phasing associated with an overall project
 - c. The ability to execute a contract using electronic means within the TAMS System
 - d. The ability for application budget/line items to convert to the contract
 - e. The ability to track and monitor project status reporting and site visits
 - f. The ability to process invoicing using workflow
 - g. The ability for users to upload and maintain project documentation
 - h. Federal and State requirements for processing project closeout
 - i. The ability to meet all state and federal requirements
- A.10. Airport Compliance. The Contractor shall create a Airport Compliance module for State and Federal funding sources. This module must have the ability to create, monitor and recover the following:
- a. An application and approval process for the annual airport license process
 - b. The ability to track asset/inventory data for airports
 - c. The ability to track equipment purchases and equipment disposal

- d. The ability to track land purchases and land disposal
- e. The ability to upload and monitor annual airport inspection data and forms
- f. The ability to meet all state and federal requirements

A.11. User Roles. TAMS shall include the following user roles. User capabilities for all user roles shall be reviewed and approved in writing by the State. There shall be no limit to the number of TAMS users.

a. State User. A State User shall have access rights as described below:

- (1) State System Administrator. A “State System Administrator” is a state user who is a State employee or authorized agent that performs administrative functions within TAMS. Administrative functions shall include assignment of security and workflow roles; management of annual updates to grant guidelines, rules and forms; establishment of new grant projects; development and testing of queries; and other administrative functions as appropriate for the TAMS solution.
- (2) State Grant Administrator. A “State Grant Administrator” is a State User who is a State employee or authorized agent that manages grants within TAMS. A State Grant Administrator shall have the capability to conduct in-house Grant Project Contract reviews; update forms and guidelines; run queries; provide assistance to Grantees, including the capability to view all screens viewable by the Grantees; review and approve Grant elements; enter data in authorized fields, as determined by the State, throughout the regular Grant process workflow; run queries; develop the content of email communications; merge Data into MSOffice applications, and other Grant Management functions as appropriate for the TAMS solution.

b. Read-Only User. A “Read-Only User” is a user that shall have the capability for read-only access to all grant data within TAMS.

c. Grant Applicant. A “Grant Applicant” is a non-profit or public organization applying for a Grant from the State, and is identified by the Federal Employee Identification Number (“FEIN”) associated with the grant project application. A grant applicant shall have the capability to set up or update a grantee/grant applicant account, register an individual affiliated with an existing account, review grant project applications and history from prior years, and select Data to carry over from one year to the next.

d. Grantee. A “Grantee” is a grant applicant that is the recipient of at least one grant project contract from the State. In addition to the grant applicant capabilities, Grantees shall have the capability to fill out forms, generate reports, enter data, and upload media and files for grant project contract(s) that the Grantee has received from the State.

e. External Grant Reviewer. An “External Grant Reviewer” is a non-State User that shall have the capability for short-term limited access to TAMS to conduct a document review or process review. An External Grant Reviewer shall be granted access by the State.

f. External Grant Submitter. An “External Grant Submitter” is a consultant or organization that submits a Grant Project Application on behalf of a Grant Applicant.

A.12. Workflow. The System shall provide the following:

- a. Utilize workflow rules based on State defined tolerances; events or triggers; business rules; parameters; and appropriate roles, rules, and routing. TAMS shall provide the State the capability to make changes to these as needed.
- b. Link all aspects of each grant project application and grant project contract through its entire lifecycle, and allow the grant applicant/grantee and State User to track

each grant project application and grant project contract by the associated grant project name, dollar amount and grant applicant/grantee organization.

- c. Determine appropriate workflows and/or dependencies based on the data input by a user.
- d. Provide a flexible, hierarchical State approval process with higher levels of authority to approve transactions that have not been approved by individuals with lower levels of authority.
- e. Track and report key aspects of electronic approvals throughout the approval process.
- f. Track Grantees separately from individual Grant project contracts in order to allow a Grantee or State User to view historical Data within a TAMS instance for one of the Grantee's Grant project contracts, or all of the Grantee's Grant project contracts. This historical Data shall include the history of the Grant project contract(s) and all correspondence associated with each Grant project contract.
- g. Provide the capability to correlate Grant Applicant/Grantee organizations that are part of a higher level organization, and provide the capability for an individual user to be granted access to multiple Grant Applicant/Grantee organizations that are part of a higher level organization.
- h. Provide the capability for a Grant Applicant and State User to print a Grant Project Application in its entirety, including a Grant Project Application that is comprised of multiple forms within TAMS.
- i. Provide the capability for a Grant Applicant and State User to print a summary report of Grant Project Application(s) based on a user defined default format, allowing the Grant Applicant or State User to choose which fields to include on the summary.
- j. Provide notifications either within TAMS or as an external email to State Grant Administrators involved in workflow chain as designated by the State.
- k. Capture performance statistics based on workflow activity or inactivity, including the number of items in each queue, time in each queue, etc.
- l. Allow all users to perform online transaction processing during batch processing.
- m. If a State User has a Grant Project Application or Grant Project Application revision in process and does not release it, TAMS shall allow another State User to reassign it.
- n. Allow State Users to view all workflow processes by date/time, username, and workflow/queue status.
- o. Provide standard electronic correspondence and form templates, as determined by the State, that a user can utilize to generate a correspondence or complete a form using TAMS Grant and user information.

A.13. Reporting & Querying. The System shall provide the following:

- a. Queries and Reports On-Demand. TAMS shall provide any user with the capability to query and generate reports on demand for any and all Data contained in a TAMS instance, consistent with the security access limitations of the user's role(s). The frequency of these reports could be daily, weekly, monthly, etc., and shall be determinable based on the date parameters input by the user.

- (1) TAMS shall allow a Grantee and State User to utilize search or filter capabilities to find a particular set of Grant project contracts based on status, Grant Project, and cycle; and generate reports based on this set of Grant contracts.
 - (2) TAMS shall provide the capability for a user to have TAMS generate a report on a one time or recurring basis and have TAMS send the report to a user or group of users as determined by the requestor.
 - (3) TAMS shall provide the capability for a user to search documents stored within the TAMS Instance based on the documents' metadata.
- b. Self-Service Reports. TAMS shall provide all users self-service reporting capabilities through standard operational and management reports (i.e., "canned reports").
 - c. Favorite Reports. TAMS shall provide the capability for a user to select, save and view a user selected list of favorite reports.
 - d. Report Viewing and Distribution. TAMS shall be capable of displaying reports in the web browser in a structured format that supports various screen resolutions. TAMS shall provide for the distribution of reports by: (1) local or remote printing; (2) display to web browser; (3) XML; (4) download in Microsoft Excel, Word or PDF format; (5) flat text file; (6) through a formatted email, and (7) other formats as agreed between the State and the Contractor.
 - e. Dashboard. TAMS shall provide the capability for a Grant Applicant, Grantee and State User to create dashboards selecting from a State defined set of dashboard elements, consistent with the Data access limitations for the user's role(s).
 - (1) TAMS shall provide the capability for a Grantee, Grant Applicant and State User to view a dashboard that summarizes a Grant project contract or group of Grant project contracts, including (a) associated tasks, (b) the user responsible to complete each task, and (c) completion status.
 - f. Correspondence Reporting. TAMS shall provide the capability for a Grantee, Grant Applicant and State User to view and print correspondence or a summary list of correspondence that have been sent or received for a Grant project contract or Grant Project Application, as well as for a group of Grant project contracts and/or Grant Project Applications.
 - g. Exception Reporting. TAMS shall provide for reporting of system errors. The System Error reports shall be consistent with the information collected in the System Error logs, and shall include a description of the System Error, indicate the time, identify the user, and identify the component within TAMS where the System Error occurred.
 - h. Metrics Generation and Reporting. TAMS shall generate and maintain support evaluation metrics based on user roles. These metrics shall summarize Data based on a Grantee's Grant project contract(s), geographic location, Grant project contract progress reports, and other criteria specified by the State. A State User shall have the capability to generate a report that states the time elapsed between progress report milestones by Grant Applicant, Grantee, Grant Program, Grant Project, Grant project contract, etc.
 - i. Generate Federal report forms SF-270, SF-271, SF-425. FFATA FSRs batch upload csv file based on system data.
- A.14. Security. The Contractor shall restrict access by User Role to protect against fraud and error.
- a. User Account Security. TDOT-TAMS shall require a unique user name and password to be created for each account and require the user to enter the unique user name and password in order to access a TDOT- TAMS Instance. Access to the account shall only

be granted to a user that correctly enters the user name and password combination. The user shall be allowed to change the password at any time. The TDOT- TAMS Instance shall securely maintain a list of user names and passwords.

- b. Account Security Audit Trails. Each TDOT- TAMS Instance shall create a security audit trail of account management activities, including the time of activity and identify the State User who added, deleted, or changed information in an account. TDOT- TAMS shall require a State User performing an account management activity to give a reason for the action.
- c. Password Protections. TDOT- TAMS shall reject passwords considered too simple or easily guessed. The password must be at least eight (8) characters, support 4FA (four factor authentication) and include all of the following four (4) criteria: (1) upper case letter; (2) lower case letter; (3) numeric character; and (4) special character. The password cannot contain the user name. TDOT- TAMS shall provide the capability to activate and enter a schedule for user passwords to be changed. TDOT- TAMS shall contain "forgot password" functionality allowing users the ability to retrieve or reset their password in an automated fashion.
- d. Authentication Rules. TDOT- TAMS shall apply different authentication rules to different User Roles such that State Users have stricter and more secure rules than the public. For example, an administrative role may have more rigid rules regarding the characters allowed in a password, and may be required to change their passwords more frequently.
- e. Data Ownership. The Data collected and stored by TDOT- TAMS shall be the sole property of the State. The Contractor shall use the Data only for purposes specified in this Contract.
- f. User ID Suspension after Failed Login. A TDOT- TAMS instance shall suspend a user ID after a State configurable number of failed login attempts (e.g., requiring a State System Administrator to reset a password).
- g. Web Browser Compatibility. TAMS shall be compatible and fully functional in the following web browsers: (1) Firefox build 52 and higher, (2) Google Chrome build 50 and higher, (3) Safari 9.0 and higher, and (4) all versions of Edge. TAMS shall support responsive mobile views for all web interfaces including the following mobile operating systems and higher: (1) Apple iOS 9.0 (Safari Mobile); (2) Android 4.4 (Chrome Mobile); and (3) Windows 10 Mobile.

A.15. TAMS Implementation

- a. Kick-Off Meeting. Within fifteen (15) business days of the Effective Date of the Contract, the Contractor shall participate in a kick-off meeting at a State facility in Nashville, Tennessee. The Contractor shall prepare and deliver a presentation for the kick-off meeting that synthesizes the Contractor's approach to the overall implementation project, provides high-level milestones and introduces the Contractor team to TDOT Aeronautics Division that will utilize TAMS.
- b. TAMS Modules and Workflow. In conjunction with the kick-off meeting, the Contractor shall host separate meetings to address the applicable modules, Grant Project Application configuration, workflows, Grant Project Application approvals needed, Data migration requirements, and other information required by the Contractor to implement a fully functional and integrated TAMS Instance Module Set as specified by the State. These meetings shall be scheduled in consultation with the State and shall be held in a State facility in Nashville, Tennessee.
- c. Project Plan and Schedule. For each TAMS Module, the Contractor shall generate and deliver to the State a detailed implementation project plan and schedule addressing all

work scope defined in the Contract for the provisioning of a fully functional and integrated TAMS Instance Module Set. The implementation project plan shall include a work breakdown structure (“WBS”), a responsibility matrix, a current organizational chart and contact list providing the name, title, office phone number, cell phone number and email contact information for each Contractor person assigned to the implementation of the TAMS Module, and work scope milestones representing 25%, 50% and 75% completion of TAMS module development. The implementation project plan and schedule shall be subject to review and approval by the State. The implementation project plan and schedule shall address finalization of the following, as appropriate for the TAMS module specified by the State:

- (1) Users Role. A detailed definition of all user roles consistent with the user roles as defined in Contract section A.11, including user capabilities, and access restrictions and limitations for each role.
 - (2) System Workflows. System workflows with roles, business rules, and notifications to support the grant program group to be managed using the TAMS Module, including best practices or suggested workflows to improve efficiencies and other required business rules.
 - (3) Forms. Details regarding all forms, including layout and content to provide the capability to collect Data required for the Grant Program Group. This Data shall include Grantee organization charter file registration, Grant Project Application(s) including uploaded media and PDF attachments, staff and panel reviews, award letters, (sometimes revised) budgets, non-discrimination training certification, Grantee requests for payment, Grantee final Grant project contract closeout and financial reports, and risk-based Grant project contract monitoring reports.
 - (4) Reporting Capabilities. Details regarding reporting capabilities required for the Grant(s), including pre-award reviews, authorizer decision-making, award letters, county-by-county and legislative district reports.
 - (5) Workflow Rules and Email Communications. Details regarding the implementation of workflow rules and related email communications for the Grant(s), to facilitate the review, allocation and processing of Grants.
- d. Implementation Progress Reports. Through the implementation period, the Contractor shall provide biweekly implementation progress reports to the State contacts specified in Contract section D.2, as well as informal updates to the State upon request. The biweekly implementation progress reports shall include milestone completion progress, explanation of implementation project schedule variances, schedule risks and mitigation, status of deliverables, and action items with current status.
- e. Test Environment. For TAMS, the Contractor shall establish and maintain a complete and separate test environment that mirrors the production environment. The test environment shall be accessible to State Users and the Contractor. The test environment shall be utilized for all acceptance testing prior to release of any module sets, new features, bug fixes and enhancements.
- f. Test Plan. The Contractor shall generate a comprehensive test plan covering internal testing, end-to-end interface testing and user acceptance testing, subject to review and approval by the State.
- g. Contractor Testing. All TAMS functions shall be thoroughly tested by the Contractor prior to releasing for user acceptance testing. Based on the Change Order process, the State shall approve all TAMS functions as set forth in Sections A.18. and C.3.a.
- h. Interface Testing. All TAMS interfaces shall be thoroughly end-to-end tested by the Contractor, be subject to user acceptance testing by the State, and accepted and

approved based on the Change Order process by the State as set forth in Sections A.18. and C.3.a.

- i. Internal Test Procedure. For each TAMS software component, the Contractor shall have an internal test procedure approved by the Contractor. The internal test procedure shall include a requirements matrix for all developed processes within TAMS, including testing for all business rules, options, interfaces and constraints; and shall include the expected results for each process. Prior to Contractor testing, the Contractor shall coordinate with the State TAMS project manager to ensure the Contractor-approved internal test procedure is reviewed by the appropriate State subject matter experts. The Contractor approved internal test procedure and the Contractor test results shall be provided to the State TAMS project manager prior to delivery of the software component to the State for user acceptance testing. A qualified Contractor representative with extensive technical knowledge of TAMS shall be dedicated to participate in the initial user acceptance testing of the TAMS Instance Module Set.

- j. Training and Documentation: The Contractor shall develop a training plan for the TAMS Modules, and shall provide perpetual TAMS training in the form of webinar(s), train-the-trainer, or by some other means at an hourly rate when requested by the State. The training shall be subject to review and approval by the State. The Contractor shall ensure training availability to State Users and other TAMS users as determined by the State. TAMS training material and related documentation shall be delivered in electronic formats including Microsoft editable or native editable application and PDF prior to TAMS training and without requiring enrollment in a formal training program, stated above. Training documentation shall include the following:
 - (1) TAMS operations manuals for all user roles
 - (2) TAMS frequently asked questions
 - (3) TAMS support services including the help desk and trouble ticket system
 - a. The Contractor shall maintain an on-line trouble ticket system that allows state users to submit TAMS performance, maintenance, support and any other TAMS technical issues or defects to the Contractor. The trouble ticket system shall provide ticket status visibility to the Contractor and the State. The trouble ticket system shall be used to track all TAMS performance, maintenance, support, and any other TAMS technical issues or defects, and shall maintain ticket status, ticket submission date, the submitter, the Contractor staff assigned to address the ticket, and the ticket resolution date.
 - (4) Security
 - (5) Training manuals
 - (6) Instruction on the update and customization of forms.

- k. Production Go-Live. The Contractor shall provide written notification to the State when the TAMS production environment is fully functional and ready for go-live. Production go-live is subject to approval by the State.

- l. TAMS Burn-In Period. The TAMS System shall be subject to a sixty (60) day burn-in period in which no deficiency in TAMS functional requirements, technical operation, TAMS performance, mandatory response times, or reliability are identified.

- m. New TAMS Instance Module Set Functionality. Prior to deployment of new TAMS functionality for a previously implemented TAMS module, the Contractor shall:

- (1) Generate an acceptance test plan. The test plan shall include test procedures, suggested tests, and format for reporting test results. The acceptance test plan shall be provided to the TDOT's Information Technology ("IT") division for review and approval.
 - (2) Deliver the new functionality for acceptance testing within the test environment only after the Contractor has successfully completed testing and provided documented test results to the TDOT's IT division demonstrating that the TAMS Instance Module Set with the new functionality meets the specified requirements.
 - (3) Have a qualified Contractor representative with extensive technical knowledge of TAMS dedicated to participate in the user acceptance testing of TAMS with the new functionality.
- A.16. TAMS shall be capable of being updated on an as needed basis to conform with changes based on FAA and state requirements such as changing forms, adding or deleting data fields, changing work flow or any other reasonable change requested by the State. Any System upgrades developed by the Contractor after implementation shall be made available to the State at no additional cost.
- A.17. Integration. At the request of the State, TAMS shall interface with other systems, such as the State's Edison system and the FAA's Airport Data and Information Portal ("ADIP").
- A.18. Customization Services. The State may request that the Contractor perform customization services under either of the following circumstances:
- a. Prior to the State's written acceptance of the completion of implementation, the State determines that functionality requested by the State was not specified in the original RFP, Contract, or specifications attached thereto. Such customizations shall be affected through a Change Order.
 - b. After the State's written acceptance of the completion of implementation, the State requires customizations to the software that the State determines were not specified in the original RFP, Contract, or specifications attached thereto. Such customizations shall be effected through a Change Order.

The State shall request customization services in accordance with the Change Order Process (A.19.) in accordance with Contract Section C.3.c.

- A.19. The State may, at its sole discretion and with written notice to the Contractor, request changes in the Scope that are necessary but were inadvertently unspecified in this Contract.
- a. Change Order Creation— After receipt of a written request for additional services from the State, the Contractor shall respond to the State, within a maximum of ten (10) business days, with a written proposal for completing the service. Contractor's proposal must specify:
 - (1) the effect, if any, of implementing the requested change(s) on all other services required under this Contract;
 - (2) the specific effort involved in completing the change(s);
 - (3) the expected schedule for completing the change(s);
 - (4) the maximum number of person hours required for the change(s); and

- (5) the maximum cost for the change(s)— this maximum cost shall in no instance exceed the product of the person hours required multiplied by the appropriate payment rate proposed for such work.

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

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

- A.20. 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.21. Inspection and Acceptance. The State shall have the right to inspect all goods or services provided by Contractor under this Contract. If, upon inspection, the State determines that the goods or services are Defective, the State shall notify Contractor, and Contractor shall re-deliver the goods or provide the services at no additional cost to the State. If after a period of thirty (30) days following delivery of goods or performance of services the State does not provide a notice of any Defects, the goods or services shall be deemed to have been accepted by the State.

B. TERM OF CONTRACT:

This Contract shall be effective on **DATE** (“Effective Date”) and extend for a period of **seventy-two (72) months** after the Effective Date (“Term”). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

C. PAYMENT TERMS AND CONDITIONS:

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

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

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

a. The Contractor’s compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A.

b. The Contractor shall be compensated based upon the following payment methodology:

TAMS Module Set Goods or Services Description	Compensable Amount (% of Total Price of Implementation Phase for each TAMS Module Set) Subject to State Written Approval
A. Contractor implementation project plan and schedule for TAMS Instance Module Set approved by the State in accordance with Contract section A.15.c.	5%
B. 100% completion of TAMS Instance Module Set development in accordance with State-approved Contractor implementation project plan and schedule	30%
C. Test environment fully established to mirror TAMS Instance Module Set production environment in accordance with Contract section A.15.e.	5%
D. Contractor comprehensive test plan and internal test procedure(s) approved by the State for all functionality for the TAMS Instance Module Set in accordance with Contract sections A.15.f and A.15.i.	5%
E. Successful completion of Contractor testing of TAMS Instance Module Set in accordance with Contract sections A.15.g., A.15.h. and A.15.i.	10%
F. Successful completion of user acceptance testing of TAMS Instance Module Set in accordance with Contract section A.15.i.	15%
G. Successful completion of training for TAMS Instance Module Set in accordance with Contract section A.15.j.	5%
H. TAMS Instance Module Set production go-live in accordance with Contract section A.15.k.	15%

I. Successful completion of 60 day burn-in period for TAMS Instance Module Set in accordance with Contract section A.15.I. Compensation will be made only after a full 60 day period with no Deficiency.	10%
Total Cost	\$

TAMS Post Implementation Phase – Hosting	Monthly Rate
Hosting for TAMS Year 1	\$
Hosting for TAMS Year 2	\$
Hosting for TAMS Year 3	\$
Hosting for TAMS Year 4	\$
Hosting for TAMS Year 5	\$

TAMS Post Implementation Phase –Maintenance and Support	Monthly Rate
Maintenance and Support for TAMS Year 1	\$
Maintenance and Support for TAMS Year 2	\$
Maintenance and Support for TAMS Year 3	\$
Maintenance and Support for TAMS Year 4	\$
Maintenance and Support for TAMS Year 5	\$

c. The Contractor shall be compensated for changes requested and performed pursuant to Contract Section A.19., without a formal amendment of this Contract based upon the payment rates detailed in the schedule in Attachment C and as agreed pursuant to Section A.18., PROVIDED THAT compensation to the Contractor for such “change order” work shall not exceed SEVEN PERCENT (7%) of the sum of milestone payment rates detailed in Section C.3.b., TAMS Module Set, not to include Hosting and Maintenance and Support costs, above (which is the total cost for the milestones and associated deliverables set forth in Contract Sections A.1., through A.20.). If, at any point during the Term, the State determines that the cost of necessary “change order” work would exceed the maximum amount, the State may amend this Contract to address the need.

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

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

7335 Centennial Blvd, Nashville, TN 37209

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

- (1) Invoice number (assigned by the Contractor);
- (2) Invoice date;
- (3) Contract number (assigned by the State);
- (4) Customer account name TDOT Aeronautics Division;
- (5) Customer account number (assigned by the Contractor to the above-referenced Customer);
- (6) Contractor name;
- (7) Contractor Tennessee Edison registration ID number;
- (8) Contractor contact for invoice questions (name, phone, or email);
- (9) Contractor remittance address;
- (10) Description of delivered goods or services provided and invoiced, including identifying information as applicable;
- (11) Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
- (12) Applicable payment methodology (as stipulated in Section C.3.) of each good or service invoiced;
- (13) Amount due for each compensable unit of good or service; and
- (14) Total amount due for the invoice period.

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 include Contractor's taxes, which includes without limitation Contractor's sales and use tax, excise taxes, franchise taxes, real or personal property taxes, or income taxes; and
- (4) Include shipping or delivery charges only as authorized in this Contract.

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

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

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

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

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

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

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

D. MANDATORY TERMS AND CONDITIONS:

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

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

The State:

John Briggs, Assistant Director
TDOT Aeronautics
7335 Centennial Blvd, Nashville, TN 37209
john.briggs@tn.gov
Telephone # (615) 532-3785

The Contractor:

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

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

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

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

D.5. Termination for Convenience. The State may terminate this Contract for convenience without cause and for any reason. The State shall give the Contractor at least thirty (30) days written

notice before the termination date. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by the State or for satisfactory, authorized services completed as of the termination date. In no event shall the State be liable to the Contractor for compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State for any damages or claims arising under this Contract.

- D.6. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor materially violates any terms of this Contract ("Breach Condition"), the State shall have the right to immediately terminate the Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any Breach Condition and the State may seek other remedies allowed at law or in equity for breach of this Contract.
- D.7. Assignment and Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract without the prior written approval of the State. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor's obligations under this Contract.
- D.8. Conflicts of Interest. The Contractor warrants that no part of the Contractor's compensation shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed under this Contract.

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

- D.9. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal or state law. The Contractor shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.10. Prohibition of Illegal Immigrants. The requirements of Tenn. Code Ann. § 12-3-309 addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment A, 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 Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the Contractor for: (i) intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights; (ii) any claims covered by any specific provision in the Contract providing for liquidated damages; or (iii) any claims for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or death. 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. 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.

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. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Contract.
- a. Contractor warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Contract.
 - b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.
 - c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Contract is NOT "protected health information" as defined by the Privacy Rules, or if the

Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.

- d. The Contractor will indemnify the State and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.
- D.21. Tennessee Consolidated Retirement System. Subject to statutory exceptions contained in Tenn. Code Ann. §§ 8-36-801, *et seq.*, the law governing the Tennessee Consolidated Retirement System (“TCRS”), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established under Tenn. Code Ann. §§ 8-35-101, *et seq.*, accepts State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of “employee/employer” and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the Term.
- D.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 Attachments A-C;
 - c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
 - d. the State solicitation, as may be amended, requesting responses in competition for this Contract;
 - e. any technical specifications provided to proposers during the procurement process to award this Contract; and
 - f. 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 be 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 one million dollars (\$1,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this policy 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 in an amount not less than one million dollars (\$1,000,000) including employer liability of one million dollars (\$1,000,000) per accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit by disease, and one million dollars (\$1,000,000) per employee for bodily injury by disease.
- 2) If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. §§ 50-6-101 – 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:
 - 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. 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.

d. Professional Liability Insurance

- 1) Professional liability insurance shall be written on an occurrence basis or on a claims-made basis. If this coverage is written on a claims-made basis, then:
 - i. The retroactive date must be shown, and must be on or before the earlier of the Effective Date of the Contract or the beginning of Contract work or provision of goods and services;
 - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) full years from the date of the final Contract payment; and
 - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date on or prior to the Contract Effective Date, the Contractor must purchase "extended reporting" or "tail coverage" for a minimum of five (5) full years from the date of the final Contract payment.
- 2) Any professional liability insurance policy shall have a limit not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) in the aggregate; and
- 3) If the Contract involves the provision of services by medical professionals, a policy limit not less than three million (\$3,000,000) per claim and three million dollars (\$3,000,000) in the aggregate for medical malpractice insurance.

e. Technology Professional Liability (Errors & Omissions)/Cyber Liability Insurance

- 1) The Contractor shall maintain technology professional liability (errors & omissions)/cyber liability insurance appropriate to the Contractor's profession in an amount not less than ten million dollars (\$10,000,000) per occurrence or claim and ten million dollars (\$10,000,000) annual aggregate, covering 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 ten million dollars (\$10,000,000) 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.

f. 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.

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

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

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 Public Chapter No. 775.

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. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's Response to 40100-49920 (Attachment B) and resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor's performance of this commitment by providing, as requested, a monthly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, service-disabled veterans, and persons with disabilities. Such reports shall be provided to the State of Tennessee Governor's Office of Diversity Business Enterprise in the TN Diversity Software available online at:

<https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9810>.

E.3. 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.4. 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.5. 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.6. 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.7. 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.8. Transfer of Ownership of Custom Software Developed for the State.

a. Definitions.

- (1) "Contractor-Owned Software," shall mean commercially available software the rights to which are owned by Contractor, including but not limited to commercial "off-the-shelf" software which is not developed using State's money or resources.
- (2) "Custom-Developed Application Software," shall mean customized application software developed by Contractor for the State under this Contract intended to function with the Contractor-Owned Software or any Work Product provided under this Contract.
- (3) "Rights Transfer Application Software," shall mean any pre-existing application software and documentation owned or supplied by Contractor or a third party necessary for the use, functioning, support, or maintenance of the Contractor-Owned Software, the Custom-Developed Application Software, Third Party Software, and any Work Product provided to State.
- (4) "Third-Party Software," shall mean software supplied by Contractor under this Contract or necessary for the functioning of any Work Product not owned by the State or the Contractor.
- (5) "Work Product," shall mean all deliverables such as software, software source code, documentation, planning, etc., that are created, designed, developed, or documented by the Contractor for the State under this Contract. Work Product shall include Rights Transfer Application Software.

b. Rights and Title to the Software

- (1) All right, title and interest in and to the Contractor-Owned Software shall at all times remain with Contractor, subject to any license or transfer of rights or ownership granted under this Contract. Contractor grants the State a perpetual non-exclusive license to the Contractor-Owned Software to be used solely with the Custom-Developed Application Software and the Work Product.
- (2) Contractor shall provide the source code in the Custom-Developed Application Software, Work Product and the Contractor-Owned Software, with all subsequent modifications, enhancements, bug-fixes or any other changes in the source code of the Work Product and the Contractor-Owned Software and all other code and documentation necessary for the Custom-Developed Application Software to be installed and function as intended and as set forth in this Contract, to the State.
- (3) Contractor may lease or sell the Custom-Developed Application Software to third parties with the written permission of the State, which permission may be conditioned on the State receiving royalties from such sales or licenses.
- (4) All right, title and interest in and to the Custom-Developed Application Software, and to modifications thereof made by State, including without limitation all copyrights, patents, trade secrets and other intellectual property and other proprietary rights embodied by and arising out of the Custom-Developed

Application Software, shall belong to State. To the extent such rights do not automatically belong to State, Contractor hereby assigns, transfers, and conveys all right, title and interest in and to the Custom-Developed Application Software, including without limitation the copyrights, patents, trade secrets, and other intellectual property rights arising out of or embodied by the Custom-Developed Application Software. Contractor and its employees, agents, contractors or representatives shall execute any other documents that State or its counsel deem necessary or desirable to document this transfer or allow State to register its claims and rights to such intellectual property rights or enforce them against third parties.

(5) All right, title and interest in and to the Third-Party Software shall at all times remain with the third party, subject to any license or other rights granted to the State under this Contract or otherwise.

c. The Contractor may use for its own purposes the general knowledge, skills, experience, ideas, concepts, know-how, and techniques obtained and used during the course of performing under this Contract. The Contractor may develop for itself, or for others, materials which are similar to or competitive with those that are produced under this Contract.

E.9. Contractor Hosted Services Confidential Data, Audit, and Other Requirements

a. "Confidential State Data" is defined as data deemed confidential by State or Federal statute or regulation. The Contractor shall protect Confidential State Data as follows:

(1) The Contractor shall ensure that all Confidential State Data is housed in the continental United States, inclusive of backup data.

(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 validated encryption technologies.

(3) The Contractor and the Contractor's processing environment containing Confidential State Data shall either (1) be in accordance with at least one of the following security standards: (i) International Standards Organization ("ISO") 27001; (ii) Federal Risk and Authorization Management Program ("FedRAMP"); or (2) be subject to an annual engagement by a 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") Type II audit. The State shall approve the SOC audit control objectives. The Contractor shall provide proof of current ISO certification or FedRAMP authorization for the Contractor and Subcontractor(s), or provide the State with the Contractor's and Subcontractor's annual SOC Type II audit report within 30 days from when the CPA firm provides the audit report to the Contractor or Subcontractor. The Contractor shall submit corrective action plans to the State for any issues included in the audit report within 30 days after the CPA firm provides the audit report to the Contractor or Subcontractor.

If the scope of the most recent SOC audit report does not include all of the current State fiscal year, upon request from the State, the Contractor must provide to the State a letter from the Contractor or Subcontractor stating whether the Contractor or Subcontractor made any material changes to their control environment since the prior audit and, if so, whether the changes, in the opinion of the Contractor or Subcontractor, would negatively affect the auditor's opinion in the most recent audit report.

No additional funding shall be allocated for these certifications, authorizations, or audits as these are included in the Maximum Liability of this Contract.

- (4) The Contractor must annually perform Penetration Tests and Vulnerability Assessments against its Processing Environment. "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.
- (5) 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
- (6) Upon termination of this Contract and in consultation with the State, the Contractor 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/strategic-technology-solutions/strategic-technology-solutions/sts-security-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 at all times fully compatible with current versions of the Operating System and Application to ensure that security vulnerabilities are not introduced.

c. Comptroller Audit Requirements

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 maintain and cause its Subcontractors to maintain a complete audit trail of all transactions and activities in connection with this Contract. 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 information technology control audit may include a review of general controls and application controls. General controls are the policies and procedures that apply to all or a large segment of the Contractor's or Subcontractor's information systems and applications and include controls over security management, access controls,

configuration management, segregation of duties, and contingency planning. Application controls are directly related to the application and help ensure that transactions are complete, accurate, valid, confidential, and available. The audit shall include the Contractor's and Subcontractor's compliance with the State's Enterprise Information Security Policies and all applicable requirements, laws, regulations or policies.

The audit may include interviews with technical and management personnel, physical inspection of controls, and review of paper or electronic documentation.

For any audit issues identified, the Contractor and Subcontractor(s) shall provide a corrective action plan to the State within 30 days from the Contractor or Subcontractor receiving the audit report.

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

- d. 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: Zero (0) Hours.
 - 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: Eight (8) Hours.
 - (2) 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.10. 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.11. 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.12. 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.13. Survival. The terms, provisions, representations, and warranties contained in this Contract which by their sense and context are intended to survive the performance and termination of this Contract, shall so survive the completion of performance and termination of this Contract.

IN WITNESS WHEREOF,

CONTRACTOR LEGAL ENTITY NAME:

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF TRANSPORTATION:

HOWARD E. ELEY, COMMISSIONER

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

Pro Forma ATTACHMENT B

(Fill out only by selected Contractor)

SAMPLE LETTER OF DIVERSITY COMMITMENT

(Company Letterhead/Logo)

(Address)

(Date)

(Salutation),

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

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

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

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

_____ %.

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

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

Further, we commit to:

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

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

Regards,

(Company authority – signature and title)

ATTACHMENT C

Schedule of Billing Rates [TO BE FILLED IN FROM AWARDEE'S RFP RESPONSE]

Labor Category	Year 1 Insert Dates	Year 2 Insert Dates	Year 3 Insert Dates	Year 4 Insert Dates	Year 5 Insert Dates	Year 6 Insert Dates
ITS specialist III						
ITS specialist II						
ITS specialist II						
Analyst IV						
Analyst III						
Analyst II						
Analyst I						
Designer IV						
Designer III						
Designer II						
Designer I						
Programmer IV						
Programmer III						
Programmer II						
Programmer I						
Technician II						
Technician I						
Administrative Assistant						
QS-2 Sr. Engineer						