



State of Oklahoma
Office of Management and Enterprise Services

STATE OF OKLAHOMA CONTRACT WITH GALLAGHER BASSETT SERVICES, INC.

This State of Oklahoma Contract (“Contract”) is entered into between the State of Oklahoma by and through the Office of Management and Enterprise Services (“State”) and Gallagher Bassett Services, Inc. (“Supplier”) and is effective as of the effective date set forth on a properly issued purchase order or, if no effective date is listed, the date of last signature to this Contract. The initial term of the Contract shall be for one (1) year with five (5) one-year options to renew.

Purpose

The State is awarding this Contract to Supplier for the provision of a Third Party Claims Administrative service to handle Workers’ Compensation claims for state agencies through the Risk Management Department’s Workers’ Compensation plan with two separate programs, as is more particularly described in certain Contract Documents. Supplier submitted additional terms, value-add offerings, and a best and final offer. This Contract memorializes the agreement of the parties with respect to negotiated terms of the Contract that is being awarded to Supplier.

Now, therefore, in consideration of the foregoing and the mutual promises set forth herein, the receipt and sufficiency of which are hereby acknowledged the parties agree as follows:

1. The parties agree that Supplier has not yet begun performance of work under this Contract. Issuance of a purchase order is required prior to payment to a Supplier.
2. The following Contract Documents are attached hereto and incorporated herein:
 - 2.1. Solicitation #EV000000642 with Exhibits, Attachment A;
 - 2.2. General Terms, Attachment B;
 - 2.3. Agency Terms; Attachment C;
 - 2.4. Information Technology terms, Attachment D;
 - 2.5. Additional Terms, Attachment E1;
 - 2.6. Master Terms, Attachment E2;
 - 2.7. Pricing, Attachment E3;
 - 2.8. Value Add Offerings, Attachment E4; and
 - 2.9. Third Party Terms, Attachment E5.
3. The parties additionally agree:
 - 3.1. Except for information deemed confidential by the State pursuant to applicable law, rule, regulation or policy, the parties agree Contract terms and information are not confidential and are disclosable without further approval of or notice to Supplier.
 - 3.2. All representations made by Supplier in response to the Solicitation regarding specifications and requirements are incorporated herein by reference into this Contract.

- 3.3. To the extent any term or condition in any Contract Document, including via a hyperlink or uniform resource locator, conflicts with an applicable Oklahoma and/or United States law or regulation, such term or condition is void and unenforceable. By executing any Contract Document which contains a conflicting term or condition, the State or Customer makes no representation or warranty regarding the enforceability of such term or condition and the State or Customer does not waive the applicable Oklahoma and/or United States law or regulation which conflicts with the term or condition.
- 3.4. Both the Priority Care 365 nurse triage product (“PC365”) and the Clinical Concierge value add offerings are included in this Contract with the respective pricing as set out in Attachment E3.
4. Payment obligations rest solely with the Risk Management Services.
- Please send invoices and billing inquiries to:
Gallagher Bassett Services, Inc.
2850 Golf Road
Rolling Meadows, Illinois 60008
United States
- E-mail: shari_scherzer@gbtpa.com
5. Any reference to a Contract Document refers to such Contract Document as it may have been amended. If and to the extent any provision is in multiple documents and addresses the same or substantially the same subject matter but does not create an actual conflict, the more recent provision is deemed to supersede earlier versions.

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SIGNATURES

The undersigned represent and warrant that they are authorized, as representatives of the party on whose behalf they are signing, to sign this Contract and to bind their respective party thereto.

STATE OF OKLAHOMA
by and through the
OFFICE OF MANAGEMENT AND
ENTERPRISE SERVICES:

GALLAGHER BASSETT SERVICES, INC.

By: 
Dan Cronin (Jul 31, 2025 14:32:46 CDT)

By: 
Stephanie L. Renguso (Jul 31, 2025 10:36:23 CDT)

Name: Dan Cronin

Name: Stephanie L. Rengusc

Title: State Cheif Information Officer

Title: Corporate Counsel

Date: 07/31/2025

Date: 07/31/2025

Attachment A

Solicitation No. EV00000642

This Solicitation is a Contract Document and is a request for proposal in connection with the Contract awarded on behalf of Office of Management & Enterprise Services by and through the Office of Management and Enterprise Services as more particularly described below. Any defined term used herein but not defined herein shall have the meaning ascribed in the General Terms or other Contract document.

I. PURPOSE

The Office of Management and Enterprise Services (OMES), Central Purchasing Division, is seeking responses on behalf of Office of Management & Enterprise Services from potential Suppliers to provide a contract for the purchase of a Third Party Claims Administrative services to handle Workers' Compensation claims for state agencies through the Risk Management Department's Workers' Compensation plan with two separate programs. These programs operate separately and cannot be combined.

A Contract resulting from this Solicitation may be designated for use as a Statewide Contract.¹

The Contract is awarded on behalf of Office of Management & Enterprise Services for a Third Party Claims Administrative services to handle Workers' Compensation claims for state agencies through the Risk Management Department's Workers' Compensation program plan with two separate programs. These programs operate separately and cannot be combined.

1. Contract Term and Renewal Options:

The initial Contract term, which begins on the effective date of the Contract, is one year and there are (5) one-year to renew the Contract.

2. Solicitation Criterion:

2.1. The Bid will be evaluated using a best value criterion, based on the following:

- i. Price
- ii. Past performance
- iii. Ability to meet all requirements
- iv. Product Acceptability
- v. Organization Fit

2.2 Scope and Description:

- i. Partnering with a Bidder that:
 - a. Has experience in working with Public Entities and programs that are structured similar to OMES.

¹ 74 O.S. 85.5(G)(3)

- b. Engages a top-tier dedicated, skilled, experienced, and responsive contracted Worker's Compensation claim adjusters on the program:
 - i. Preference for at least 4 fully dedicated Indemnity adjusters, 1 dedicated Medical Only adjuster and 1 fully dedicated Supervisor.
 - ii. Claim Supervisor must be physically located and work out of the State's office. Adjusters must be able to work physically out of the State's office pending State's confirmation on desk availability.
 - iii. Adjusters expected to be physically on site at the OMES Office upon Client's request (within 48 hours of request)
 - iv. Adjusters are held accountable for timely communication, strategic thinking and focus on superior results/resolution of OMES' claims.
 - v. Adjusters must review and comply with the Client's Claim Handling Instructions in addition to the claim best practices.
- c. Commits to transparency in fees and charges on the program by producing detailed reports and justification upon OMES's request.
- d. Offers flexibility in the approach and pricing of pursuit of subrogation.
 - i. OMES assumes most of the responsibility to secure recoveries and communicate with all the necessary parties. Bidder must offer a flexible reduced subrogation rate due to most of the work completed by OMES.
- e. Ensures claim best practices are engaged, monitored, and measured through a formal, transparent quality assurance/management program.
- f. Delivers superior client service directed by a proactive, responsive, and consultative Account Manager empowered to make decisions within their organization.
 - i. Account Manager will have authority to address issues related to turnover and ensure proper coverage and staffing on the program.
- g. Facilitates annual stewardships focused on combining historical loss trends with proactive solutions to improve overall program performance.
- h. Offers a flexible RMIS solution to OMES that uses leading technology and is intuitive to the end client-user. Provides regular training to OMES stakeholders on how to use the system, view claims, pull reports etc.
- ii. Reducing claim severity, medical spend, legal spend and overall claim costs through proactive and effective medical and case management.
- iii. Establishment of a true partnership through transparency and effective, responsive communication.
- iv. Obtaining the highest quality service possible for OMES's local operations and injured employees.
- v. Selecting a Bidder with a proven program implementation process and an experienced implementation manager who can oversee a seamless, successful on-boarding of the program.

- vi. The Bid Response must reflect for each requirement on Exhibit No. 1 whether the requirement is met by an out-of-the-box solution or whether the requirement necessitates customization to the Bidder's proposed solution.
- vii.
- viii. The Bid Response shall show the ability of the Bidder to meet or exceed the following mandatory specifications:
- ix. Completion of Exhibit 1-3 to be considered
- x. Pricing shall be proposed using the Pricing Template. In addition to completing the Pricing Template, Bidders are required to submit pricing proposals in their own format.
- xi. Pricing shall be proposed as a single total firm, fixed cost and include all information concerning fees, other costs, and any other information relevant to the total cost.
- xii.
- xiii. Value-added products and/or services within scope of the Acquisition may be included in the Bid.
- xiv. The top four scores will be invited to deliver Finalist Presentations (if applicable) in person during the week of March 31, 2025.
- xv. The anticipated Go Live Date for new claims is scheduled for **July 1, 2025**. The potential takeover date is to be determined but will occur no later than **October 1, 2025**.

2.3. The Bid will be evaluated using a best value criterion, based on the following, not listed in a specific order:

- vi. Organization Fit
- vii. Experience of Team/Public Entity Experience
- viii. Pricing/Costs
- ix. Comprehensive Nature of Services
 - x. Design of Program: location of team, staffing model, account management
 - xi. Responses to the Questionnaire
 - xii. Claims Handling Capabilities: reserving, reporting, RMIS, etc.

2.4 Scope and Description:

- i. The Bid Response must reflect for each requirement on Exhibit No. 1 whether the requirement is met by an out-of-the-box solution or whether the requirement necessitates customization to the Bidder's proposed solution.
- ii. The Bid Response shall show the ability of the Bidder to meet or exceed the following mandatory specifications:
Completion of Exhibit 1-3 to be considered
- iii. Pricing shall be proposed using the Pricing Template. In addition to completing the Pricing Template, Bidders are required to submit pricing proposals in their own format.

- iv. Pricing shall be proposed as a single total firm, fixed cost and include all information concerning fees, other costs, and any other information relevant to the total cost.
- v. Value-added products and/or services within scope of the Acquisition may be included in the Bid.

2.5 Executive Summary and Company Information are on Exhibit 01: Executive Summary and Company Information.

2.6 All Technical responses are on Exhibit 5: Scope and General Questionnaire

2.7 The response to pricing shall be proposed using Exhibit 2 Pricing Template Tabs 1-3.

- i. Five -Year Pricing: Bidders must provide a 5-year pricing commitment.
- ii. Bidder pricing should specifically address but not be limited to:

1. Pricing models:

- i. Resource Based/Cost Plus on an annual basis (new and takeover claims)
- ii. Per claim Life of Claim (new and takeover claims)
- iii. Per claim Life of Contract (new and takeover claims)

Assume for all models

- i. Dedicated Workers' Compensation team per Key Objectives outlined in Section "I Purpose" above.
- ii. Average Caseload cap for Indemnity adjusters – 100
- iii. Reserve and Settlement Authority – 10,000

Resource based annual pricing – Bidders must clearly indicate multiplier, salaries, FTEs, as well as assumptions – caseloads for new/open and pending, Adjuster to Supervisor Ratio and Adjuster to Admin/Support staff (if applicable).

2. Account Management Fees

- i. Conducts superior account management, oversight and problem solving
- ii. Coordinates annual stewardship meeting and related reporting
- iii. Arranges & participates in all claim reviews
- iv. Addresses and resolves all account service issues
- v. It is expected that the Account Manager be familiar with handling public entities, structure, data and provide analytics with proactive recommendations to mitigate exposures

3. Claim Reviews

- i. Bi-annual in person at State's office

4. RMIS & Data Feeds
 - i. 8 Full User IDs and 25 View Only
 - ii. Monthly Data feed to the State's RMIS system, Riskconnect – currently in place.
 - iii. Monthly HR data feed from the State's HR system, Workday, to the Bidder's system – not in place currently but a potential to implement depending on the cost.
5. Fees for claim reporting to include web option, telephonic, email, fax and API data feed option.
 - i. Currently, the State reports claims via all methods noted above, except API Data feed. VFGIP program is reported via email and fax only.
6. Subrogation fees
7. Incident/Record Only fees
8. ISO search fees
9. Banking fees
10. MMSEA/Section 111 fees
11. All managed care fees, specifically:
 - i. 24/7 Nurse Triage
 - ii. Bill review
 - iii. PPO
 - iv. Out of network/specialty bill review
 - v. Bill review savings caps; a cap must be included in your proposal
 - vi. Telephonic and field case management
 - vii. Utilization review
 - viii. Standard/Complex Pharmacy
 - ix. Telehealth
12. Outside investigation fees
13. Carrier oversight fees (if applicable)
14. Any additional costs or fees not specifically listed above

2.8 Value-added products and/or services within scope of the Acquisition are to be included in Exhibit 2 Pricing Tab 4

2.9 Business References are to be on Exhibit 3: 7.10 Section Ten: Business references EXHIBIT 04: Bidder Reference Worksheet

2.10 Third-party vendor information is included on Exhibit 4: Third Party Vendor Information

II. STATE OF OKLAHOMA NON-NEGOTIABLE GENERAL TERMS

In addition to other terms contained in an applicable Contract document, Supplier and State agree to the following General Terms:

1 Scope and Contract Renewal

- 1.1 Supplier may not add products or services to its offerings under the Contract without the State's prior written approval. Such request may require a competitive bid of the additional products or services. If the need arises for goods or services outside the scope of the Contract, Supplier shall contact the State.
- 1.2 At no time during the performance of the Contract shall the Supplier have the authority to obligate any Customer for payment for any products or services (a) when a corresponding encumbering document is not signed or (b) over and above an awarded Contract amount. Likewise, Supplier is not entitled to compensation for a product or service provided by or on behalf of Supplier that is neither requested nor accepted as satisfactory.
- 1.3 If applicable, prior to any Contract renewal, the State shall subjectively consider the value of the Contract to the State, the Supplier's performance under the Contract, and shall review certain other factors, including but not limited to the: a) terms and conditions of Contract documents to determine validity with current State and other applicable statutes and rules; b) current pricing and discounts offered by Supplier; and c) current products, services and support offered by Supplier. If the State determines changes to the Contract are required as a condition precedent to renewal, the State and Supplier will cooperate in good faith to evidence such required changes in an Amendment. Further, any request for a price increase in connection with a renewal or otherwise will be conditioned on the Supplier providing appropriate documentation supporting the request.
- 1.4 Upon mutual agreement, the Parties may extend the Contract for ninety (90) days beyond a final renewal term. The Parties may to the extent allowable by law, choose to exercise subsequent ninety (90) day extensions.
- 1.5 Supplier understands that supplier registration expires annually and, pursuant to OAC 260:115-3-3, Supplier shall maintain its supplier registration with the State as a precondition to a renewal of the Contract.

2 Contract Effectiveness

- 2.1** Unless specifically agreed in writing otherwise, the Contract is effective upon the date last signed by the parties. Supplier shall not commence work, commit funds, incur costs, or in any way act to obligate the State until a proper purchase order has been issued.
- 2.2** Any Contract document shall be legibly written in ink or typed. All Contract transactions, and any Contract document related thereto, may be conducted by electronic means pursuant to the Oklahoma Uniform Electronic Transactions Act.

3 Modification of Contract Terms and Contract documents

- 3.1** The Contract may only be modified, amended, or expanded by an Amendment. Any change to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials made unilaterally by the Supplier, is a material breach of the Contract. Unless otherwise specified by applicable law or rules, such changes, including without limitation, any unauthorized written Contract modification, shall be void and without effect and the Supplier shall not be entitled to any claim under the Contract based on those changes. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the Contract.
- 3.2** Any additional terms on an ordering document provided by Supplier are of no effect and are void unless mutually executed. OMES bears no liability for performance, payment or failure thereof by the Supplier or by a Customer other than OMES in connection with an Acquisition.
- 3.3** Except for information deemed confidential by the State pursuant to applicable law, rule, regulation, or policy, the parties agree Contract terms are not confidential and are disclosable without further approval of or notice to Supplier.
- 3.4** Unless mutually agreed to in writing by the State of Oklahoma by and through the Office of Management and Enterprise Services, no Contract document or other terms and conditions or clauses, including via a hyperlink or uniform resource locator, shall supersede or conflict with the terms of this Contract or expand the State's or Customer's liability or reduce the rights of Customer or the State.

3.5 To the extent any term or condition in any Contract document, including via a hyperlink or uniform resource locator, conflicts with an applicable Oklahoma and/or United States law or regulation, such term or condition is void and unenforceable. By executing any Contract document which contains a conflicting term or condition, the State or Customer makes no representation or warranty regarding the enforceability of such term or condition and the State or Customer does not waive the applicable Oklahoma and/or United States law or regulation which conflicts with the term or condition.

4 Pricing

4.1 Pursuant to 68 O.S. §§ 1352, 1356, and 1404, State agencies are exempt from the assessment of State sales, use, and excise taxes. Further, State agencies and political subdivisions of the State are exempt from Federal Excise Taxes pursuant to Title 26 of the United States Code. Any taxes of any nature whatsoever payable by the Supplier shall not be reimbursed.

4.2 Pursuant to 74 O.S. §85.40, all travel expenses of Supplier must be included in the total Acquisition price.

4.3 The price of a product offered under the Contract shall include and Supplier shall prepay all shipping, packaging, delivery and handling fees. All product deliveries will be free on board Customer's Destination. No additional fees shall be charged by Supplier for standard shipping and handling. If Customer requests expedited or special delivery, Customer may be responsible for any charges for expedited or special delivery

4.4 Any product to be delivered pursuant to the Contract shall be subject to final inspection and acceptance by the Customer at Destination. The Customer assumes no responsibility for a product until accepted by the Customer. Title and risk of loss or damage to a product shall be the responsibility of the Supplier until accepted. The Supplier shall be responsible for filing, processing, and collecting any and all damage claims accruing prior to acceptance

4.5 Pursuant to OAC 260:115-9-1, payment for an Acquisition does not constitute final acceptance of the Acquisition. If subsequent inspection affirms that the Acquisition does not meet or exceed the specifications of the order or that the Acquisition has a latent defect, the Supplier shall be

notified as soon as is reasonably practicable. The Supplier shall retrieve and replace the Acquisition at Supplier's expense or, if unable to replace, shall issue a refund to Customer. Refund under this section shall not be an exclusive remedy.

5 Invoices and Payments

5.1 Supplier shall be paid upon submission of a proper invoice(s) at the prices stipulated in the Contract in accordance with 74 O.S. §85.44B which requires that payment be made only after products have been provided and accepted or services rendered and accepted This section shall not prohibit the payment of membership dues or payment for subscriptions to magazines, periodicals or books or for payment to vendors providing subscription services under 74 O.S. 85.44B.

The following terms additionally apply:

- A.** An invoice shall contain the purchase order number, description of products or services provided and the dates of such provision.
- B.** Failure to provide a timely and proper invoice may result in delay of processing the invoice for payment. Proper invoice is defined at OAC 260:10-1-2.
- C.** Payment of all fees under the Contract shall be due NET 30 days, but shall not be deemed late until 45 days. Payment and interest on late payments are governed by 62 O.S. §34.72. Such interest is the sole and exclusive remedy for late payments by a State agency and no other late fees are authorized to be assessed pursuant to Oklahoma law.
- D.** The date from which an applicable early payment discount time is calculated shall be from the receipt date of a proper invoice. There is no obligation, however, to utilize an early payment discount.
- E.** If an overpayment or underpayment has been made to Supplier any subsequent payments to Supplier under the Contract may be adjusted to correct the account. A written explanation of the adjustment will be issued to Supplier.
- F.** If the Supplier accepts payment by Purchase Card they shall do so according to Oklahoma law.

6 Oklahoma Open Records Act

Supplier acknowledges that all State agencies and certain other Customers are subject to the Oklahoma Open Records Act set forth at 51 O.S. §24A-1 et seq. Supplier also acknowledges that compliance with the Oklahoma Open Records Act and all opinions of the Oklahoma Attorney General concerning the Act is required. Customer may be provided access to Supplier Confidential Information. State agencies are subject to the Oklahoma Open Records Act and Supplier acknowledges information marked confidential information will be disclosed to the extent permitted under the Open Records Act and in accordance with this section. Nothing herein is intended to waive the State Purchasing Director's authority under OAC 260:115-3-9 in connection with Bid information requested to be held confidential by a Bidder. Notwithstanding the foregoing, Supplier Confidential Information shall not include information that: (i) is or becomes generally known or available by public disclosure, commercial use or otherwise and is not in contravention of this Contract; (ii) is known and has been reduced to tangible form by the receiving party before the time of disclosure for the first time under this Contract and without other obligations of confidentiality; (iii) is independently developed without the use of any of Supplier Confidential Information; (iv) is lawfully obtained from a third party (without any confidentiality obligation) who has the right to make such disclosure or (v) pricing provided to the State. In addition, the obligations in this section shall not apply to the extent that the applicable law or regulation requires disclosure of Supplier Confidential Information, provided that the Customer provides reasonable written notice, pursuant to Contract notice provisions, to the Supplier so that the Supplier may promptly seek a protective order or other appropriate remedy.

7 Conflict of Interest

In addition to any requirement of law or of a professional code of ethics or conduct, the Supplier, its employees are required to disclose any outside activity or interest that conflicts or may conflict with the best interest of the State. Prompt disclosure is required under this section if the activity or interest is related, directly or indirectly, to any person or entity currently under contract with or seeking to do business with the State, its employees or any other third-party individual or entity awarded a contract with the State. Further, as long as the Supplier has an obligation under the Contract, any plan, preparation or engagement in any such activity or interest shall not occur without prior written approval of the State. Any conflict of

interest shall, at the sole discretion of the State, be grounds for partial or whole termination of the Contract.

8 State Shall Not Indemnify

The State of Oklahoma cannot lawfully agree to indemnify a private contractor. The credit of the State shall not be given, pledged, or loaned to any individual, company, corporation, or association, municipality, or political subdivision of the State pursuant to Oklahoma Constitution article 10, Section 15, OAC 260:115-7-32(k)(3)(A) and Attorney General Opinion 2012-18.

9 Indemnification Coordination of Defense

9.1 In connection with indemnification obligations under the Contract, when a State agency is a named defendant in any filed or threatened lawsuit, the defense of the State agency shall be coordinated by the Attorney General of Oklahoma, or the Attorney General may authorize the Supplier to control the defense and any related settlement negotiations; provided, however, Supplier shall not agree to any settlement of claims against the State without obtaining advance written concurrence from the Attorney General. If the Attorney General does not authorize sole control of the defense and settlement negotiations to Supplier, Supplier shall have authorization to equally participate in any proceeding related to the indemnity obligation under the Contract and shall remain responsible to indemnify the applicable Indemnified Parties.

10 Termination for Funding Insufficiency

10.1 Notwithstanding anything to the contrary in any Contract document, the State may terminate the Contract in whole or in part if funds sufficient to pay obligations under the Contract are not appropriated or received from an intended third-party funding source. In the event of such insufficiency, Supplier will be provided at least fifteen (15) calendar days' written notice of termination. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated. The determination by the State of insufficient funding shall be accepted by, and shall be final and binding on, the Supplier.

10.2 Upon receipt of notice of a termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the

termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contractor certain obligations are terminated shall be refunded.

- 10.3** The State's exercise of its right to terminate the Contract under this section shall not be considered a default or breach under the Contract or relieve the Supplier of any liability for claims arising under the Contract.

11 Suspension of Supplier

- 11.1** Supplier may be subject to Suspension without advance notice and may additionally be suspended from activities under the Contract if Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract.
- 11.2** Upon receipt of a notice pursuant to this section, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to receipt of notice by Supplier, the Suspension does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract during a period of Suspension or suspended activity or for any damages or other amounts caused by or associated with such Suspension or suspended activity. A right exercised under this section shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees attributable to a period of Suspension or suspended activity shall be refunded.
- 11.3** Such Suspension may be removed, or suspended activity may resume, at the earlier of such time as a formal notice is issued that authorizes the resumption of performance under the Contract or at such time as a purchase order or other appropriate encumbrance document is issued. This subsection is not intended to operate as an affirmative statement that such resumption will occur.

12 Certification Regarding Debarment, Suspension, and Other Responsibility Matters

The certification made by Supplier with respect to Debarment, Suspension, certain indictments, convictions, civil judgments and terminated public contracts is a material representation of fact upon which reliance was placed when entering into the Contract. A determination that Supplier knowingly rendered an erroneous certification, in

addition to other available remedies, may result in whole or partial termination of the Contract for Supplier's default. Additionally, Supplier shall promptly provide written notice to the State Purchasing Director if the certification becomes erroneous due to changed circumstances.

13 Certification Regarding State Employees Prohibition From Fulfilling Services

Pursuant to 74 O.S. § 85.42, the Supplier certifies that no person involved in any manner in development of the Contract employed by the State shall be employed to fulfill any services provided under the Contract.

14 Notices

All notices, approvals or requests allowed or required by the terms of any Contract shall be in writing, reference the Contract with specificity and deemed delivered upon receipt or upon refusal of the intended party to accept receipt of the notice. Notice information may be updated in writing to the other party as necessary.

In addition to other notice requirements in the Contract and the designated Supplier contact provided in a successful Bid, notices shall be sent to the State at the email address set forth below.

Notwithstanding any other provision of the Contract, confidentiality, breach and termination-related notices shall be delivered to the address below in addition to e-mail.

If sent to the State:

State Purchasing Director
2401 North Lincoln Blvd., Second Floor
Oklahoma City, Oklahoma 73105

With a copy, which shall not constitute notice, to:

Purchasing Division Deputy General Counsel
2401 North Lincoln Blvd., Second Floor

15 Miscellaneous

15.1 Choice of Law and Venue

Any claim, dispute, or litigation relating to the Contract documents, in the singular or in the aggregate, shall be governed by the laws of the State of Oklahoma without regard to application of choice of law principles. Pursuant to 74 O.S. §85.7(F), where Federal awards are involved, applicable federal laws, rules and regulations shall govern to the extent necessary to insure ensure compliance with the terms of the Federal award. Venue for any action, claim, dispute, or litigation relating in any way to the Contract documents, shall be in Oklahoma County, Oklahoma. The State expressly declines any terms that minimize its rights under Oklahoma Law, including but not limited to, Statutes of Limitations.

15.2 Employment Relationship

The Contract does not create an employment relationship. Individuals providing products or performing services pursuant to the Contract are not employees of the State or Customer and, accordingly are not eligible for any rights or benefits whatsoever accruing to such employees.

15.3 Failure to Enforce

Failure by the State or a Customer at any time to enforce a provision of, or exercise a right under, the Contract shall not be construed as a waiver of any such provision. Such failure to enforce or exercise shall not affect the validity of any Contract document, or any part thereof, or the right of the State or a Customer to enforce any provision of, or exercise any right under, the Contract at any time in accordance with its terms. Likewise, a waiver of a breach of any provision of a Contract document shall not affect or waive a subsequent breach of the same provision or a breach of any other provision in the Contract.

15.4 Invalid Term or Condition

To the extent any term or condition in the Contract conflicts with a compulsory applicable State or United States law or regulation, such Contract term or condition is void and unenforceable. By executing any Contract document which contains a conflicting term or condition, no

representation or warranty is made regarding the enforceability of such term or condition. Likewise, any applicable State or federal law or regulation which conflicts with the Contract or any non-conflicting applicable State or federal law or regulation is not waived.

15.5 Severability

If any provision of a Contract document, or the application of any term or condition to any party or circumstances, is held invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable and the application of such provision to other parties or circumstances shall remain valid and in full force and effect. If a court finds that any provision of this contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

15.6 Section Headings

The headings used in any Contract document are for convenience only and do not constitute terms of the Contract.

15.7 Sovereign Immunity

Notwithstanding any provision in the Contract, the Contract is entered into subject to the State's Constitution, statutes, common law, regulations, and the doctrine of sovereign immunity, none of which are waived by the State nor any other right or defense available to the State; provided, however, that the parties hereby agree that the doctrine of sovereign immunity does not apply to actions grounded in contract and therefore does not prohibit Supplier from pursuing claims arising under the Contract against the State and Customers.

15.8 Survival

As applicable, performance under all license, subscription, service agreements, statements of work, transition plans and other similar Contract documents entered into between the parties under the terms of the Contract shall survive Contract expiration. Additionally, rights and obligations under the Contract which by their nature should survive including, without limitation, certain payment obligations invoiced prior to expiration or termination; confidentiality obligations; security incident and data breach

obligations and indemnification obligations, remain in effect after expiration or termination of the Contract.

15.9 Gratuities

The Contract may be immediately terminated, in whole or in part, by written notice if it is determined that the Supplier, its authorized employee, agent, or another representative acting within the scope of their authority violated any federal, State or local law, rule or ordinance by offering or giving a gratuity to any State employee directly involved in the Contract. In addition, Suspension or Debarment of the Supplier may result from such a violation.

15.10 Import/Export Controls

Neither party will use, distribute, transfer or transmit any equipment, services, software or technical information provided under the Contract (even if incorporated into other products) except in compliance with all applicable import and export laws, conventions and regulations.

Request for Proposals for
 SW0XOX Title of Contract
 Issued by the State of Oklahoma
 Solicitation Number EV00000642
 Bidder Name:

**Section Two: Executive Summary and Company Information
 EXHIBIT 01: OFFEROR RESPONSE WORKSHEET**

Offeror must provide complete and succinct responses to each item below. **Insert your responses into this worksheet directly into the yellow boxes** If your response does not fit into the boxes below a clearly labeled response (Example: 7.2.etc). will be considered. Offeror should provide all information necessary to demonstrate Offeror's ability to meet the requirements of this RFP and the RFP's Scope of Work. Responses to the below questions in this Attachment are mandatory and will be evaluated. Failure to respond to any question may result in your proposal being deemed nonresponsive.

Any bidder responses left blank to any of the below requirements will not proceed further in the evaluation phase.

Section Two: Executive Summary and Company Information		
Bidders Instructions		Record Responses Below
7.2	Bidder marketing information, general company information and other similar resources the Bidder wishes to provide	
7.2.a	Provide the length of time the Bidder has been in business	
7.2.b	Insert a brief description of the company	
7.2.c	Indicate Company size and organization structure (an Organizational chart is recommended)	
7.2.d	The number of years the Bidder has been providing products and/or services of the type requested, (must be at least 36 months)	
7.2.e	Estimated Number of clients	
7.2.f	Average client size (i.e., employee count)	
7.2.g	Please specify your organization's affiliations for the outsourcing of services for any part of the claim process.	
7.2.h	What is your client retention rate for each year of the last five years?	
7.2.i	What is your employee retention rate each year for the last five years?	
7.2.j	What are your organization's key differentiators that would make you the best partner for the State.	

Claim Fees	Description/Comment	Life of Claim Unit Price	Life of Contract Unit Price
New WC Claim Fees			
Medical Only			
Indemnity			
Incident Only/Record Only			
Takeover WC Claim Fees			
Medical Only			
Indemnity			
Incident Only/Record Only			

Annual New Ancillary Fee Summary (Account Mgmt, RMIS etc.)	Description/Comment	Total Estimated Fee
Note: If any individual fee/service is included elsewhere, doesn't apply or not offered, input "0" and provide a detailed comment next to the response.		
Account Management/Administration		
Banking Fee		
Total Annual Cost of RMIS user access as outlined in the RFP (8 Full User and 25 View Only)		
Total Annual Cost of Claim Reviews as outlined in the RFP (bi-annual in person at State's Office)		
Total Annual Cost of Monthly HR Feed as outlined in the RFP		
Total Annual Cost of Monthly data feed to The State's RMIS system, Riskconnect, as outlined in the RFP		
Carrier oversight fees (if any)		
New Claim Ancillary Charges Total		\$0

One-time Takeover Ancillary Fee Summary	Description/Comment	Total Estimated Fee
Note: If any individual fee/service is included elsewhere, doesn't apply or not offered, input "0" and provide a detailed comment next to the response.		
One-time Data Transfer Fee		

ALAE	Description/Comment	Per Unit Pricing
Please provide your ISO Search fee.		
Please provide your reduced Subrogation/Recovery, per instructions in the RFP.		
Please provide your 2nd Injury Fund/Recovery fee.		
Legal bill review fees		
Outside/inside investigation fees		

Ancillary Fee Detail	Description/Comment	Per Unit Pricing
Cost of each additional Full User RMIS ID (beyond what has been requested in the RFP)		
Cost of each additional View Only User RMIS ID (beyond what has been requested in the RFP)		
Cost of each additional claim review - in-person at Client location (beyond what has been requested in the RFP)		
Claim Reporting Fee - Phone		
Claim Reporting Fee - Web		
Claim Reporting Fee - Fax/Email		
Claim Reporting Fee - API Data Feed		

Managed Care/Bill Review	Description/Comment	Per Unit Pricing
24/7 Nurse Triage per call		
MBR Fee Schedule and U&C per Bill (if quoted)		
MBR Fee Schedule and U&C per Line (if quoted)		
MBR Fee Schedule and U&C Percentage of Savings (if quoted)		
PPO Network (Percentage of Savings)		
Out of Network/Specialty Bill Review (Percentage of Savings)		
MBR Fee Other (i.e. Flat Rate)		
Bill Review Savings Cap		
Duplicate Bill Processing		
MMSEA/Section 111 fees		
Conditional Payment/Search Analysis		
Telephonic Case Management		
Field Case Management		
Utilization Review		
Physician Review		
Pharmacy network/review		

Any fee or cost not specifically listed above that would be incurred by the State of Oklahoma.	Description/Comment	Cost

**Risk Management Worker's Compensation Third Party Administration
RFP Pricing Year-Over-Year Increases for Multi-Year Agreement**

Company Name: _____

Contract Year	Description/Comment	Response (%)
Year 2		
Year 3		
Year 4		
Year 5		

Please mark all the service fee categories (yes/no) below that the increase will apply to:	Description/Comment	Response (Yes/No Only)
Per Claim Rates		
FTE Resource Salaries		
Multiplier		
Account Management/Admin		
RMIS		
Claim Reviews (if separate from Account Management)		
Data Feeds (i.e. 3rd Party RMIS, Carrier, HR)		
Medical Bill Review (Fee Schedule, PPO, OON etc.)		
Managed Care Services (i.e. UR,TCM,FCM)		
Intake Fees		
ISO Search Fees		
Subrogation Fees		
Duplicate Bill Processing		
MMSEA/Section 111 fees		
Other (if not listed above) #1		
Other (if not listed above) #2		
Other (if not listed above) #3		

Request for Proposals for OMES
 Issued by the State of Oklahoma
 Solicitation Number EV00000642
 Bidder Name:

7.10 Section Ten: Business references
EXHIBIT 03: Bidder Reference Worksheet

Instructions -provide three (3) business references from clients for whom Bidder has provided similar services to establish a successful implementation experience. Business references must include customer contact information including email and phone number. The State is not responsible for references that do not respond shall be inserted in this section using

Categories	Name	Number	Email
Category I			
Category II			
Category III			
Category IV			
Category V			
Category VI			
Category VII			
Category VIII			

7.11 Section Eleven: Third Party Vendor Information				
EXHIBIT 4: 3rd Party Supplier Information				
Instructions -If a third-party vendor or subcontractor is included as part of a submitted Bid, the following information is required				
Third-party vendor or subcontractor name:	3rd Party Company Summary	Relationship to Bidder	Clients for which the two entities have worked together	Products and/or services proposed to be provided by the third-party vendor and how those products and/or services interface with the Bidder's solution
Name:				
Name:				
Name:				
Name:				
Name:				

RFP for the State of Oklahoma

Purpose
 The purpose of this Request for Proposal (RFP) is to solicit offers from qualified third-party administrators (TPAs) for workers' compensation claims administration services in full compliance with all rules and regulations governing the administration for the State of Oklahoma's self-insured Workers' Compensation Program and Volunteer Firefighters Group Insurance Pool programs. These programs are run independently of each other and cannot be combined.

Please enter your responses below. Opened ended questions (shaded in green) require a limit of 850 characters per answer. Please choose from the drop down list on closed ended questions, which are shaded in tan.

Contact Information	
Name of your organization:	
Claim/Program Management	
Using the claim detail provided, what do you propose for the dedicated team? Please describe recommended # of medical only adjusters, indemnity, supervisors, caseloads for new/open and pending, adjustments based on claim complexity, adjuster to supervisor ratio and adjuster to admin/Support staff (if applicable) ect.	
The State of Oklahoma would like an on-site claim team to be housed in its risk management department (Supervisor is required to be on-site; Adjusters - preferred pending desk availability at the State's office). Reference the RFP document for further detail on this requirement. How would you accommodate this request?	
If an on-site claim team is not provided, where would the claim office(s) be located?	
Please describe any quality assurance/quality control/continuous improvement awards or certifications your company has received in the last five years.	
No claim office will delay/deny a claim without first notifying the appropriate designated personnel within the State of Oklahoma. If a claim is later accepted notice must be sent to the designated the State of Oklahoma contact.	
Surveillance will not be assigned without obtaining approval from the appropriate designated personnel within the State of Oklahoma. The State of Oklahoma reserves the right to select the surveillance company.	
Prior to formal pursuit of any subrogation activity the claim representative must contact the designated contact within the State of Oklahoma for concurrence. Subrogation rights cannot be waived without the State of Oklahoma's approval.	
Please describe your organization's subrogation process flow. Clearly state adjuster roles and responsibilities.	
Will you accept responsibility for reporting to CMS? Do you have the ability to report to CMS electronically?	
Provide a summary of your claim best practices for Workers' Compensation.	
How often are ISO's (Insurance Services Office) searches run?	
Does your company have a complex claim unit?	
Reserving/Settlement Authority	
The State of Oklahoma requires authorization for settlements \$10,000 and greater on all claims.	
What documentation will be provided to the State of Oklahoma with a reserve or settlement authority request?	
Account Management	
Attach a resume for the account manager recommended for the State of Oklahoma's account. In addition, please provide a brief overview of the proposed account manager's experience and qualifications.	
What analytic tools are available to the account manager to help demonstrate your company's impact on the State of Oklahoma's program?	
What claim payment funding options do you offer?	
TPA is not allowed to pay ALAE expenses directly to themselves from the treasury fund. Separate invoices need to be cut for ALAE expenses. Can you confirm the viability of this arrangement and provide some detail regarding how this process would work?	
RMS	
Describe the security measures your company has in place to prevent the unnecessary viewing of employee and/or third party information, such as any HIPAA protected information and Social Security numbers.	
Describe your company's recent RMSIS upgrades as well as planned future upgrades.	
The State of Oklahoma requires a designated RMSIS resource that will assigned to its account to assist with any RMSIS issues that arise.	
Confirm that you can provide monthly transactional data to Riskconnect.	
Does your RMSIS system intergrate with Workday?	
Quality Assurance	
How often are supervisors required to review files?	
Indicate whether claim representatives receive performance-based incentives and how those incentives are determined.	
What measurements are utilized to determine the quality of claims handling?	
What metrics are used in your objective claim quality audits? Can you provide a sample?	
What is your internal quality control process for reviewing and auditing files? Are the results shared with the client?	
What is the percentage of your claims closure per adjuster?	
How many claims does each claim representative maintain?	
Claim Outcomes	
Provide information to show how you would measure program improvements and outcomes.	
What type of benchmarking is available that would allow the State of Oklahoma to compare its own data/outcomes year over year, as well as compare its data/outcomes to your book of business?	
Provide actual examples (de-identified if necessary) of analytics other than stewardship reports that you have shared with clients that have helped them understand outcomes and improvement opportunities.	
Briefly describe your predictive modeling capabilities. Include key factors that are incorporated into the model.	
How is predictive modeling incorporated into your claims handling requirements/best practices? Are there specific requirements in place for the examiners/supervisors when a model predicts increased complexity or cost?	
Describe how the account manager would work with the State of Oklahoma to understand outcomes and partner to drive program improvements.	
Litigation Management	
The State of Oklahoma reserves the right to select and control legal counsel on all cases and control all litigation.	
Are you able to benchmark law firms (compare costs, rates per hour, length of time in litigation, etc.)?	
How do you benchmark law firm performance/outcomes beyond cost and duration?	
How would the State of Oklahoma be made aware of law and/or jurisdictional changes and issues?	
What percentage of non-litigated claims become litigated claims each year for the last five years.	
What is the percentage of litigated claims each year for the last five years.	
Managed Care/Medical Cost Containment	
24/7 Nurse Triage	
Describe your nurse triage program (24/7 telephonic triage to assess the need and type of initial medical care required) and why it would be advantageous for the State of Oklahoma to use it.	
How are employees provided directions to care facilities by the triage nurse? (For example: print-out, mobile/text, etc.)	
Nurse Case Management	
For how many clients do you use predictive modeling to determine referral for nurse case management?	
Describe the process in place for predictive modeling as it relates to Nurse Case Management (Does alert go to adjuster and/or nurse? What triggers alert? Steps required by adjuster and/or nurse?)	
Describe the protocol for ongoing nurse follow-up including timing and documentation elements.	
When are nurse case managers required to reference duration guidelines?	
Is Nurse Case Management provided in-house or through a separate contract?	
Certified Workplace Medical Plan	
Do you currently have a Certified Workplace Medical Plan in place? Advised if it is through a vendor partner and disclose who that partner is.	
How do you measure the success of your Certified Workplace Medical Plan? Provide specific outcome metrics.	
Other	
What duration guidelines are available for the adjusters to use, and when are they required to reference them?	
You will agree to add providers to your network at no additional fee to the State of Oklahoma.	
Your PPO directory must be on-line and available to the State of Oklahoma's team.	
Please provide additional information regarding your provider network. How does the network service employees that live in rural areas?	
Does your company have a complex pharmacy unit?	
How does your company plan to address the legislative change pursuant to 85A O.S. Section 13 regarding first responders and PTSD?	
How do determine indemnity for an individual as a volunteer firefighter?	
Carrier Reporting	
The State of Oklahoma requires its TPA to report claims to its insurance carrier(s).	
Describe your process for identifying claims that need to be reported the carrier.	
Will you accept responsibility for identifying and reporting claims that meet carrier reporting criteria?	
Implementation	
Confirm your ability to implement the program by 7/1/25 (implementation will begin on or around 5/1) for new claims. Takeover claims - between 8/1/25 and 10/1/25).	
Provide a detailed implementation plan that includes timelines and assignments by discipline.	
List the people (by discipline and role) within your organization that will be involved in the implementation process.	



ATTACHMENT B

STATE OF OKLAHOMA GENERAL TERMS

This State of Oklahoma General Terms (“General Terms”) is a Contract Document in connection with a Contract awarded by the Office of Management and Enterprise Services on behalf of the State of Oklahoma.

In addition to other terms contained in an applicable Contract Document, Supplier and State agree to the following General Terms:

1 Scope and Contract Renewal

- 1.1** Supplier may not add products or services to its offerings under the Contract without the State’s prior written approval. Such request may require a competitive bid of the additional products or services. If the need arises for goods or services outside the scope of the Contract, Supplier shall contact the State.
- 1.2** At no time during the performance of the Contract shall the Supplier have the authority to obligate any Customer for payment for any products or services (a) when a corresponding encumbering document is not signed or (b) over and above an awarded Contract amount. Likewise, Supplier is not entitled to compensation for a product or service provided by or on behalf of Supplier that is neither requested nor accepted as satisfactory.
- 1.3** If applicable, prior to any Contract renewal, the State shall subjectively consider the value of the Contract to the State, the Supplier’s performance under the Contract, and shall review certain other factors, including but not limited to the: a) terms and conditions of Contract Documents to determine validity with current State and other applicable statutes and rules; b) current pricing and discounts offered by Supplier; and c) current products, services and support offered by Supplier. If the State determines changes to the Contract are required as a condition precedent to renewal, the State and Supplier will cooperate in good faith to evidence such required changes in an Addendum. Further, any request for a price increase in connection with a renewal or

otherwise will be conditioned on the Supplier providing appropriate documentation supporting the request.

- 1.4** The State may extend the Contract for ninety (90) days beyond a final renewal term at the Contract compensation rate for the extended period. If the State exercises such option to extend ninety (90) days, the State shall notify the Supplier in writing prior to Contract end date. The State, at its sole option and to the extent allowable by law, may choose to exercise subsequent ninety (90) day extensions at the Contract pricing rate, to facilitate the finalization of related terms and conditions of a new award or as needed for transition to a new Supplier.
- 1.5** Supplier understands that supplier registration expires annually and, pursuant to OAC 260:115-3-3, Supplier shall maintain its supplier registration with the State as a precondition to a renewal of the Contract.

2 Contract Effectiveness and Order of Priority

- 2.1** Unless specifically agreed in writing otherwise, the Contract is effective upon the date last signed by the parties. Supplier shall not commence work, commit funds, incur costs, or in any way act to obligate the State until the Contract is effective.
- 2.2** Contract Documents shall be read to be consistent and complementary. Any conflict among the Contract Documents shall be resolved by giving priority to Contract Documents in the following order of precedence:
 - A.** any Addendum;
 - B.** any applicable Solicitation;
 - C.** any Contract-specific terms contained in a Contract Document including, without limitation, information technology terms and terms specific to a statewide Contract or a State agency Contract;
 - D.** the terms contained in this Contract Document;
 - E.** any successful Bid as may be amended through negotiation and to the extent the Bid does not otherwise conflict with the Solicitation or applicable law;
 - F.** any statement of work, work order, or other similar ordering document as applicable; and
 - G.** other mutually agreed Contract Documents.

- 2.3 If there is a conflict between the terms contained in this Contract Document or in Contract-specific terms and an agreement provided by or on behalf of Supplier including but not limited to linked or supplemental documents which alter or diminish the rights of Customer or the State, the conflicting terms provided by Supplier shall not take priority over this Contract Document or Acquisition-specific terms. In no event will any linked document alter or override such referenced terms except as specifically agreed in an Addendum.
- 2.4 Any Contract Document shall be legibly written in ink or typed. All Contract transactions, and any Contract Document related thereto, may be conducted by electronic means pursuant to the Oklahoma Uniform Electronic Transactions Act.

3 **Modification of Contract Terms and Contract Documents**

- 3.1 The Contract may only be modified, amended, or expanded by an Addendum. Any change to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials made unilaterally by the Supplier, is a material breach of the Contract. Unless otherwise specified by applicable law or rules, such changes, including without limitation, any unauthorized written Contract modification, shall be void and without effect and the Supplier shall not be entitled to any claim under the Contract based on those changes. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the Contract.
- 3.2 Any additional terms on an ordering document provided by Supplier are of no effect and are void unless mutually executed. OMES bears no liability for performance, payment or failure thereof by the Supplier or by a Customer other than OMES in connection with an Acquisition.

4 **Definitions**

In addition to any defined terms set forth elsewhere in the Contract, the Oklahoma Central Purchasing Act and the Oklahoma Administrative Code, Title 260, the parties agree that, when used in the Contract, the following terms are defined as set forth below and may be used in the singular or plural form:

- 4.1 **Acquisition** means items, products, materials, supplies, services and equipment acquired by purchase, lease purchase, lease with option to purchase, value provided or rental under the Contract.
- 4.2 **Addendum** means a mutually executed, written modification to a Contract Document.

- 4.3 **Amendment** means a written change, addition, correction or revision to the Solicitation.
- 4.4 **Bid** means an offer a Bidder submits in response to the Solicitation.
- 4.5 **Bidder** means an individual or business entity that submits a Bid in response to the Solicitation.
- 4.6 **Contract** means the written, mutually agreed and binding legal relationship resulting from the Contract Documents and an appropriate encumbering document as may be amended from time to time, which evidences the final agreement between the parties with respect to the subject matter of the Contract.
- 4.7 **Contract Document** means this document; any master or enterprise agreement terms entered into between the parties that are mutually agreed to be applicable to the Contract; any Solicitation; any Contract-specific terms; any Supplier's Bid as may be negotiated; any statement of work, work order, or other similar mutually executed ordering document; other mutually executed documents and any Addendum.
- 4.8 **Customer** means the entity receiving goods or services contemplated by the Contract.
- 4.9 **Debarment** means action taken by a debaring official under federal or state law or regulations to exclude any business entity from inclusion on the Supplier list; bidding; offering to bid; providing a quote; receiving an award of contract with the State and may also result in cancellation of existing contracts with the State.
- 4.10 **Destination** means delivered to the receiving dock or other point specified in the applicable Contract Document.
- 4.11 **Indemnified Parties** means the State and Customer and/or its officers, directors, agents, employees, representatives, contractors, assignees and designees thereof.
- 4.12 **Inspection** means examining and testing an Acquisition (including, when appropriate, raw materials, components, and intermediate assemblies) to determine whether the Acquisition meets Contract requirements.
- 4.13 **Moral Rights** means any and all rights of paternity or integrity of the Work Product and the right to object to any modification, translation or use of the Work Product and any similar rights existing under the judicial or statutory law

of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.

- 4.14 **OAC** means the Oklahoma Administrative Code.
- 4.15 **OMES** means the Office of Management and Enterprise Services.
- 4.16 **Solicitation** means the document inviting Bids for the Acquisition referenced in the Contract and any amendments thereto.
- 4.17 **State** means the government of the state of Oklahoma, its employees and authorized representatives, including without limitation any department, agency, or other unit of the government of the state of Oklahoma.
- 4.18 **Supplier** means the Bidder with whom the State enters into the Contract awarded pursuant to the Solicitation or the business entity or individual that is a party to the Contract with the State.
- 4.19 **Suspension** means action taken by a suspending official under federal or state law or regulations to suspend a Supplier from inclusion on the Supplier list; be eligible to submit Bids to State agencies and be awarded a contract by a State agency subject to the Central Purchasing Act.
- 4.20 **Supplier Confidential Information** means certain confidential and proprietary information of Supplier that is clearly marked as confidential and agreed by the State Purchasing Director or Customer, as applicable, but does not include information excluded from confidentiality in provisions of the Contract or the Oklahoma Open Records Act.
- 4.21 **Work Product** means any and all deliverables produced by Supplier under a statement of work or similar Contract Document issued pursuant to this Contract, including any and all tangible or intangible items or things that have been or will be prepared, created, developed, invented or conceived at any time following the Contract effective date including but not limited to any (i) works of authorship (such as manuals, instructions, printed material, graphics, artwork, images, illustrations, photographs, computer programs, computer software, scripts, object code, source code or other programming code, HTML code, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, formulae, processes, algorithms, data, information, multimedia files, text web pages or web sites, other written or machine readable expression of such works fixed in any tangible media, and all other copyrightable works), (ii) trademarks, service marks, trade dress, trade names, logos, or other indicia of source or origin, (iii) ideas, designs, concepts, personality rights, methods, processes, techniques, apparatuses, inventions,

formulas, discoveries, or improvements, including any patents, trade secrets and know-how, (iv) domain names, (v) any copies, and similar or derivative works to any of the foregoing, (vi) all documentation and materials related to any of the foregoing, (vii) all other goods, services or deliverables to be provided by or on behalf of Supplier under the Contract and (viii) all Intellectual Property Rights in any of the foregoing, and which are or were created, prepared, developed, invented or conceived for the use of benefit of Customer in connection with this Contract or with funds appropriated by or for Customer or Customer's benefit (a) by any Supplier personnel or Customer personnel or (b) any Customer personnel who then became personnel to Supplier or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Supplier or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.

5 Pricing

- 5.1** Pursuant to 68 O.S. §§ 1352, 1356, and 1404, State agencies are exempt from the assessment of State sales, use, and excise taxes. Further, State agencies and political subdivisions of the State are exempt from Federal Excise Taxes pursuant to Title 26 of the United States Code. Any taxes of any nature whatsoever payable by the Supplier shall not be reimbursed.
- 5.2** Pursuant to 74 O.S. §85.40, all travel expenses of Supplier must be included in the total Acquisition price.
- 5.3** The price of a product offered under the Contract shall include and Supplier shall prepay all shipping, packaging, delivery and handling fees. All product deliveries will be free on board Customer's Destination. No additional fees shall be charged by Supplier for standard shipping and handling. If Customer requests expedited or special delivery, Customer may be responsible for any charges for expedited or special delivery.

6 Ordering, Inspection, and Acceptance

- 6.1** Any product or service furnished under the Contract shall be ordered by issuance of a valid purchase order or other appropriate payment mechanism, including a pre-encumbrance, or by use of a valid Purchase Card. All orders and transactions are governed by the terms and conditions of the Contract. Any purchase order or other applicable payment mechanism dated prior to termination or expiration of the Contract shall be performed unless mutually agreed in writing otherwise.

- 6.2** Services will be performed in accordance with industry best practices and are subject to acceptance by the Customer. Notwithstanding any other provision in the Contract, deemed acceptance of a service or associated deliverable shall not apply automatically upon receipt of a deliverable or upon provision of a service.

Supplier warrants and represents that a product or deliverable furnished by or through the Supplier shall individually, and where specified by Supplier to perform as a system, be substantially uninterrupted and error-free in operation and guaranteed against faulty material and workmanship for a warranty period of the greater of ninety (90) days from the date of acceptance or the maximum allowed by the manufacturer. A defect in a product or deliverable furnished by or through the Supplier shall be repaired or replaced by Supplier at no additional cost or expense to the Customer if such defect occurs during the warranty period.

Any product to be delivered pursuant to the Contract shall be subject to final inspection and acceptance by the Customer at Destination. The Customer assumes no responsibility for a product until accepted by the Customer. Title and risk of loss or damage to a product shall be the responsibility of the Supplier until accepted. The Supplier shall be responsible for filing, processing, and collecting any and all damage claims accruing prior to acceptance.

Pursuant to OAC 260:115-9-5, payment for an Acquisition does not constitute final acceptance of the Acquisition. If subsequent inspection affirms that the Acquisition does not meet or exceed the specifications of the order or that the Acquisition has a latent defect, the Supplier shall be notified as soon as is reasonably practicable. The Supplier shall retrieve and replace the Acquisition at Supplier's expense or, if unable to replace, shall issue a refund to Customer. Refund under this section shall not be an exclusive remedy.

- 6.3** Supplier shall deliver products and services on or before the required date specified in a Contract Document. Failure to deliver timely may result in liquidated damages as set forth in the applicable Contract Document. Deviations, substitutions, or changes in a product or service, including changes of personnel directly providing services, shall not be made unless expressly authorized in writing by the Customer. Any substitution of personnel directly providing services shall be a person of comparable or greater skills, education and experience for performing the services as the person being replaced. Additionally, Supplier shall provide staff sufficiently experienced and able to

perform with respect to any transitional services provided by Supplier in connection with termination or expiration of the Contract.

- 6.4** Product warranty and return policies and terms provided under any Contract Document will not be more restrictive or more costly than warranty and return policies and terms for other similarly situated customers for a like product.

7 Invoices and Payment

- 7.1** Supplier shall be paid upon submission of a proper invoice(s) at the prices stipulated in the Contract in accordance with 74 O.S. §85.44B which requires that payment be made only after products have been provided and accepted or services rendered and accepted.

The following terms additionally apply:

- A.** An invoice shall contain the purchase order number, description of products or services provided and the dates of such provision.
- B.** Failure to provide a timely and proper invoice may result in delay of processing the invoice for payment. Proper invoice is defined at OAC 260:10-1-2.
- C.** Payment of all fees under the Contract shall be due NET 45 days. Payment and interest on late payments are governed by 62 O.S. §34.72. Such interest is the sole and exclusive remedy for late payments by a State agency and no other late fees are authorized to be assessed pursuant to Oklahoma law.
- D.** The date from which an applicable early payment discount time is calculated shall be from the receipt date of a proper invoice. There is no obligation, however, to utilize an early payment discount.
- E.** If an overpayment or underpayment has been made to Supplier any subsequent payments to Supplier under the Contract may be adjusted to correct the account. A written explanation of the adjustment will be issued to Supplier.
- F.** Supplier shall have no right of setoff.
- G.** Because funds are typically dedicated to a particular fiscal year, an invoice will be paid only when timely submitted, which shall in no instance be later than six (6) months after the end of the fiscal year in which the goods are provided or services performed.

- H. The Supplier shall accept payment by Purchase Card as allowed by Oklahoma law.

8 Maintenance of Insurance, Payment of Taxes, and Workers' Compensation

- 8.1 As a condition of this Contract, Supplier shall procure at its own expense, and provide proof of, insurance coverage with the applicable liability limits set forth below and any approved subcontractor of Supplier shall procure and provide proof of the same coverage. The required insurance shall be underwritten by an insurance carrier with an A.M. Best rating of A- or better.

Such proof of coverage shall additionally be provided to the Customer if services will be provided by any of Supplier's employees, agents or subcontractors at any Customer premises and/or employer vehicles will be used in connection with performance of Supplier's obligations under the Contract. Supplier may not commence performance hereunder until such proof has been provided. Additionally, Supplier shall ensure each insurance policy includes a thirty (30) day notice of cancellation and name the State and its agencies as certificate holder and shall promptly provide proof to the State of any renewals, additions, or changes to such insurance coverage. Supplier's obligation to maintain insurance coverage under the Contract is a continuing obligation until Supplier has no further obligation under the Contract. Any combination of primary and excess or umbrella insurance may be used to satisfy the limits of coverage for Commercial General Liability, Auto Liability and Employers' Liability. Unless agreed between the parties and approved by the State Purchasing Director, the minimum acceptable insurance limits of liability are as follows:

- A. Workers' Compensation and Employer's Liability Insurance in accordance with and to the extent required by applicable law;
- B. Commercial General Liability Insurance covering the risks of personal injury, bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of liability of not less than \$5,000,000 per occurrence;
- C. Automobile Liability Insurance with limits of liability of not less than \$5,000,000 combined single limit each accident;
- D. Directors and Officers Insurance which shall include Employment Practices Liability as well as Consultant's Computer Errors and Omissions Coverage, if information technology services are provided under the Contract, with limits not less than \$5,000,000 per occurrence;

- E.** Security and Privacy Liability insurance, including coverage for failure to protect confidential information and failure of the security of Supplier's computer systems that results in unauthorized access to Customer data with limits \$5,000,000 per occurrence; and
- F.** Additional coverage required in writing in connection with a particular Acquisition.

8.2 Supplier shall be entirely responsible during the existence of the Contract for the liability and payment of taxes payable by or assessed to Supplier or its employees, agents and subcontractors of whatever kind, in connection with the Contract. Supplier further agrees to comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and Workers' Compensation. Neither Customer nor the State shall be liable to the Supplier, its employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/or Workers' Compensation or any benefit available to a State or Customer employee.

8.3 Supplier agrees to indemnify Customer, the State, and its employees, agents, representatives, contractors, and assignees for any and all liability, actions, claims, demands, or suits, and all related costs and expenses (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) relating to tax liability, unemployment insurance and/or Workers' Compensation in connection with its performance under the Contract.

9 Compliance with Applicable Laws

9.1 As long as Supplier has an obligation under the terms of the Contract and in connection with performance of its obligations, the Supplier represents its present compliance, and shall have an ongoing obligation to comply, with all applicable federal, State, and local laws, rules, regulations, ordinances, and orders, as amended, including but not limited to the following:

- A.** Drug-Free Workplace Act of 1988 set forth at 41 U.S.C. §81.
- B.** Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency Regulations which prohibit the use of facilities included on the EPA List of Violating Facilities under nonexempt federal contracts, grants or loans;

- C. Prospective participant requirements set at 45 C.F.R. part 76 in connection with Debarment, Suspension and other responsibility matters;
- D. 1964 Civil Rights Act, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, and Executive Orders 11246 and 11375;
- E. Anti-Lobbying Law set forth at 31 U.S.C. §1325 and as implemented at 45 C.F.R. part 93;
- F. Requirements of Internal Revenue Service Publication 1075 regarding use, access and disclosure of Federal Tax Information (as defined therein);
- G. Obtaining certified independent audits conducted in accordance with Government Auditing Standards and Office of Management and Budget Uniform Guidance, 2 CFR 200 Subpart F §200.500 et seq. with approval and work paper examination rights of the applicable procuring entity;
- H. Requirements of the Oklahoma Taxpayer and Citizen Protection Act of 2007, 25 O.S. §1312 and applicable federal immigration laws and regulations and be registered and participate in the Status Verification System. The Status Verification System is defined at 25 O.S. §1312, includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security, and is available at www.dhs.gov/E-Verify;
- I. Requirements of the Health Insurance Portability and Accountability Act of 1996; Health Information Technology for Economic and Clinical Health Act; Payment Card Industry Security Standards; Criminal Justice Information System Security Policy and Security Addendum; and Family Educational Rights and Privacy Act; and
- J. Be registered as a business entity licensed to do business in the State, have obtained a sales tax permit, and be current on franchise tax payments to the State, as applicable.

9.2 The Supplier's employees, agents and subcontractors shall adhere to applicable Customer policies including, but not limited to acceptable use of Internet and electronic mail, facility and data security, press releases, and public relations. As applicable, the Supplier shall adhere to the State Information Security Policy, Procedures, Guidelines set forth at

https://omes.ok.gov/sites/g/files/gmc316/f/InfoSecPPG_0.pdf. Supplier is responsible for reviewing and relaying such policies covering the above to the Supplier's employees, agents and subcontractors.

- 9.3** At no additional cost to Customer, the Supplier shall maintain all applicable licenses and permits required in association with its obligations under the Contract.
- 9.4** In addition to compliance under subsection 9.1 above, Supplier shall have a continuing obligation to comply with applicable Customer-specific mandatory contract provisions required in connection with the receipt of federal funds or other funding source.
- 9.5** The Supplier is responsible to review and inform its employees, agents, and subcontractors who provide a product or perform a service under the Contract of the Supplier's obligations under the Contract and Supplier certifies that its employees and each such subcontractor shall comply with minimum requirements and applicable provisions of the Contract. At the request of the State, Supplier shall promptly provide adequate evidence that such persons are its employees, agents or approved subcontractors and have been informed of their obligations under the Contract.
- 9.6** As applicable, Supplier agrees to comply with the Governor's Executive Orders related to the use of any tobacco product, electronic cigarette or vaping device on any and all properties owned, leased, or contracted for use by the State, including but not limited to all buildings, land and vehicles owned, leased, or contracted for use by agencies or instrumentalities of the State.
- 9.7** The execution, delivery and performance of the Contract and any ancillary documents by Supplier will not, to the best of Supplier's knowledge, violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, any written contract or other instrument between Supplier and any third party.
- 9.8** Supplier represents that it has the ability to pay its debts when due and it does not anticipate the filing of a voluntary or involuntary bankruptcy petition or appointment of a receiver, liquidator or trustee.
- 9.9** Supplier represents that, to the best of its knowledge, any litigation or claim or any threat thereof involving Supplier has been disclosed in writing to the State and Supplier is not aware of any other litigation, claim or threat thereof.

9.10 If services provided by Supplier include delivery of an electronic communication, Supplier shall ensure such communication and any associated support documents are compliant with Section 508 of the Federal Rehabilitation Act and with State standards regarding accessibility. Should any communication or associated support documents be non-compliant, Supplier shall correct and re-deliver such communication immediately upon discovery or notice, at no additional cost to the State. Additionally, as part of compliance with accessibility requirements where documents are only provided in non-electronic format, Supplier shall promptly provide such communication and any associated support documents in an alternate format usable by individuals with disabilities upon request and at no additional cost, which may originate from an intended recipient or from the State.

10 Audits and Records Clause

10.1 As used in this clause and pursuant to 67 O.S. §203, “record” includes a document, book, paper, photograph, microfilm, computer tape, disk, record, sound recording, film recording, video record, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. Supplier agrees any pertinent federal or State agency or governing entity of a Customer shall have the right to examine and audit, at no additional cost to a Customer, all records relevant to the execution and performance of the Contract except, unless otherwise agreed, costs of Supplier that comprise pricing under the Contract.

10.2 The Supplier is required to retain records relative to the Contract for the duration of the Contract and for a period of seven (7) years following completion or termination of an Acquisition unless otherwise indicated in the Contract terms. If a claim, audit, litigation or other action involving such records is started before the end of the seven-year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.

10.3 Pursuant to 74 O.S. §85.41, if professional services are provided hereunder, all items of the Supplier that relate to the professional services are subject to examination by the State agency, State Auditor and Inspector and the State Purchasing Director.

11 Confidentiality

11.1 The Supplier shall maintain strict security of all State and citizen data and records entrusted to it or to which the Supplier gains access, in accordance with

and subject to applicable federal and State laws, rules, regulations, and policies and shall use any such data and records only as necessary for Supplier to perform its obligations under the Contract. The Supplier further agrees to evidence such confidentiality obligation in a separate writing if required under such applicable federal or State laws, rules and regulations. The Supplier warrants and represents that such information shall not be sold, assigned, conveyed, provided, released, disseminated or otherwise disclosed by Supplier, its employees, officers, directors, subsidiaries, affiliates, agents, representatives, assigns, subcontractors, independent contractors, successor or any other persons or entities without Customer's prior express written permission. Supplier shall instruct all such persons and entities that the confidential information shall not be disclosed or used without the Customer's prior express written approval except as necessary for Supplier to render services under the Contract. The Supplier further warrants that it has a tested and proven system in effect designed to protect all confidential information.

- 11.2** Supplier shall establish, maintain and enforce agreements with all such persons and entities that have access to State and citizen data and records to fulfill Supplier's duties and obligations under the Contract and to specifically prohibit any sale, assignment, conveyance, provision, release, dissemination or other disclosure of any State or citizen data or records except as required by law or allowed by written prior approval of the Customer.
- 11.3** Supplier shall immediately report to the Customer any and all unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of any State or citizen data or records of which it or its parent company, subsidiaries, affiliates, employees, officers, directors, assignees, agents, representatives, independent contractors, and subcontractors is aware or have knowledge or reasonable should have knowledge. The Supplier shall also promptly furnish to Customer full details of the unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination, or attempt thereof, and use its best efforts to assist the Customer in investigating or preventing the reoccurrence of such event in the future. The Supplier shall cooperate with the Customer in connection with any litigation and investigation deemed necessary by the Customer to protect any State or citizen data and records and shall bear all costs associated with the investigation, response and recovery in connection with any breach of State or citizen data or records including but not limited to credit monitoring services with a term of at least three (3) years, all notice-related costs and toll free telephone call center services.

- 11.4** Supplier further agrees to promptly prevent a reoccurrence of any unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of State or citizen data and records.
- 11.5** Supplier acknowledges that any improper use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of any State data or records to others may cause immediate and irreparable harm to the Customer and certain beneficiaries and may violate state or federal laws and regulations. If the Supplier or its affiliates, parent company, subsidiaries, employees, officers, directors, assignees, agents, representatives, independent contractors, and subcontractors improperly use, appropriate, sell, assign, convey, provide, release, access, acquire, disclose or otherwise disseminate such confidential information to any person or entity in violation of the Contract, the Customer will immediately be entitled to injunctive relief and/or any other rights or remedies available under this Contract, at equity or pursuant to applicable statutory, regulatory, and common law without a cure period.
- 11.6** The Supplier shall immediately forward to the State Purchasing Director, and any other applicable person listed in the Notices section(s) of the Contract, any request by a third party for data or records in the possession of the Supplier or any subcontractor or to which the Supplier or subcontractor has access and Supplier shall fully cooperate with all efforts to protect the security and confidentiality of such data or records in response to a third party request.
- 11.7** Customer may be provided access to Supplier Confidential Information. State agencies are subject to the Oklahoma Open Records Act and Supplier acknowledges information marked confidential information will be disclosed to the extent permitted under the Open Records Act and in accordance with this section. Nothing herein is intended to waive the State Purchasing Director's authority under OAC 260:115-3-9 in connection with Bid information requested to be held confidential by a Bidder. Notwithstanding the foregoing, Supplier Confidential Information shall not include information that: (i) is or becomes generally known or available by public disclosure, commercial use or otherwise and is not in contravention of this Contract; (ii) is known and has been reduced to tangible form by the receiving party before the time of disclosure for the first time under this Contract and without other obligations of confidentiality; (iii) is independently developed without the use of any of Supplier Confidential Information; (iv) is lawfully obtained from a third party (without any confidentiality obligation) who has the right to make such disclosure or (v) résumé, pricing or marketing materials provided to the State. In addition, the obligations in this section shall not apply to the extent

that the applicable law or regulation requires disclosure of Supplier Confidential Information, provided that the Customer provides reasonable written notice, pursuant to Contract notice provisions, to the Supplier so that the Supplier may promptly seek a protective order or other appropriate remedy.

12 Conflict of Interest

In addition to any requirement of law or of a professional code of ethics or conduct, the Supplier, its employees, agents and subcontractors are required to disclose any outside activity or interest that conflicts or may conflict with the best interest of the State. Prompt disclosure is required under this section if the activity or interest is related, directly or indirectly, to any person or entity currently under contract with or seeking to do business with the State, its employees or any other third-party individual or entity awarded a contract with the State. Further, as long as the Supplier has an obligation under the Contract, any plan, preparation or engagement in any such activity or interest shall not occur without prior written approval of the State. Any conflict of interest shall, at the sole discretion of the State, be grounds for partial or whole termination of the Contract.

13 Assignment and Permitted Subcontractors

13.1 Supplier's obligations under the Contract may not be assigned or transferred to any other person or entity without the prior written consent of the State which may be withheld at the State's sole discretion. Should Supplier assign its rights to payment, in whole or in part, under the Contract, Supplier shall provide the State and all affected Customers with written notice of the assignment. Such written notice shall be delivered timely and contain details sufficient for affected Customers to perform payment obligations without any delay caused by the assignment.

13.2 Notwithstanding the foregoing, the Contract may be assigned by Supplier to any corporation or other entity in connection with a merger, consolidation, sale of all equity interests of the Supplier, or a sale of all or substantially all of the assets of the Supplier to which the Contract relates. In any such case, said corporation or other entity shall by operation of law or expressly in writing assume all obligations of the Supplier as fully as if it had been originally made a party to the Contract. Supplier shall give the State and all affected Customers prior written notice of said assignment. Any assignment or delegation in violation of this subsection shall be void.

13.3 If the Supplier is permitted to utilize subcontractors in support of the Contract, the Supplier shall remain solely responsible for its obligations under the terms of the Contract, for its actions and omissions and those of its agents, employees and subcontractors and for payments to such persons or entities. Prior to a

subcontractor being utilized by the Supplier, the Supplier shall obtain written approval of the State of such subcontractor and each employee, as applicable to a particular Acquisition, of such subcontractor proposed for use by the Supplier. Such approval is within the sole discretion of the State. Any proposed subcontractor shall be identified by entity name, and by employee name, if required by the particular Acquisition, in the applicable proposal and shall include the nature of the services to be performed. As part of the approval request, the Supplier shall provide a copy of a written agreement executed by the Supplier and subcontractor setting forth that such subcontractor is bound by and agrees, as applicable, to perform the same covenants and be subject to the same conditions and make identical certifications to the same facts and criteria, as the Supplier under the terms of all applicable Contract Documents. Supplier agrees that maintaining such agreement with any subcontractor and obtaining prior written approval by the State of any subcontractor and associated employees shall be a continuing obligation. The State further reserves the right to revoke approval of a subcontractor or an employee thereof in instances of poor performance, misconduct or for other similar reasons.

- 13.4** All payments under the Contract shall be made directly to the Supplier, except as provided in subsection A above regarding the Supplier's assignment of payment. No payment shall be made to the Supplier for performance by unapproved or disapproved employees of the Supplier or a subcontractor.
- 13.5** Rights and obligations of the State or a Customer under the terms of this Contract may be assigned or transferred, at no additional cost, to other Customer entities.

14 Background Checks and Criminal History Investigations

Prior to the commencement of any services, background checks and criminal history investigations of the Supplier's employees and subcontractors who will be providing services may be required and, if so, the required information shall be provided to the State in a timely manner. Supplier's access to facilities, data and information may be withheld prior to completion of background verification acceptable to the State. The costs of additional background checks beyond Supplier's normal hiring practices shall be the responsibility of the Customer unless such additional background checks are required solely because Supplier will not provide results of its otherwise acceptable normal background checks; in such an instance, Supplier shall pay for the additional background checks. Supplier will coordinate with the State and its employees to complete the necessary background checks and criminal history investigations. Should any employee or subcontractor of the Supplier who will be providing services under the Contract not be acceptable as a result of the background check or criminal history investigation, the Customer may require replacement of the employee or

subcontractor in question and, if no suitable replacement is made within a reasonable time, terminate the purchase order or other payment mechanism associated with the project or services.

15 Patents and Copyrights

Without exception, a product or deliverable price shall include all royalties or costs owed by the Supplier to any third party arising from the use of a patent, intellectual property, copyright or other property right held by such third party. Should any third party threaten or make a claim that any portion of a product or service provided by Supplier under the Contract infringes that party's patent, intellectual property, copyright or other property right, Supplier shall enable each affected Customer to legally continue to use, or modify for use, the portion of the product or service at issue or replace such potentially infringing product, or re-perform or redeliver in the case of a service, with at least a functional non-infringing equivalent. Supplier's duty under this section shall extend to include any other product or service rendered materially unusable as intended due to replacement or modification of the product or service at issue. If the Supplier determines that none of these alternatives are reasonably available, the State shall return such portion of the product or deliverable at issue to the Supplier, upon written request, in exchange for a refund of the price paid for such returned goods as well as a refund or reimbursement, if applicable, of the cost of any other product or deliverable rendered materially unusable as intended due to removal of the portion of product or deliverable at issue. Any remedy provided under this section is not an exclusive remedy and is not intended to operate as a waiver of legal or equitable remedies because of acceptance of relief provided by Supplier.

16 Indemnification

16.1 Acts or Omissions

- A.** Supplier shall defend and indemnify the Indemnified Parties, as applicable, for any and all liability, claims, damages, losses, costs, expenses, demands, suits and actions of third parties (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) arising out of, or resulting from any action or claim for bodily injury, death, or property damage brought against any of the Indemnified parties to the extent arising from any negligent act or omission or willful misconduct of the Supplier or its agents, employees, or subcontractors in the execution or performance of the Contract.

- B.** To the extent Supplier is found liable for loss, damage, or destruction of any property of Customer due to negligence, misconduct, wrongful act, or omission on the part of the Supplier, its employees, agents,

representatives, or subcontractors, the Supplier and Customer shall use best efforts to mutually negotiate an equitable settlement amount to repair or replace the property unless such loss, damage or destruction is of such a magnitude that repair or replacement is not a reasonable option. Such amount shall be invoiced to, and is payable by, Supplier sixty (60) calendar days after the date of Supplier's receipt of an invoice for the negotiated settlement amount.

16.2 Infringement

Supplier shall indemnify the Indemnified Parties, as applicable, for all liability, claims, damages, losses, costs, expenses, demands, suits and actions of third parties (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) arising from or in connection with Supplier's breach of its representations and warranties in the Contract or alleged infringement of any patent, intellectual property, copyright or other property right in connection with a product or service provided under the Contract. Supplier's duty under this section is reduced to the extent a claimed infringement results from: (a) a Customer's or user's content; (b) modifications by Customer or third party to a product delivered under the Contract or combinations of the product with any non-Supplier-provided services or products unless Supplier recommended or participated in such modification or combination; (c) use of a product or service by Customer in violation of the Contract unless done so at the direction of Supplier, or (d) a non-Supplier product that has not been provided to the State by, through or on behalf of Supplier as opposed to its combination with products Supplier provides to or develops for the State or a Customer as a system.

16.3 Notice and Cooperation

In connection with indemnification obligations under the Contract, the parties agree to furnish prompt written notice to each other of any third-party claim. Any Customer affected by the claim will reasonably cooperate with Supplier and defense of the claim to the extent its interests are aligned with Supplier. Supplier shall use counsel reasonably experienced in the subject matter at issue and will not settle a claim without the written consent of the party being defended, which consent will not be unreasonably withheld or delayed, except that no consent will be required to settle a claim against Indemnified Parties that are not a State agency, where relief against the Indemnified Parties is limited to monetary damages that are paid by the defending party under indemnification provisions of the Contract.

16.4 Coordination of Defense

In connection with indemnification obligations under the Contract, when a State agency is a named defendant in any filed or threatened lawsuit, the defense of the State agency shall be coordinated by the Attorney General of Oklahoma, or the Attorney General may authorize the Supplier to control the defense and any related settlement negotiations; provided, however, Supplier shall not agree to any settlement of claims against the State without obtaining advance written concurrence from the Attorney General. If the Attorney General does not authorize sole control of the defense and settlement negotiations to Supplier, Supplier shall have authorization to equally participate in any proceeding related to the indemnity obligation under the Contract and shall remain responsible to indemnify the applicable Indemnified Parties.

16.5 Limitation of Liability

- A.** With respect to any claim or cause of action arising under or related to the Contract, neither the State nor any Customer shall be liable to Supplier for lost profits, lost sales or business expenditures, investments, or commitments in connection with any business, loss of any goodwill, or for any other indirect, incidental, punitive, special or consequential damages, even if advised of the possibility of such damages.
- B.** Notwithstanding anything to the contrary in the Contract, no provision shall limit damages, expenses, costs, actions, claims, and liabilities arising from or related to property damage, bodily injury or death caused by Supplier or its employees, agents or subcontractors; indemnity, security or confidentiality obligations under the Contract; the bad faith, negligence, intentional misconduct or other acts for which applicable law does not allow exemption from liability of Supplier or its employees, agents or subcontractors.
- C.** The limitation of liability and disclaimers set forth in the Contract will apply regardless of whether Customer has accepted a product or service. The parties agree that Supplier has set its fees and entered into the Contract in reliance on the disclaimers and limitations set forth herein, that the same reflect an allocation of risk between the parties and form an essential basis of the bargain between the parties. These limitations shall apply notwithstanding any failure of essential purpose of any limited remedy.

17 Termination for Funding Insufficiency

- 17.1** Notwithstanding anything to the contrary in any Contract Document, the State may terminate the Contract in whole or in part if funds sufficient to pay obligations under the Contract are not appropriated or received from an intended third-party funding source. In the event of such insufficiency, Supplier will be provided at least fifteen (15) calendar days' written notice of termination. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated. The determination by the State of insufficient funding shall be accepted by, and shall be final and binding on, the Supplier.
- 17.2** Upon receipt of notice of a termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contractor certain obligations are terminated shall be refunded.
- 17.3** The State's exercise of its right to terminate the Contract under this section shall not be considered a default or breach under the Contract or relieve the Supplier of any liability for claims arising under the Contract.

18 Termination for Cause

- 18.1** Supplier may terminate the Contract if (i) it has provided the State with written notice of material breach and (ii) the State fails to cure such material breach within thirty (30) days of receipt of written notice. If there is more than one Customer, material breach by a Customer does not give rise to a claim of material breach as grounds for termination by Supplier of the Contract as a whole. The State may terminate the Contract in whole or in part if (i) it has provided Supplier with written notice of material breach, and (ii) Supplier fails to cure such material breach within thirty (30) days of receipt of written notice. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated.
- 18.2** The State may terminate the Contract in whole or in part immediately without a thirty (30) day written notice to Supplier if (i) Supplier fails to comply with

confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract; (ii) Supplier's material breach is reasonably determined to be an impediment to the function of the State and detrimental to the State or to cause a condition precluding the thirty (30) day notice or (iii) when the State determines that an administrative error in connection with award of the Contract occurred prior to Contract performance.

18.3 Upon receipt of notice of a termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination is not an exclusive remedy but is in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded. Termination of the Contract under this section, in whole or in part, shall not relieve the Supplier of liability for claims arising under the Contract.

18.4 The Supplier's repeated failure to provide an acceptable product or service; Supplier's unilateral revision of linked or supplemental terms that have a materially adverse impact on a Customer's rights or obligations under the Contract (except as required by a governmental authority); actual or anticipated failure of Supplier to perform its obligations under the Contract; Supplier's inability to pay its debts when due; assignment for the benefit of Supplier's creditors; or voluntary or involuntary appointment of a receiver or filing of bankruptcy of Supplier shall constitute a material breach of the Supplier's obligations, which may result in partial or whole termination of the Contract. This subsection is not intended as an exhaustive list of material breach conditions. Termination may also result from other instances of failure to adhere to the Contract provisions and for other reasons provided for by applicable law, rules or regulations; without limitation, OAC 260:115-9-9 is an example.

19 Termination for Convenience

19.1 The State may terminate the Contract, in whole or in part, for convenience if it is determined that termination is in the State's best interest. In the event of a termination for convenience, Supplier will be provided at least thirty (30) days'

written notice of termination. Any partial termination of the Contract shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that remain in effect.

19.2 Upon receipt of notice of such termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded. Termination of the Contract under this section, in whole or in part, shall not relieve the Supplier of liability for claims arising under the Contract.

20 Suspension of Supplier

20.1 Supplier may be subject to Suspension without advance notice and may additionally be suspended from activities under the Contract if Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract.

20.2 Upon receipt of a notice pursuant to this section, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to receipt of notice by Supplier, the Suspension does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract during a period of Suspension or suspended activity or for any damages or other amounts caused by or associated with such Suspension or suspended activity. A right exercised under this section shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees attributable to a period of Suspension or suspended activity shall be refunded.

20.3 Such Suspension may be removed, or suspended activity may resume, at the earlier of such time as a formal notice is issued that authorizes the resumption

of performance under the Contract or at such time as a purchase order or other appropriate encumbrance document is issued. This subsection is not intended to operate as an affirmative statement that such resumption will occur.

21 Certification Regarding Debarment, Suspension, and Other Responsibility Matters

The certification made by Supplier with respect to Debarment, Suspension, certain indictments, convictions, civil judgments and terminated public contracts is a material representation of fact upon which reliance was placed when entering into the Contract. A determination that Supplier knowingly rendered an erroneous certification, in addition to other available remedies, may result in whole or partial termination of the Contract for Supplier's default. Additionally, Supplier shall promptly provide written notice to the State Purchasing Director if the certification becomes erroneous due to changed circumstances.

22 Certification Regarding State Employees Prohibition From Fulfilling Services

Pursuant to 74 O.S. § 85.42, the Supplier certifies that no person involved in any manner in development of the Contract employed by the State shall be employed to fulfill any services provided under the Contract.

23 Force Majeure

23.1 Either party shall be temporarily excused from performance to the extent delayed as a result of unforeseen causes beyond its reasonable control including fire or other similar casualty, act of God, strike or labor dispute, war or other violence, or any law, order or requirement of any governmental agency or authority provided the party experiencing the force majeure event has prudently and promptly acted to take any and all steps within the party's control to ensure continued performance and to shorten duration of the event. If a party's performance of its obligations is materially hindered as a result of a force majeure event, such party shall promptly notify the other party of its best reasonable assessment of the nature and duration of the force majeure event and steps it is taking, and plans to take, to mitigate the effects of the force majeure event. The party shall use commercially reasonable best efforts to continue performance to the extent possible during such event and resume full performance as soon as reasonably practicable.

23.2 Subject to the conditions set forth above, non-performance as a result of a force majeure event shall not be deemed a default. However, a purchase order or other payment mechanism may be terminated if Supplier cannot cause delivery of a product or service in a timely manner to meet the business needs of Customer. Supplier is not entitled to payment for products or services not

received and, therefore, amounts payable to Supplier during the force majeure event shall be equitably adjusted downward.

23.3 Notwithstanding the foregoing or any other provision in the Contract, (i) the following are not a force majeure event under the Contract: (a) shutdowns, disruptions or malfunctions in Supplier's system or any of Supplier's telecommunication or internet services other than as a result of general and widespread internet or telecommunications failures that are not limited to Supplier's systems or (b) the delay or failure of Supplier or subcontractor personnel to perform any obligation of Supplier hereunder unless such delay or failure to perform is itself by reason of a force majeure event and (ii) no force majeure event modifies or excuses Supplier's obligations related to confidentiality, indemnification, data security or breach notification obligations set forth herein.

24 Security of Property and Personnel

In connection with Supplier's performance under the Contract, Supplier may have access to Customer personnel, premises, data, records, equipment and other property. Supplier shall use commercially reasonable best efforts to preserve the safety and security of such personnel, premises, data, records, equipment, and other property of Customer. Supplier shall be responsible for damage to such property to the extent such damage is caused by its employees or subcontractors and shall be responsible for loss of Customer property in its possession, regardless of cause. If Supplier fails to comply with Customer's security requirements, Supplier is subject to immediate suspension of work as well as termination of the associated purchase order or other payment mechanism.

25 Notices

All notices, approvals or requests allowed or required by the terms of any Contract Document shall be in writing, reference the Contract with specificity and deemed delivered upon receipt or upon refusal of the intended party to accept receipt of the notice. In addition to other notice requirements in the Contract and the designated Supplier contact provided in a successful Bid, notices shall be sent to the State at the physical address set forth below. Notice information may be updated in writing to the other party as necessary. Notwithstanding any other provision of the Contract, confidentiality, breach and termination-related notices shall not be delivered solely via e-mail.

If sent to the State:

State Purchasing Director
5005 North Lincoln Boulevard, Suite 300

Oklahoma City, Oklahoma 73105

With a copy, which shall not constitute notice, to:

Purchasing Division Deputy General Counsel
5005 North Lincoln Boulevard, Suite 300
Oklahoma City, Oklahoma 73105

26 Miscellaneous

26.1 Choice of Law and Venue

Any claim, dispute, or litigation relating to the Contract Documents, in the singular or in the aggregate, shall be governed by the laws of the State without regard to application of choice of law principles. Pursuant to 74 O.S. §85.14, where federal granted funds are involved, applicable federal laws, rules and regulations shall govern to the extent necessary to insure benefit of such federal funds to the State. Venue for any action, claim, dispute, or litigation relating in any way to the Contract Documents, shall be in Oklahoma County, Oklahoma.

26.2 No Guarantee of Products or Services Required

The State shall not guarantee any minimum or maximum amount of Supplier products or services required under the Contract.

26.3 Employment Relationship

The Contract does not create an employment relationship. Individuals providing products or performing services pursuant to the Contract are not employees of the State or Customer and, accordingly are not eligible for any rights or benefits whatsoever accruing to such employees.

26.4 Transition Services

If transition services are needed at the time of Contract expiration or termination, Supplier shall provide such services on a month-to-month basis, at the contract rate or other mutually agreed rate. Supplier shall provide a proposed transition plan, upon request, and cooperate with any successor supplier and with establishing a mutually agreeable transition plan. Failure to cooperate may be documented as poor performance of Supplier.

26.5 Publicity

The existence of the Contract or any Acquisition is in no way an endorsement of Supplier, the products or services and shall not be so construed by Supplier

in any advertising or publicity materials. Supplier agrees to submit to the State all advertising, sales, promotion, and other publicity matters relating to the Contract wherein the name of the State or any Customer is mentioned or language used from which, in the State's judgment, an endorsement may be inferred or implied. Supplier further agrees not to publish or use such advertising, sales promotion, or publicity matter or release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the Contract or any Acquisition hereunder without obtaining the prior written approval of the State.

26.6 Open Records Act

Supplier acknowledges that all State agencies and certain other Customers are subject to the Oklahoma Open Records Act set forth at 51 O.S. §24A-1 *et seq.* Supplier also acknowledges that compliance with the Oklahoma Open Records Act and all opinions of the Oklahoma Attorney General concerning the Act is required.

26.7 Failure to Enforce

Failure by the State or a Customer at any time to enforce a provision of, or exercise a right under, the Contract shall not be construed as a waiver of any such provision. Such failure to enforce or exercise shall not affect the validity of any Contract Document, or any part thereof, or the right of the State or a Customer to enforce any provision of, or exercise any right under, the Contract at any time in accordance with its terms. Likewise, a waiver of a breach of any provision of a Contract Document shall not affect or waive a subsequent breach of the same provision or a breach of any other provision in the Contract.

26.8 Mutual Responsibilities

- A.** No party to the Contract grants the other the right to use any trademarks, trade names, other designations in any promotion or publication without the express written consent by the other party.
- B.** The Contract is a non-exclusive contract and each party is free to enter into similar agreements with others.
- C.** The Customer and Supplier each grant the other only the licenses and rights specified in the Contract and all other rights and interests are expressly reserved.
- D.** The Customer and Supplier shall reasonably cooperate with each other and any Supplier to which the provision of a product and/or service

under the Contract may be transitioned after termination or expiration of the Contract.

- E. Except as otherwise set forth herein, where approval, acceptance, consent, or similar action by a party is required under the Contract, such action shall not be unreasonably delayed or withheld.

26.9 Invalid Term or Condition

To the extent any term or condition in the Contract conflicts with a compulsory applicable State or United States law or regulation, such Contract term or condition is void and unenforceable. By executing any Contract Document which contains a conflicting term or condition, no representation or warranty is made regarding the enforceability of such term or condition. Likewise, any applicable State or federal law or regulation which conflicts with the Contract or any non-conflicting applicable State or federal law or regulation is not waived.

26.10 Severability

If any provision of a Contract Document, or the application of any term or condition to any party or circumstances, is held invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable and the application of such provision to other parties or circumstances shall remain valid and in full force and effect. If a court finds that any provision of this contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

26.11 Section Headings

The headings used in any Contract Document are for convenience only and do not constitute terms of the Contract.

26.12 Sovereign Immunity

Notwithstanding any provision in the Contract, the Contract is entered into subject to the State's Constitution, statutes, common law, regulations, and the doctrine of sovereign immunity, none of which are waived by the State nor any other right or defense available to the State.

26.13 Survival

As applicable, performance under all license, subscription, service agreements, statements of work, transition plans and other similar Contract Documents

entered into between the parties under the terms of the Contract shall survive Contract expiration. Additionally, rights and obligations under the Contract which by their nature should survive including, without limitation, certain payment obligations invoiced prior to expiration or termination; confidentiality obligations; security incident and data breach obligations and indemnification obligations, remain in effect after expiration or termination of the Contract.

26.14 Entire Agreement

The Contract Documents taken together as a whole constitute the entire agreement between the parties. No statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained in a Contract Document shall be binding or valid. The Supplier's representations and certifications, including any completed electronically, are incorporated by reference into the Contract.

26.15 Gratuities

The Contract may be immediately terminated, in whole or in part, by written notice if it is determined that the Supplier, its employee, agent, or another representative violated any federal, State or local law, rule or ordinance by offering or giving a gratuity to any State employee directly involved in the Contract. In addition, Suspension or Debarment of the Supplier may result from such a violation.

26.16 Import/Export Controls

Neither party will use, distribute, transfer or transmit any equipment, services, software or technical information provided under the Contract (even if incorporated into other products) except in compliance with all applicable import and export laws, conventions and regulations.

ATTACHMENT C
AGENCY TERMS
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ATTACHMENT D

STATE OF OKLAHOMA INFORMATION TECHNOLOGY TERMS

The parties further agree to the following terms (“Information Technology Terms”), as applicable, for any Acquisition of products or services with an information technology or telecommunication component. Pursuant to the Oklahoma Information Technology Consolidation and Coordination Act, OMES-Information Services (“OMES-IS”) is designated to purchase information technology and telecommunication products and services on behalf of the State. The Act directs OMES-IS to acquire necessary hardware, software and services and to authorize the use by other State agencies. OMES, as the owner of information technology and telecommunication assets and contracts on behalf of the State, allows other State agencies to use the assets while retaining ownership and the right to reassign the assets, at no additional cost, upon written notification to Supplier. OMES-IS is the data custodian for State agency data; however, such data is owned by the respective State agency.

Definitions

- 1.1 **COTS** means software that is commercial off the shelf.
- 1.2 **Customer Data** means all data supplied by or on behalf of a Customer in connection with the Contract, excluding any confidential information of Supplier.
- 1.3 **Data Breach** means the unauthorized access by an unauthorized person that results in the use, disclosure or theft of Customer Data.
- 1.4 **Host** includes the terms **Hosted** or **Hosting** and means the accessing, processing or storing of Customer Data.
- 1.5 **Intellectual Property Rights** means the worldwide legal rights or interests evidenced by or embodied in any idea, design, concept, personality right, method, process, technique, apparatus, invention, discovery or improvement including any patents, trade secrets and know-how; any work of authorship including any copyrights, Moral Rights or neighboring rights; any trademark, service mark, trade dress, trade name or other indicia of source or origin; domain name registrations; and any other proprietary or similar rights. Intellectual Property Rights of a party also includes all worldwide legal rights or interests that the party may have acquired by assignment or license with the right to grant sublicenses.
- 1.6 **Moral Rights** means any and all rights of paternity or integrity of the Work Product and the right to object to any modification, translation or use of the Work Product and any similar rights existing under the judicial or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.

- 1.7 Non-Public Data** means Customer Data, other than Personal Data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by Customer because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information. Non-Public Data includes any data deemed confidential pursuant to the Contract, otherwise identified by Customer as Non-Public Data, or that a reasonable person would deem confidential.
- 1.8 Personal Data** means Customer Data that contains 1) any combination of an individual's name, social security numbers, driver's license, state/federal identification number, account number, credit or debit card number and/or 2) data subject to protection under a federal, state or local law, rule, regulation or ordinance.
- 1.9 Security Incident** means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with the Hosted environment used to perform the services.
- 1.10 State CIO** means the State Chief Information Officer or authorized designee.
- 1.11 Supplier Intellectual Property** means all tangible or intangible items or things, including the Intellectual Property Rights therein, created or developed by Supplier and identified in writing as such (a) prior to providing any services or Work Product to Customer and prior to receiving any documents, materials, information or funding from or on behalf of a Customer relating to the services or Work Product, or (b) after the effective date of the Contract if such tangible or intangible items or things were independently developed by Supplier outside Supplier's provision of services or Work Product for Customer under the Contract and were not created, prepared, developed, invented or conceived by any Customer personnel who then became personnel to Supplier or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Supplier or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.
- 1.12 Third Party Intellectual Property** means the Intellectual Property Rights of any third party that is not a party to the Contract, and that is not directly or indirectly providing any goods or services to a Customer under the Contract.
- 1.13 Work Product** means any and all deliverables produced by Supplier for Customer under a statement of work issued pursuant to the Contract, including any and all tangible or intangible items or things that have been or will be prepared, created, developed, invented or conceived at any time following the effective date of the Contract, including but not limited to any (i) works of authorship (such as manuals, instructions, printed material, graphics, artwork, images, illustrations, photographs, computer programs, computer software, scripts, object code, source code or other

programming code, HTML code, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, formulae, processes, algorithms, data, information, multimedia files, text web pages or web sites, other written or machine readable expression of such works fixed in any tangible media, and all other copyrightable works), (i) trademarks, service marks, trade dress, trade names, logos, or other indicia of source or origin, (iii) ideas, designs, concepts, personality rights, methods, processes, techniques, apparatuses, inventions, formulas, discoveries, or improvements, including any patents, trade secrets and know-how, (iv) domain names, (v) any copies, and similar or derivative works to any of the foregoing, (vi) all documentation and materials related to any of the foregoing, (vii) all other goods, services or deliverables to be provided to Customer under the Contract or statement of work, and (viii) all Intellectual Property Rights in any of the foregoing, and which are or were created, prepared, developed, invented or conceived for the use of benefit of Customer in connection with this Contract or a statement of work, or with funds appropriated by or for Customer or Customer's benefit: (a) by any Supplier personnel or Customer personnel, or (b) any Customer personnel who then became personnel to Supplier or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Supplier or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.

2 Termination of Maintenance and Support Services

Customer may terminate maintenance or support services without an adjustment charge, provided any of the following circumstances occur:

- 2.1** Customer removes the product for which the services are provided, from productive use or;
- 2.2** The location at which the services are provided is no longer controlled by Customer (for example, because of statutory or regulatory changes or the sale or closing of a facility).

If Customer chooses to renew maintenance or support after maintenance has lapsed, Customer may choose to pay the additional fee, if any, associated with renewing a license after such maintenance or support has lapsed, or to purchase a new license. Any amount paid to Supplier in the form of prepaid fees that are unused when services under the Contract or purchase order are terminated shall be refunded to Customer.

3 Compliance and Electronic and Information Technology Accessibility

State procurement of information technology is subject to certain federal and State laws, rules and regulations related to information technology accessibility, including but not limited to Oklahoma Information Technology Accessibility Standards ("Standards") set

forth at https://omes.ok.gov/sites/g/files/gmc316/f/isd_itas.pdf. Supplier shall provide a Voluntary Product Accessibility Template (“VPAT”) describing accessibility compliance via a URL linking to the VPAT and shall update the VPAT as necessary in order to allow a Customer to obtain current VPAT information as required by State law. If products require development or customization, additional requirements and documentation may be required and compliance shall be necessary by Supplier. Such requirements may be stated in appropriate documents including but not limited to a statement of work, riders, agreement, purchase order or Addendum.

All representations contained in the VPAT provided will be relied upon by the State or a Customer, as applicable, for accessibility compliance purposes.

4 Media Ownership (Disk Drive and/or Memory Chip Ownership)

4.1 Any disk drives and memory cards purchased with or included for use in leased or purchased products under the Contract remain the property of the Customer.

4.2 Personal information may be retained within electronic media devices and components; therefore, electronic media shall not be released either between Customers or for the resale, of refurbished equipment that has been in use by a Customer, by the Supplier to the general public or other entities. This provision applies to replacement devices and components, whether purchased or leased, supplied by Supplier, its agents or subcontractors during the downtime (repair) of products purchased or leased through the Contract. If a device is removed from a location for repairs, the Customer shall have sole discretion, prior to removal, to determine and implement sufficient safeguards (such as a record of hard drive serial numbers) to protect personal information that may be stored within the hard drive or memory of the device.

5 Offshore Services

No offshore services are provided for under the Contract. State data shall not be used or accessed internationally for troubleshooting or any other use not specifically provided for herein without the prior written permission, which may be withheld in the State’s sole discretion, from the appropriate authorized representative of the State. Notwithstanding the above, back office administrative functions of the Supplier may be located offshore and the follow-the-sun support model may be used by the Supplier to the extent allowed by law applicable to any Customer data being accessed or used.

6 Compliance with Technology Policies

6.1 The Supplier agrees to adhere to the State of Oklahoma “Information Security Policy, Procedures, and Guidelines” available at https://omes.ok.gov/s/g/files/gmc316/f/InfoSecPPG_0.pdf.

Supplier's employees and subcontractors shall adhere to the applicable State IT Standard Methodologies and Templates including but not limited to Project Management, Business Analysis, System Analysis, Enterprise and IT Architecture, Quality, Application and Security Methodologies and Templates as set forth at <http://eclipse.omes.ok.gov>.

6.2 Supplier shall comply with applicable Federal Information Processing Standards including, without limitation, FIPS 200, FIPS 140-2 or successor standards and all recommendations from the National Institute of Standards and Technology. The confidentiality of Customer Data shall be protected and maintained in accordance with these standards as well as other applicable Customer standards.

6.3 Supplier shall comply with the CJIS Security Policy as more particularly described at Appendix 2 attached hereto and incorporated herein.

7 Emerging Technologies

The State of Oklahoma reserves the right to enter into an Addendum to the Contract at any time to allow for emerging technologies not identified elsewhere in the Contract Documents if there are repeated requests for such emerging technology or the State determines it is warranted to add such technology.

8 Extension Right

In addition to extension rights of the State set forth in the Contract, the State CIO reserves the right to extend any Contract if the State CIO determines such extension to be in the best interest of the State.

9 Source Code Escrow

Pursuant to 62 O.S. § 34.31, if customized computer software is developed or modified exclusively for a State agency, the Supplier has a continuing obligation to comply with such law and place the source code for such software and any modifications thereto into escrow with an independent third party escrow agent. Supplier shall pay all fees charged by the escrow agent and enter into an escrow agreement, the terms of which are subject to the prior written approval of the State, including terms that provide the State receives ownership of all escrowed source code upon the occurrence of any of the following:

9.1 A bona fide material default of the obligations of the Supplier under the agreement with the applicable Customer;

9.2 An assignment by the Supplier for the benefit of its creditors;

9.3 A failure by the Supplier to pay, or an admission by the Supplier of its inability to pay, its debts as they mature;

- 9.4 The filing of a petition in bankruptcy by or against the Supplier when such petition is not dismissed within sixty (60) days of the filing date;
- 9.5 The appointment of a receiver, liquidator or trustee appointed for any substantial part of the Supplier's property;
- 9.6 The inability or unwillingness of the Supplier to provide the maintenance and support services in accordance with the agreement with the agency;
- 9.7 Supplier's ceasing of maintenance and support of the software; or
- 9.8 Such other condition as may be statutorily imposed by the future amendment or enactment of applicable Oklahoma law.

10 Commercial Off The Shelf Software

If Supplier specifies terms and conditions or clauses in an electronic license, subscription, maintenance, support or similar agreement that conflict with the terms of this Contract, the additional terms and conditions or conflicting clauses shall not be binding on the State and the provisions of this Contract shall prevail.

11 Ownership Rights

Any software developed by the Supplier under the terms of the Contract is for the sole and exclusive use of the State including but not limited to the right to use, reproduce, re-use, alter, modify, edit, or change the software as it sees fit and for any purpose. Moreover, except with regard to any deliverable based on Supplier Intellectual Property, the State shall be deemed the sole and exclusive owner of all right, title, and interest therein, including but not limited to all source data, information and materials furnished to the State, together with all plans, system analysis, and design specifications and drawings, completed programs and documentation thereof, reports and listing, all data and test procedures and all other items pertaining to the work and services to be performed pursuant to this Contract including all copyright and proprietary rights relating thereto. With respect to Supplier Intellectual Property, the Supplier grants the State, for no additional consideration, a perpetual, irrevocable, royalty-free license, solely for the internal business use of the State, to use, copy, modify, display, perform, transmit and prepare derivative works of Supplier Intellectual Property embodied in or delivered to the State in conjunction with the products.

Except for any Supplier Intellectual Property, all work performed by the Supplier of developing, modifying or customizing software and any related supporting documentation shall be considered as Work for Hire (as defined under the U.S. copyright laws) and, as such, shall be owned by and for the benefit of State.

In the event that it should be determined that any portion of such software or related supporting documentation does not qualify as "Work Made for Hire", Supplier hereby irrevocably grants to the State, for no additional consideration, a non-exclusive,

irrevocable, royalty-free license to use, copy, modify, display, perform, transmit and prepare derivative works of any such software and any Supplier Intellectual Property embodied in or delivered to the State in conjunction with the products.

Supplier shall assist the State and its agents, upon request, in preparing U.S. and foreign copyright, trademark, and/or patent applications covering software developed, modified or customized for the State. Supplier shall sign any such applications, upon request, and deliver them to the State. The State shall bear all expenses that incurred in connection with such copyright, trademark, and/or patent applications.

If any Acquisition pursuant to this Contract is funded wholly or in part with federal funds, the source code and all associated software and related documentation owned by the State may be shared with other publicly funded agencies at the discretion of the State without permission from or additional compensation to the Supplier.

12 Intellectual Property Ownership

The following terms apply to ownership and rights related to Intellectual Property:

- 12.1** As between Supplier and Customer, the Work Product and Intellectual Property Rights therein are and shall be owned exclusively by Customer, and not Supplier. Supplier specifically agrees that the Work Product shall be considered “works made for hire” and that the Work Product shall, upon creation, be owned exclusively by Customer. To the extent that the Work Product, under applicable law, may not be considered works made for hire, Supplier hereby agrees that all right, title and interest in and to all ownership rights and all Intellectual Property Rights in the Work Product is hereby effectively transferred, granted, conveyed, assigned and relinquished exclusively to Customer, without the necessity of any further consideration, and Customer shall be entitled to obtain and hold in its own name all Intellectual Property Rights in and to the Work Product. Supplier acknowledges that Supplier and Customer do not intend Supplier to be a joint author of the Work Product within the meaning of the Copyright Act of 1976. Customer shall have access, during normal business hours (Monday through Friday, 8:00 a.m. to 5:00 p.m.) and upon reasonable prior notice to Supplier, to all Supplier materials, premises and computer files containing the Work Product. Supplier and Customer, as appropriate, will cooperate with one another and execute such other documents as may be reasonably appropriate to achieve the objectives herein. No license or other right is granted under the Contract to any Third Party Intellectual Property, except as may be incorporated in the Work Product by Supplier.
- 12.2** Supplier, upon request and without further consideration, shall perform any acts that may be deemed reasonably necessary or desirable by Customer to evidence more fully the transfer of ownership and/or registration of all Intellectual Property Rights in all Work Product to Customer to the fullest extent possible including, but not limited to, the execution, acknowledgement and delivery of such further

documents in a form determined by Customer. In the event Customer shall be unable to obtain Supplier's signature due to the dissolution of Supplier or Supplier's failure to respond to Customer's repeated requests for such signature on any document reasonably necessary for any purpose set forth in the foregoing sentence, Supplier hereby irrevocably designates and appoints Customer and its duly authorized officers and agents as Supplier's agent and Supplier's attorney-in-fact to act for and in Supplier's behalf and stead to execute and file any such document and to do all other lawfully permitted acts to further any such purpose with the same force and effect as if executed and delivered by Supplier, provided however that no such grant of right to Customer is applicable if Supplier fails to execute any document due to a good faith dispute by Supplier with respect to such document. It is understood that such power is coupled with an interest and is therefore irrevocable. Customer shall have the full and sole power to prosecute such applications and to take all other action concerning the Work Product, and Supplier shall cooperate, at Customer's sole expense, in the preparation and prosecution of all such applications and in any legal actions and proceedings concerning the Work Product.

- 12.3** Supplier hereby irrevocably and forever waives, and agrees never to assert, any Moral Rights in or to the Work Product which Supplier may now have or which may accrue to Supplier's benefit under U.S. or foreign copyright or other laws and any and all other residual rights and benefits which arise under any other applicable law now in force or hereafter enacted. Supplier acknowledges the receipt of equitable compensation for its assignment and waiver of such Moral Rights.
- 12.4** All documents, information and materials forwarded to Supplier by Customer for use in and preparation of the Work Product shall be deemed the confidential information of Customer, subject to the license granted by Customer to Supplier hereunder. Supplier shall not otherwise use, disclose, or permit any third party to use or obtain the Work Product, or any portion thereof, in any manner without the prior written approval of Customer.
- 12.5** These provisions are intended to protect Customer's proprietary rights pertaining to the Work Product and the Intellectual Property Rights therein and any misuse of such rights would cause substantial and irreparable harm to Customer's business. Therefore, Supplier acknowledges and stipulates that a court of competent jurisdiction may immediately enjoin a material breach of the Supplier's obligations with respect to confidentiality provisions of the Contract and the Work Product and a Customer's Intellectual Property Rights, upon a request by Customer, without requiring proof of irreparable injury, as same is presumed.
- 12.6** Upon the request of Customer, but in any event upon termination or expiration of this Contract or a statement of work, Supplier shall surrender to Customer all documents and things pertaining to the Work Product, generated or developed by Supplier or furnished by Customer to Supplier, including all materials embodying

the Work Product, any Customer confidential information and Intellectual Property Rights in such Work Product, regardless of whether complete or incomplete. This section is intended to apply to all Work Product as well as to all documents and things furnished to Supplier by Customer or by anyone else that pertains to the Work Product.

- 12.7** Customer hereby grants to Supplier a non-transferable, non-exclusive, royalty-free, fully paid license to use any Work Product solely as necessary to provide services to Customer. Except as provided in this section, neither Supplier nor any subcontractor shall have the right to use the Work Product in connection with the provision of services to its other customers without the prior written consent of Customer, which consent may be withheld in Customer's sole discretion.
- 12.8** To the extent that any Third Party Intellectual Property is embodied or reflected in the Work Product or is necessary to provide services, Supplier shall obtain from the applicable third party for the Customer's benefit, an irrevocable, perpetual, non-exclusive, worldwide, royalty-free license, solely for Customer's internal business purposes; likewise, with respect to any Supplier Intellectual Property embodied or reflected in the Work Product or necessary to provide services, Supplier grants to Customer an irrevocable, perpetual, non-exclusive, worldwide, royalty-free license, solely for the Customer's internal business purposes. Each such license shall allow the applicable Customer to (i) use, copy, modify, display, perform (by any means), transmit and prepare derivative works of any Third Party Intellectual Property or Supplier Intellectual Property embodied in or delivered to Customer in conjunction with the Work Product and (ii) authorize others to do any or all of the foregoing. Supplier agrees to notify Customer on delivery of the Work Product or services if such materials include any Third Party Intellectual Property. The foregoing license includes the right to sublicense third parties, solely for the purpose of engaging such third parties to assist or carry out Customer's internal business use of the Work Product. Except for the preceding license, all rights in Supplier Intellectual Property remain in Supplier. On request, Supplier shall provide Customer with documentation indicating a third party's written approval for Supplier to use any Third Party Intellectual Property that may be embodied or reflected in the Work Product.
- 12.9** Supplier agrees that it shall have written agreement(s) that are consistent with the provisions hereof related to Work Product and Intellectual Property Rights with any employees, agents, consultants, contractors or subcontractors providing services or Work Product pursuant to the Contract, prior to the provision of such services or Work Product and that it shall maintain such written agreements at all times during performance of this Contract which are sufficient to support all performance and grants of rights by Supplier. Copies of such agreements shall be provided to the Customer promptly upon request.

12.10 To the extent not inconsistent with Customer's rights in the Work Product or other provisions, nothing in this Contract shall preclude Supplier from developing for itself, or for others, materials which are competitive with those produced as a result of the services provided under the Contract, provided that no Work Product is utilized, and no Intellectual Property Rights of Customer therein are infringed by such competitive materials. To the extent that Supplier wishes to use the Work Product or acquire licensed rights in certain Intellectual Property Rights of Customer therein in order to offer competitive goods or services to third parties, Supplier and Customer agree to negotiate in good faith regarding an appropriate license and royalty agreement to allow for such.

12.11 If any Acquisition pursuant to the Contract is funded wholly or in part with federal funds, the source code and all associated software and related documentation and materials owned by a Customer may be shared with other publicly funded agencies at the discretion of such Customer without permission from or additional compensation to the Supplier.

13 Hosting Services

13.1 If Supplier or its subcontractor, affiliate or any other person or entity providing products or services under the Contract Hosts Customer Data in connection with an Acquisition, the provisions of Appendix 1, attached hereto and incorporated herein, apply to such Acquisition.

13.2 If the Hosting of Customer Data by Supplier or its subcontractor, affiliate or any other person or entity providing products or services under the Contract contributes to or directly causes a Data Breach, Supplier shall be responsible for the obligations set forth in Appendix 1 related to breach reporting requirements and associated costs. Likewise if such Hosting contributes to or directly causes a Security Incident, Supplier shall be responsible for the obligations set forth in Appendix 1, as applicable.

14 Change Management

When a scheduled change is made to products or services provided to a Customer that impacts the Customer's system related to such product or service, Supplier shall provide two (2) weeks' prior written notice of such change. When the change is an emergency change, Supplier shall provide twenty-four (24) hours' prior written notice of the change. Repeated failure to provide such notice may be an evaluation factor (as indicative of Supplier's past performance) upon renewal or if future bids submitted by Supplier are evaluated by the State.

15 Service Level Deficiency

In addition to other terms of the Contract, in instances of the Supplier's repeated failure to provide an acceptable level of service or meet service level agreement metrics, service credits shall be provided by Supplier and may be used as an offset to payment due.

16 Notices

In addition to notice requirements under the terms of the Contract otherwise, the following individuals shall also be provided the request, approval or notice, as applicable:

Chief Information Officer
3115 N. Lincoln Blvd
Oklahoma City, OK 73105

With a copy, which shall not constitute notice, to:

Information Services Deputy Counsel
3115 North Lincoln Boulevard
Oklahoma City, Oklahoma 73105

Appendix 1 to State of Oklahoma Information Technology Terms

The parties agree to the following provisions in connection with any Customer Data accessed, processed or stored by or on behalf of the Supplier and the obligations, representations and warranties set forth below shall continue as long as the Supplier has an obligation under the Contract

A. Customer Data

1. Customer will be responsible for the accuracy and completeness of all Customer Data provided to Supplier by Customer. Customer shall retain exclusive ownership of all Customer Data. Non-Public Data and Personal Data shall be deemed to be Customer's confidential information. Supplier shall restrict access to Customer Data to their employees with a need to know (and advise such employees of the confidentiality and non-disclosure obligations assumed herein).
2. Supplier shall promptly notify the Customer upon receipt of any requests from unauthorized third parties which in any way might reasonably require access to Customer Data or Customer's use of the Hosted environment. Supplier shall notify the Customer by the fastest means available and also in writing pursuant to Contract notice provisions and the notice provision herein. Except to the extent required by law, Supplier shall not respond to subpoenas, service or process, Freedom of Information Act or other open records requests, and other legal request related to Customer without first notifying the Customer and obtaining the Customer's prior approval, which shall not be unreasonably withheld, of Supplier's proposed responses. Supplier agrees to provide its completed responses to the Customer with adequate time for Customer review, revision and approval.
3. Supplier will use commercially reasonable efforts to prevent the loss of or damage to Customer Data in its possession and will maintain commercially reasonable back-up procedures and copies to facilitate the reconstruction of any Customer Data that may be lost or damaged by Supplier. Supplier will promptly notify Customer of any loss, damage to, or unauthorized access of Customer Data. Supplier will use commercially reasonable efforts to reconstruct any Customer Data that has been lost or damaged by Supplier as a result of its negligence or willful misconduct. If Customer Data is lost or damaged for reasons other than as a result of Supplier's negligence or willful misconduct, Supplier, at the Customer's expense, will, at the request of the State, use commercially reasonable efforts to reconstruct any Customer Data lost or damaged.

B. Data Security

1. Supplier will use commercially reasonable efforts, consistent with industry standards, to provide security for the Hosted environment and Customer Data and to protect against both unauthorized access to the Hosting environment, and

unauthorized communications between the Hosting environment and the Customer's browser. Supplier shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of Personal Data and Non-Public Data. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the service provider applies to its own personal data and non-public data of similar kind.

2. All Personal Data and Non-public Data shall be encrypted at rest and in transit with controlled access. Unless otherwise stipulated, the service provider is responsible for encryption of Personal Data.
3. Supplier represents and warrants to the Customer that the Hosting equipment and environment will be routinely checked with a commercially available, industry standard software application with up-to-date virus definitions. Supplier will regularly update the virus definitions to ensure that the definitions are as up-to-date as is commercially reasonable. Supplier will promptly purge all viruses discovered during virus checks. If there is a reasonable basis to believe that a virus may have been transmitted to Customer by Supplier, Supplier will promptly notify Customer of such possibility in a writing that states the nature of the virus, the date on which transmission may have occurred, and the means Supplier has used to remediate the virus. Should the virus propagate to Customer's IT infrastructure, Supplier is responsible for costs incurred by Customer for Customer to remediate the virus.
4. Supplier shall provide its services to Customer and its users solely from data centers in the U.S. Storage of Customer Data at rest shall be located solely in data centers in the U.S. Supplier shall not allow its personnel or contractors to store Customer Data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. Supplier shall permit its personnel and contractors to access Customer Data remotely only as required to fulfill Supplier's obligations under the Contract.
5. Supplier shall allow the Customer to audit conformance to the Contract terms. The Customer may perform this audit or contract with a third party at its discretion and at Customer's expense.
6. Supplier shall perform an independent audit of its data centers at least annually at its expense, and provide a redacted version of the audit report upon request. Supplier may remove its proprietary information from the redacted version. A Service Organization Control (SOC) 2 audit report or approved equivalent sets the minimum level of a third-party audit.
7. Any remedies provided in this Appendix are not exclusive and are in addition to other rights and remedies available under the terms of the Contract, at law or in equity.

C. Security Assessment

1. The State requires any entity or third-party Supplier Hosting Oklahoma Customer Data to submit to a State Certification and Accreditation Review process to assess initial security risk. Supplier submitted to the review and met the State's minimum security standards at time the Contract was executed. Failure to maintain the State's minimum security standards during the term of the contract, including renewals, constitutes a material breach. Upon request, the Supplier shall provide updated data security information in connection with a potential renewal. If information provided in the security risk assessment changes, Supplier shall promptly notify the State and include in such notification the updated information; provided, however, Supplier shall make no change that results in lessened data protection or increased data security risk. Failure to provide the notice required by this section or maintain the level of security required in the Contract constitutes a material breach by Supplier and may result in a whole or partial termination of the Contract.
2. Any Hosting entity change must be approved in writing prior to such change. To the extent Supplier requests a different sub-contractor than the third-party Hosting Supplier already approved by the State, the different sub-contractor is subject to the State's approval. Supplier agrees not to migrate State's data or otherwise utilize the different third-party Hosting Supplier in connection with key business functions that are Supplier's obligations under the contract until the State approves the third-party Hosting Supplier's State Certification and Accreditation Review, which approval shall not be unreasonably withheld or delayed. In the event the third-party Hosting Supplier does not meet the State's requirements under the State Certification and Accreditation Review, Supplier acknowledges and agrees it will not utilize the third-party Supplier in connection with key business functions that are Supplier's obligations under the contract, until such third party meets such requirements.

D. Security Incident or Data Breach Notification: Supplier shall inform Customer of any Security Incident or Data Breach.

1. Supplier may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the Contract. If a Security Incident involves Customer Data, Supplier will coordinate with Customer prior to any such communication.
2. Supplier shall report a Security Incident to the Customer identified contact set forth herein within five (5) days of discovery of the Security Incident or within a shorter notice period required by applicable law or regulation (i.e. HIPAA requires notice to be provided within 24 hours).
3. Supplier shall:

1. Maintain processes and procedures to identify, respond to and analyze Security Incidents;
 2. Make summary information regarding such procedures available to Customer at Customer's request;
 3. Mitigate, to the extent practicable, harmful effects of Security Incidents that are known to Supplier; and
 4. Document all Security Incidents and their outcomes.
4. If Supplier has reasonable belief or actual knowledge of a Data Breach, Supplier shall (1) promptly notify the appropriate Customer identified contact set forth herein within 24 hours or sooner, unless shorter time is required by applicable law, and (2) take commercially reasonable measures to address the Data Breach in a timely manner.

E. Breach Responsibilities: This section only applies when a Data Breach occurs with respect to Personal Data or Non-Public Data within the possession or control of Supplier.

1. Supplier shall (1) cooperate with Customer as reasonably requested by Customer to investigate and resolve the Data Breach, (2) promptly implement necessary remedial measures, if necessary, and (3) document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.
2. Unless otherwise stipulated, if a Data Breach is a direct result of Supplier's breach of its obligation to encrypt Personal data and Non-Public Data or otherwise prevent its release, Supplier shall bear the costs associated with (1) the investigation and resolution of the Data Breach; (2) notifications to individuals, regulators or others required by state law; (3) credit monitoring services required by state or federal law; (4) a website or toll-free numbers and call center for affected individuals required by state law – all not to exceed the agency per record per person cost calculated for data breaches in the United States on the most recent Cost of Data breach Study: Global Analysis published by the Ponemon Institute at the time of the data breach; and (5) complete all corrective actions as reasonably determined by Supplier based on root cause.
3. If a Data Breach is a direct result of Supplier's breach of its obligations to encrypt Personal Data and Non-Public Data or otherwise prevent its release, Supplier shall indemnify and hold harmless the Customer against all penalties assessed to Indemnified Parties by governmental authorities in connection with the Data Breach.

F. Notices

In addition to notice requirements under the terms of the Contract and those set forth above, a request, an approval or a notice in connection with this Appendix provided by Supplier shall be provided to:

Chief Information Security Officer
3115 N. Lincoln Blvd
Oklahoma City, OK 73105

and

servicedesk@omes.ok.gov.

G. Supplier Representations and Warranties

Supplier represents and warrants the following:

1. The product and services provided in connection with Hosting services do not infringe a third party's patent or copyright or other intellectual property rights.
2. Supplier will protect Customer's Non-Public Data and Personal Data from unauthorized dissemination and use with the same degree of care that each such party uses to protect its own confidential information and, in any event, will use no less than a reasonable degree of care in protecting such confidential information.
3. The execution, delivery and performance of the Contract and any ancillary documents and the consummation of the transactions contemplated by the Contract or any ancillary documents by Supplier will not violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, any written contract or other instrument between Supplier and any third parties retained or utilized by Supplier to provide goods or services for the benefit of the Customer.
4. Supplier shall not knowingly upload, store, post, e-mail or otherwise transmit, distribute, publish or disseminate to or through the Hosting environment any material that contains software viruses, malware or other surreptitious code designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment or circumvent any "copy-protected" devices, or any other harmful or disruptive program.

H. Indemnity

Supplier agrees to defend, indemnify and hold the State, its officers, directors, employees, and agents harmless from all liabilities, claims, damages, losses, costs, expenses, demands, suits and actions (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification), excluding damages that are the sole fault of

Customer, arising from or in connection with Supplier's breach of its express representations and warranties in these Information Technology Terms and the Contract. If a third party claims that any portion of the products or services provided by Supplier under the terms of another Contract Document or these Information Technology Terms infringes that party's patent or copyright, Supplier shall defend, indemnify and hold harmless the State and Customer against the claim at Supplier's expense and pay all related costs, damages, and attorney's fees incurred by or assessed to, the State and/or Customer. The State and/or Customer shall promptly notify Supplier of any third party claims and to the extent authorized by the Attorney General of the State, allow Supplier to control the defense and any related settlement negotiations. If the Attorney General of the State does not authorize sole control of the defense and settlement negotiations to Supplier, Supplier shall be granted authorization to equally participate in any proceeding related to this section but Supplier shall remain responsible to indemnify Customer and the State for all associated costs, damages and fees incurred by or assessed to the State and/or Customer. Should the software become, or in Supplier's opinion, be likely to become the subject of a claim or an injunction preventing its use as contemplated in connection with Hosting services, Supplier may, at its option (i) procure for the State the right to continue using the software or (ii) replace or modify the software with a like or similar product so that it becomes non-infringing.

I. Termination, Expiration and Suspension of Service

1. During any period of service suspension, Supplier shall not take any action to intentionally disclose, alter or erase any Customer Data.
2. In the event of a termination or expiration of the Contract, the parties further agree:

Supplier shall implement an orderly return of Customer Data in a format specified by the Customer and, as determined by the Customer:
 - a. return the Customer Data to Customer at no additional cost, at a time agreed to by the parties and the subsequent secure disposal of State Data;
 - b. transitioned to a different Supplier at a mutually agreed cost and in accordance with a mutually agreed data transition plan and the subsequent secure disposal of State Data or
 - c. a combination of the two immediately preceding options.
3. Supplier shall not take any action to intentionally erase any Customer Data for a period of:
 - a. 10 days after the effective date of termination, if the termination is in accordance with the contract period;

- b.** 30 days after the effective date of termination, if the termination is for convenience; or
- c.** 60 days after the effective date of termination, if the termination is for cause.

After such period, Supplier shall, unless legally prohibited or otherwise stipulated, delete all Customer Data in its systems or otherwise in its possession or under its control.

- 4.** The State shall be entitled to any post termination or expiration assistance generally made available with respect to the services.
- 5.** Disposal by Supplier of Customer Data in all of its forms, such as disk, CD/DVD, backup tape and paper, when requested by the Customer, shall be performed in a secure manner. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to Customer within thirty (30) calendar day of its request for disposal of data.

Appendix 2 to State of Oklahoma Information Technology Terms

INTRODUCTION

The use and maintenance of all items of software or equipment offered for purchase herein must be in compliance with the most current version of the U.S. Department of Justice, Federal Bureau of Investigation (“FBI”), Criminal Justice Information Services (CJIS) Division’s CJIS Security Policy (“CJIS Security Policy” or “Security Policy” herein).

The Entity or Affiliate acquiring the data or system is hereby ultimately responsible for compliance with the CJIS Security Policy and will be subject to an audit by the State of Oklahoma CJIS Systems Officer (“CSO”) and the FBI CJIS Division’s Audit Staff.

CJIS SECURITY POLICY REQUIREMENTS GENERALLY

The CJIS Security Policy outlines a number of administrative, procedural, and technical controls agencies must have in place to protect Criminal Justice Information (“CJI”). Our experience is that agencies will generally have many of the administrative and procedural controls in place but will need to implement additional technical safeguards in order to be in complete compliance with the mandate. A Criminal Justice Agency (“CJA”) and certain other governmental agencies procuring technology equipment and services that could be used in hosting or connecting or transmitting or receiving CJI data may need to use the check list herein to make sure that the software, equipment, location, security, and persons having the ability to access CJI will meet the CJIS requirements per the then current CJIS Security Policy. A completed Appendix H to said Security Policy will need to be signed by Vendor or a 3rd party if it has access to CJI, such as incident to the maintenance or support of the purchased hardware or software within which resides CJI. **Per Appendix “A” to said Security Policy, “access to CJI is the physical or logical (electronic) ability, right or privilege to view, modify or make use of CJI.”**

DIRECTIVE CONCERNING ACCESS TO CRIMINAL JUSTICE INFORMATION AND TO HARDWARE OR SOFTWARE WHICH INTERACTS WITH CJI and CERTIFICATION

The FBI CJIS Division provides state-of-the-art identification and information services to the local, state, tribal, federal, and international criminal justice communities for criminal justice purposes, as well as the noncriminal justice communities for noncriminal justice purposes.

This Directive primarily concerns access to CJI and access to hardware and software in the use, retention, transmission, reception, and hosting of CJI for criminal justice purposes and not for noncriminal justice purposes. In that regard, this Directive is not only applicable to such data, but also to the hardware and software interacting with such data, their location(s), and persons having the ability to access such data. The CJIS data applicable to the Security Policy is the data described as such in said Policy **plus all data transmitted over the Oklahoma Law Enforcement Telecommunications System (“OLETS”) which is operated by DPS.**

In order to have access to CJI or to the aforesaid hardware or software, the vendor must be familiar with the FBI CJIS Security Policy, including but not limited to the following portions of said Security Policy:

1. the Definitions and Acronyms in §3 & Appendices “A” & “B”;
2. the general policies in §4;

3. the Policies in §5;
4. the appropriate forms in Appendices “D”, “E”, “F” & “H”; and
5. the Supplemental Guidance in Appendices “J” & “K”.

This FBI Security Policy is located and may be downloaded at: <https://www.fbi.gov/services/cjis/cjis-security-policy-resource-center>.

By executing the Contract to which this Directive is attached, the vendor hereby CERTIFIES that the foregoing directive has and will be followed, including but not limited to full compliance with the FBI CJIS Security Policy, as amended and as applicable.

Policy Requirement Checklist

Compliance checklist –

Policy Area 1	Information Exchange Agreements
Policy Area 2	Security Awareness Training
Policy Area 3	Incident Response
Policy Area 4	Auditing and Accountability
Policy Area 5	Access Control
Policy Area 6	Identification and Authentication
Policy Area 7	Configuration Management
Policy Area 8	Media Protection
Policy Area 9	Physical Protection
Policy Area 10	Systems and Communications Protection and Information Integrity
Policy Area 11	Formal Audits
Policy Area 12	Personnel Security

EV00000642 - Section Six: Additional Bidder Terms

If chosen, Gallagher Bassett (GB) would seek to enter into a final Contract with the State of Oklahoma containing mutually acceptable terms. GB requests the following additional terms be applicable to the negotiated Contract. There is no intention that these terms contradict those of Attachment A.

1. SERVICES.

1.1 **General.** GB, by and through one or more affiliates and vendors, shall provide Services for State relating to the administration of State's Claims in accordance with the terms and conditions set forth in this Contract and in the service instructions (the "**Service Instructions**") as agreed upon by the Parties in writing from time to time, which Service Instructions shall be incorporated into and deemed to be a part of this Contract. As used herein, "**Claim**" means any report of injury or accident alleging or resulting in injury, damage or loss that could give rise to a demand for the payment of money by State, and which is timely reported to GB hereunder. GB shall provide such Services as further described in the Cost & Terms (pricing document) attached to the Contract as an exhibit ("**C&T**") and incorporated by reference herein. Each C&T shall be applicable for the period referenced therein. GB's Services may include the following:

- a. Upon guidance from State and/or retained counsel, where applicable, review, investigate, adjust, settle and/or resist Claims (i) within the Settlement Authority, or (ii) if in excess of the Settlement Authority, upon the acknowledgment of State. "**Settlement Authority**" is the amount set forth in the Service Instructions, up to which GB is authorized to settle individual Claims;
- b. Establish and update Claim reserves;
- c. Maintain Claim files and records; provided that State shall be obligated to store and preserve any physical evidence relevant to any Claim or potential Claim;
- d. Assist State in establishing a Claim loss fund account as more specifically described in Section 2 below for the funding of losses (including indemnity payments) and Allocated Expenses associated with a Claim (collectively, "**Loss Payments**"). "**Allocated Expenses**" means all expenses incurred in connection with the investigation, negotiation, defense, settlement and disposition of a Claim, examples of which are set forth in the C&T;
- e. Notify only State's agents or insurers that are expressly listed in the Service Instructions of Claims that meet the specific parameters expressly set forth in the Service Instructions;
- f. Coordinate investigations on litigated Claims with attorneys retained on the Claim and with representatives of State's insurer, as required;
- g. Investigate and pursue subrogation claims on behalf of State, where permitted;
- h. Provide a risk management information system and standard reports as described in the Service Instructions, as well as ad hoc information and reports, as requested by State from time to time, subject to additional fees for non-standard reporting;
- i. Provide risk control consulting and appraisals or other related Services, as set forth in the C&T or otherwise agreed to by the Parties;
- j. Report fraudulent or suspected fraudulent Claims to state authorities, as required by applicable law, and as agreed upon by the Parties;

k. Perform Mandatory Insurer Reporting (“MIR”) directly or in coordination with carrier’s required third party reporting agent, pursuant to Section 111 of the Medicare, Medicaid, and State Children’s Health Insurance Program Extension Act of 2007 (P.L. 110-173) (“MMSEA”); and

l. Provide medical management services as set forth in the C&T.

1.2 **Report of Claims.** State shall report all Claims to GB with sufficient time to allow GB to submit first reports of injury to each applicable state, as required, and to comply with all applicable laws.

1.3 **Sole Claims Administrator.** During the term of this Contract, (i) GB shall be State’s sole claims administrator with respect to Claims under the coverage types set forth in the C&T; (ii) all new Claims arising under such program shall be transmitted to GB; and (iii) State will not, directly or indirectly, self-administer any Claims that should be reported to GB pursuant to the terms of this Contract.

1.4 **Escheat.** The Parties acknowledge that State shall be responsible for any and all escheat and unclaimed property reporting obligations; *provided, however,* that, upon request and for a mutually agreed upon fee, GB shall provide State with such information and reports as State may reasonably request to perform escheat reporting with respect to Loss Payments made hereunder.

2. **LOSS FUND ACCOUNT – CLIENT-OWNED BANKING.** GB shall assist State in establishing a system for funding of Loss Payments and other payment obligations. State will establish reasonable procedures, acceptable to GB, to make timely payments of Loss Payments and other payment obligations with respect to all Claims as initiated and authorized by GB through its risk management information system or otherwise, and State will follow applicable GB procedures related to State’s payment obligations hereunder. GB shall have authority to commit State’s funds up to the Settlement Authority.

3. **PAYMENT AND FUNDING FAILURE; REMEDIES.**

3.1 State is solely responsible for all payment obligations under this Contract. GB is not obligated to advance funds to pay Loss Payments or any other obligation of State.

3.2 If State fails to timely and adequately fund and replenish its loss fund account or pay its Service Fees within five (5) business days of receiving payment demand by GB or Citibank, GB may, at its election, (i) suspend banking or shutdown the loss fund account and suspend the provision of Services; and (ii) report the delinquent account and claim handling status to: (a) State’s insurance carrier and/or broker, if any; (b) applicable government and regulatory agencies; (c) any affected claimant(s); and (d) any other relevant parties.

3.3 If State fails to fund its loss fund account or pay any outstanding Service Fees within five (5) business days following the notice described in Section 3.2 above, GB may (i) convert State’s program to daily issuance via Fed Wire upon forty-eight (48) hours’ notice to State; (ii) report the Claim handling status to appropriate government and regulatory agencies, as applicable; and/or, (iii) terminate this Contract and cease providing Services without further liability to State.

3.4 State shall be solely responsible for any and all damages, fines, penalties, bank charges, interest, fees and expenses resulting from State’s failure to timely meet its payment obligations and maintain the loss fund imprest balance, and State shall pay, or cause its carrier to pay, such amounts promptly upon demand by GB.

4. **MEDICARE REPORTING.**

4.1 **Mandatory Insurer Reporting.** State acknowledges and agrees that State or its insurance carrier has an obligation to perform MIR. To the extent that GB provides MIR on State’s behalf, State

agrees to properly register (or, as appropriate, to cause its insurance carrier to properly register) with the Centers for Medicare and Medicaid Services as the Responsible Reporting Entity (“**RRE**”) under MMSEA and to provide to GB all relevant information, including the RRE “Identification Number(s)” assigned to State, and properly designate a MIR reporting agent acceptable to GB. GB shall not provide MIR in states where GB is only providing Claims oversight. State agrees that for each and every Claim reported to GB, State shall provide the following information as soon as possible, but in no event later than required to comply with applicable law to avoid fines and penalties: claimant’s first and last name, social security number, date of birth and gender. Failure to timely provide such information shall absolve GB from any responsibility for performing MIR with respect to any such Claim until GB receives all required information. GB may disclose this and other information to its designated third parties for processing State’s MIR and performing other obligations hereunder.

4.2 **Medicare Secondary Payer Act Compliance.** In order to comply with State’s reporting obligations under Medicare, and avoid interest, fees, and penalties associated with failure to properly account for (i) conditional payments under the Medicare Secondary Payer Act (“**MSP**”) or (ii) future medical expenses under the MSP (collectively, “**MSP Liabilities**”), State must ensure that the following activities are timely performed: (i) reporting, (ii) investigation and payment of conditional payment obligations and (iii) provision of Medicare set-asides or other future medical allocations services, as appropriate. GB hereby disclaims any and all MSP Liabilities relating to State’s and/or its representatives’ or agents’ failure to comply with any MSP obligations, where (A) State does not utilize GB or its vendors to administer State’s MSP compliance or (B) State’s or its representative’s or agent’s acts and/or omissions result in MSP Liabilities.

5. **CONFIDENTIALITY.**

5.1 **Open Records Act.** Each Party’s obligations in this Section 5 are at all times subject to the Oklahoma Open Records Act. In the event of any conflict between the terms of this Section 5 and the Open Records Act, the terms of the Open Records Act will control.

5.2 **Defined.** As used herein, “**Confidential Information**” means information furnished by either Party or its agents and representatives (“**Discloser**”) to the other Party or its agents and representatives (“**Recipient**”), whenever furnished and regardless of the manner or media in which such information is furnished, which Recipient knows or reasonably should know to be confidential or of a proprietary nature. Confidential Information shall include confidential and proprietary information relating to the business, claimants, customers, products and affairs of Discloser, including without limitation, any and all designs, processes, pricing, methods, technical data, marketing information, trade secrets and financial information, as well as the terms of this Contract. Confidential Information shall not include information concerning Discloser that (a) is or becomes generally available to the public or within the industry to which such information relates other than as a result of a breach of this Contract by Recipient, (b) at the time of disclosure to Recipient by Discloser was already known by Recipient as evidenced by its written records, (c) becomes available to Recipient on a non-confidential basis from a source that is entitled to disclose it on a non-confidential basis, (d) was or is independently developed by or for Recipient without reference to the Confidential Information, or (e) is comprised of anonymized/de-identified information of State that is utilized in connection with data analytics or other business purposes.

5.3 **Prohibition on Disclosure.** Recipient agrees that it will not disclose any Confidential Information disclosed by Discloser to any third party without Discloser’s prior written consent. Notwithstanding the foregoing, Recipient shall be permitted to disclose Confidential Information to its or the Discloser’s affiliates, agents or vendors that have a need to know the Confidential Information in connection with the Services to be provided under this Contract.

5.4 **Other Disclosures.** Nothing in this Contract shall be deemed to prevent Recipient from disclosing any Confidential Information of Discloser when requested or required to do so by a subpoena,

civil investigative demand, other legal process or by the authority of any state or federal administrative agency or governmental body.

6. RISK MANAGEMENT INFORMATION SYSTEM; RECORDS.

6.1 **Risk Management Information System Access**. GB hereby grants to State a non-exclusive, non-transferable, revocable license to access GB's risk management information system (Risx-Facs®, Luminos™, or any other system licensed by GB, to the extent specified in the C&T), solely for the purpose of evaluating and monitoring the status of Claims. Such access is limited to State-approved representatives and shall be contingent upon and subject to State taking reasonable measures to ensure each such representative's compliance with the confidentiality provisions herein. Unless otherwise agreed in writing, this license shall terminate automatically and without the need for notice upon the termination of this Contract for any reason.

6.2 **Document Retention**. Claim files are the property of State, or State's insurer, as applicable. GB will retain electronic files on GB's systems following closure of a particular Claim in accordance with GB's then-current document retention policy and in compliance with applicable law. Thereafter, unless State or State's insurer requests, in writing, a turnover of its Claim files, GB may, in its sole discretion, destroy and purge any such Claim files in its possession; *provided, however*, GB may retain one copy for legal, regulatory and archival purposes. State will be solely responsible for arranging for return or transfer of its files at State's cost, and after payment of all outstanding amounts due to GB. The policies and procedures of the applicable financial institutions shall govern the storage of copies of checks. Except as required by applicable law, GB shall have no obligation to retain Claim files in the event that such Claim files or related Claim handling obligations are transferred to another administrator.

6.3 **Run-In Claims**. To the extent GB assumes a Claim incurred prior to the Effective Date or previously administered by another party, including Claims self-handled by State (each, a "**Run-In Claim**"), State must adhere to Run-In Claim processes reasonably acceptable to GB to ensure proper Claim transfer, including supplying certain required information in a format acceptable to GB in a reasonable amount of time as discussed and agreed to between the Parties prior to GB's assumption of such Run-In Claims. GB shall not be responsible for updating, maintaining or storing Run-In Claim file information (paper or electronic) that is more than ten (10) years old. All files for Run-In Claims assumed by GB will be kept "as is," without any obligation to reorganize such files. State, where applicable, shall, or shall require its prior service provider to, place a claim file note in the Run-In Claim files or otherwise conspicuously mark such files in a manner to be agreed to by the Parties, with information necessary or convenient for GB to attend to time-sensitive events, such as upcoming court deadlines and benefit or settlement payment due dates. GB shall not be responsible for any acts, errors or omissions, including any compliance requirements or state, Federal or other reporting requirements, concerning the Run-In Claims prior to its assumption of the same. State shall be solely responsible for any damages arising (i) during any transition period; (ii) as a result of GB's reliance on faulty or incomplete Run-In Claim files or related information; and/or (iii) in whole or in part due to acts or omissions of any party that handled such Run-In Claims prior to GB.

7. INTENTIONALLY OMITTED

7.1 INTENTIONALLY OMITTED

7.2 **Additional Limitations**. GB shall not be liable to State as a result of (i) Damages that result from the absence of any consent or authority required to be obtained by or from any third party; (ii) failure to achieve a desired result, so long as GB has acted reasonably and in good faith based upon the information available at the time; (iii) acts, errors or omissions of any retained legal counsel; and (iv) any vendors or any third parties engaged, selected, chosen or recommended by State.

8. TERM AND TERMINATION.

8.1 Termination.

a. **Insolvency.** Either Party may terminate this Contract effective immediately (1) if the other Party is adjudged insolvent or bankrupt; (2) upon the institution of any proceeding against the other Party seeking relief, reorganization or arrangement under any laws relating to insolvency; (3) for the making of any assignment for the benefit of creditors; upon the appointment of a receiver, liquidator or trustee of any substantial part of the other Party's property or assets; or (4) upon liquidation, dissolution or winding up of the other Party's business (collectively, "**Insolvency**"). In the event of State's Insolvency, State agrees that (i) immediately upon the filing of a bankruptcy petition, State shall pay in advance any invoice for Service Fees and shall continue to fund any Loss Payments and meet any other payment obligations as required under this Contract; (ii) no later than thirty (30) days after the filing of a bankruptcy petition, State shall assume or reject this Contract; and, (iii) immediately upon the filing of a bankruptcy petition, GB shall be entitled to relief from the automatic stay to exercise any right of set off or recoupment, and to enforce State's payment of Service Fees and other funding obligations, including without limitation those obligations with respect to the imprest and Loss Payments.

8.2 Actions following Termination.

a. With respect to "Life of Partnership" programs (as described in the C&T, where applicable), in the event of termination or nonrenewal of this Contract, GB shall, upon mutual written Contract of the Parties, continue to manage all (i) Claims that have not been closed as of the effective date of termination and (ii) Claims incurred during the term but not reported prior to the termination date (collectively, "**Run-Off Claims**"), provided that State pays GB a mutually agreeable Service Fee per Claim per year open to continue handling Run-Off Claims. Should no Contract be reached regarding Service Fees for open Run-Off Claims, they will be returned to State or transferred to another vendor as designated by State.

b. With respect to "Handle to Conclusion" programs (as described in the C&T, where applicable), in the event of termination or nonrenewal of this Contract, GB will continue to manage all Run-Off Claims (subject to payment of an initial Service Fee for any Claims accepted by GB that were incurred during the term but not reported prior to the effective date of termination), except in the event of a termination of this Contract resulting from State's uncured breach (which shall relieve GB of any obligation to continue to administer Run-Off Claims) or the Parties' Contract to the contrary.

c. State remains responsible for timely funding and payment of all payment obligations with respect to Run-Off Claims. Run-Off Claims Services, if any, will be provided at a servicing branch selected by GB, and a reduced electronic reporting package will be provided to State at State's expense. State will remain responsible for banking, risk management information system, and administration fees while GB handles all Run-Off Claims. Should State renew only a portion of the existing program under this Contract (fewer states, locations, coverages, etc.), all open Claims not part of the renewed portions of the program shall be considered Run-Off Claims and State shall pay GB as described above.

d. Should State elect to have Claim files returned and otherwise discontinue the Services, State agrees to pay all outstanding Service Fees and continue to fund its payment obligations until all Claims are closed within the risk management information system and all Claim files have been returned to State and State has made alternate banking arrangements. GB will return all files to State in an orderly manner, at State's cost and after payment of all outstanding obligations due to GB. GB will provide an electronic, tape or paper copy of the Claim information

in the risk management information system at GB's standard rate as of the date of termination. Upon delivery of this information to State, Claim information may be deleted from GB's systems, subject to applicable law. In the event State does not agree to assume control of such files, GB hereby disclaims liability for failure to retain such files.

9. **Business Arrangements.** As part of its comprehensive and integrated claims administration services model, GB may partner with select vendors and service providers who GB believes are similarly best in class. Through its partners, GB provides a full range of medical management and ancillary claims management services, which may be procured on a wholesale or negotiated basis. GB may receive revenue from these arrangements corresponding to the services provided by GB for procurement of discounted rates, program integration and management, and technological and service enhancements.

ATTACHMENT E2

MASTER TERMS

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ATTACHMENT E3 PRICING

Risk Management Worker's Compensation Third Party Administration
RFP Pricing

Company Name: GALLAGHER BASSETT

Claim Fees	Description/Comment	Life of Claim Unit Price	Life of Contract Unit Price
New WC Claim Fees			
Medical Only	<p>A work-related Claim that meets all of the following criteria:</p> <ul style="list-style-type: none"> • Payments for either indemnity or vocational rehabilitation were not required • The Claim has not become contested or in suit • No investigation required to determine compensability or subrogation requirements • No loss notices, captioned reports, client meetings (other than routine meetings where the claim is listed and noted) or settlement consultation approvals were required • Payments on the Claim do not exceed \$5,000 • Days open do not exceed 180 days <p>NOTE: This pricing is for standard claim handling assignments and caseloads. There would be no</p>	\$185.00	\$185.00
Indemnity	<p>A work-related claim that is not a Medical Only Claim</p> <p style="text-align: right;">NOTE</p> <p>: This pricing is for standard claim handling assignments and caseloads. There would be no dedicated or onsite claims handling staff</p>	\$1,295.00	\$1,155.00

ATTACHMENT E3 PRICING

Incident Only/Record Only	A Record only is a loss reported and set up as a claim for record purposes only. These claims will have \$0 incurred, no associated claim handling work effort, and will be immediately closed after set-up NOTE: This pricing is for standard claim handling assignments and caseloads. There would be no dedicated or onsite claims handling staff	\$95.00	\$95.00
Takeover WC Claim Fees			

Risk Management Worker's Compensation Third Party Administration RFP Pricing Company Name: GALLAGHER BASSETT

Claim Fees	Description/Comment	Life of Claim Unit Price	Life of Contract Unit Price
Medical Only			N/A
Indemnity			N/A
Incident Only/Record Only			N/A

Annual New Ancillary Fee Summary (Account Mgmt, RMIS etc.)	Description/Comment	Total Estimated Fee
Note: If any individual fee/service is included elsewhere, doesn't apply or not offered, input "0" and provide a detailed comment next to the response.		
Account Management/Administration		Annual Fees: Life of Claim: \$50,000 Life of Contract: \$47,500
Banking Fee		INCLUDED
Total Annual Cost of RMIS user access as outlined in the RFP (8 Full User and 25 View Only)		INCLUDED
Total Annual Cost of Claim Reviews as outlined in the RFP (bi-annual in person at State's Office)		INCLUDED
Total Annual Cost of Monthly HR Feed as outlined in the RFP		INCLUDED
Total Annual Cost of Monthly data feed to The State's RMIS system, Riskconnect, as outlined in the RFP		INCLUDED
Carrier oversight fees (if any)		INCLUDED
New Claim Ancillary Charges Total		\$0

One-time Takeover Ancillary Fee Summary	Description/Comment	Total Estimated Fee
Note: If any individual fee/service is included elsewhere, doesn't apply or not offered, input "0" and provide a detailed comment next to the response.		
One-time Data Transfer Fee	One-time conversion fee from current staffing contract to fee-per-claim	\$50,000.00

ALAE	Description/Comment	Per Unit Pricing
Please provide your ISO Search fee.	Includes 15 months of automatic updates	\$15.75

ATTACHMENT E3 PRICING

Please provide your reduced Subrogation/Recovery, per instructions in the RFP.		No charge if subrogation pursuit and recovery processing is handled by client. GB will assist by alerting client to potential subrogation opportunities, and supply claim documentation in support of subrogation claim. For subrogation pursued by GB, fee is 20% of net recovery. Claims will be assigned to a designated subrogation adjuster who will maintain a separate diary on the file.
Please provide your 2nd Injury Fund/Recovery fee.		INCLUDED

**Risk Management Worker's Compensation Third Party Administration
RFP Pricing** Company Name: GALLAGHER BASSETT

Claim Fees	Description/Comment	Life of Claim Unit Price	Life of Contract Unit Price
Legal bill review fees		No charge to client for bills paid off file. Firms are charged 2% of bill amount in exchange for prompt payment	
Outside/inside investigation fees		Prevailing hourly rate plus expenses	

Ancillary Fee Detail	Description/Comment	Per Unit Pricing
Cost of each additional Full User RMIS ID (beyond what has been requested in the RFP)		1,000.00
Cost of each additional View Only User RMIS ID (beyond what has been requested in the RFP)		View claim information only: 500.00 Claim Reporting access only: No Charge
Cost of each additional claim review - in-person at Client location (beyond what has been requested in the RFP)		0.00
Claim Reporting Fee - Phone		0.00
Claim Reporting Fee - Web		0.00
Claim Reporting Fee - Fax/Email		0.00
Claim Reporting Fee - API Data Feed		0.00

Managed Care/Bill Review	Description/Comment	Per Unit Pricing
24/7 Nurse Triage per call		\$95.00

ATTACHMENT E3 PRICING

MBR Fee Schedule and U&C per Bill (if quoted)	Includes bill review fee, UCR and system savings.	\$9.00
MBR Fee Schedule and U&C per Line (if quoted)		No per line charge quoted
MBR Fee Schedule and U&C Percentage of Savings (if quoted)	Per bill charge includes fee schedule	No additional fee
PPO Network (Percentage of Savings)		28.00%
Out of Network/Specialty Bill Review (Percentage of Savings)	Includes clinical validation, nurse review, specialty networks and physical therapy	28.00%
MBR Fee Other (i.e. Flat Rate)		Not quoted
Bill Review Savings Cap		Not quoted
Duplicate Bill Processing		No additional fee
MMSEA/Section 111 fees		\$0.00
Conditional Payment/Search Analysis		\$250 flat fee
Telephonic Case Management	Current pricing; subject to annual adjustment to prevailing rates if applicable	\$340/claim (each 30 days)
Field Case Management	Current pricing; subject to annual adjustment to prevailing rates if applicable	\$120 per hour plus expenses; \$180 per hour plus expenses Complex or CAT cases

**Risk Management Worker's Compensation Third Party Administration
RFP Pricing**

Company Name: GALLAGHER BASSETT

Claim Fees	Description/Comment	Life of Claim Unit Price	Life of Contract Unit Price
Utilization Review	Current pricing; subject to annual adjustment to prevailing rates if applicable	\$120 Inpatient Pre-Certification \$125 Outpatient Pre-Certification CA Letter Only Authorization Program - Included at no charge	
Physician Review	Current pricing; subject to annual adjustment to prevailing rates if applicable	\$285 per Review	
Pharmacy network/review		No charge for Bill Review or PPO reductions for PBM transactions	

Any fee or cost not specifically listed above that would be incurred by the State of Oklahoma.	Description/Comment	Cost
MSA/LMSA Allocation Report	Current pricing; subject to annual adjustment to prevailing rates if applicable	\$2,500 flat fee
Revise MSA Allocation	Current pricing; subject to annual adjustment to prevailing rates if applicable	\$1000 flat fee (1 free revision within 6 months)

ATTACHMENT E3 PRICING

MSA Rush Fee	Current pricing; subject to annual adjustment to prevailing rates if applicable	\$500 flat fee for 1 week TAT
CMS Submission	Current pricing; subject to annual adjustment to prevailing rates if applicable	\$950 flat fee
Targeted Database Searches, Self Service Database Searches	Current pricing; subject to annual adjustment to prevailing rates if applicable	Prevailing rate per report

ATTACHMENT E3 PRICING

			\$0
			\$0

Risk Management Worker's Compensation Third Party Administration
RFP Pricing - Resource-Based/Cost Plus Annual Fee

Company Name: GALLAGHER BASSETT

Staff Position - Workers' Compensation	Number of FTE Staff	Salary	Estimated Fee (will calculate automatically)
Other Staff Subtotals	0.00		\$0
Other Staff Multiplier			
Other Staff Total			\$0
New Claim Program Staffing Total	7.25		\$745,159

Annual New Ancillary Fee Summary (Account Mgmt, RMIS etc.)	Description/Comment	Total Estimated Fee
Note: Please indicate if "waived" for this type of model. If not waived, clearly state the fee.		
Account Management/Administration		INCLUDED
Banking Fee		INCLUDED
Total Annual Cost of RMIS user access as outlined in the RFP (8 Full User and 25 View Only)		INCLUDED
Total Annual Cost of Claim Reviews as outlined in the RFP (bi-annual in person at State's Office)		INCLUDED
Total Annual Cost of Monthly HR Feed as outlined in the RFP		INCLUDED
Total Annual Cost of Monthly data feed to The State's RMIS system, Riskconnect, as outlined in the RFP		INCLUDED
Carrier oversight fees (if any)		INCLUDED
New Claim Ancillary Charges Total		\$0

One-time Takeover Ancillary Fee Summary	Description/Comment	Total Estimated Fee
Note: Please indicate if "waived" for this type of model. If not waived, clearly state the fee.		
One-time Data Transfer Fee		N/A

Any fee or cost not specifically listed above that would be incurred by the State of Oklahoma.	Description/Comment	Cost
ALAE, Managed Care/Bill Review fees and services, Medicare fees	Allocated fees to be billed separately-not paid off file	As listed on Pricing tab

ATTACHMENT E3 PRICING

Risk Management Worker's Compensation Third Party Administration
RFP Pricing - Resource-Based/Cost Plus Annual Fee

Company Name: GALLAGHER BASSETT

Staff Position - Workers' Compensation	Number of FTE Staff	Salary	Estimated Fee (will calculate automatically)

ATTACHMENT E3 PRICING

**Risk Management Worker's Compensation Third Party Administration
RFP Pricing Year-Over-Year Increases for Multi-Year Agreement**

Company Name: GALLAGHER BASSETT

Contract Year	Description/Comment	Response (%)
Year 2		2%
Year 3		2%
Year 4		2%
Year 5		2%

Please mark all the service fee categories (yes/no) below that the increase will apply to:	Description/Comment	Response (Yes/No Only)
Per Claim Rates	Applicable to fee-per claim pricing proposals	Yes
FTE Resource Salaries	Increase would apply to Staffing Program Total Price as listed on line 42 of Resource Based Pricing Model tab	Yes
Multiplier		No
Account Management/Admin	Applicable to fee-per claim pricing proposals only	Yes
RMIS		No
Claim Reviews (if separate from Account Management)		No
Data Feeds (i.e. 3rd Party RMIS, Carrier, HR)		No
Medical Bill Review (Fee Schedule, PPO, OON etc.)		No
Managed Care Services (i.e. UR,TCM,FCM)		No
Intake Fees		No
ISO Search Fees	No contracted increase; Subject to adjustment yearly to prevailing rate charged by ISO	No

ATTACHMENT E3
PRICING

Subrogation Fees		No
Duplicate Bill Processing		No
MMSEA/Section 111 fees		No
Other (if not listed above) #1		

**Risk Management Worker's Compensation Third Party Administration
RFP Pricing Year-Over-Year Increases for Multu-Year Agreement**

Company Name: GALLAGHER BASSETT

Contract Year	Description/Comment	Response (%)
Other (if not listed above) #2		
Other (if not listed above) #3		

ATTACHMENT E4 Offer of Value-Added Products and/or Services

If a Bid includes an offer of value-added products and/or services, such offer shall be submitted in this section and include associated pricing and any other information relevant to such value-added offer. However, the State is not obligated to purchase value-added products or services.

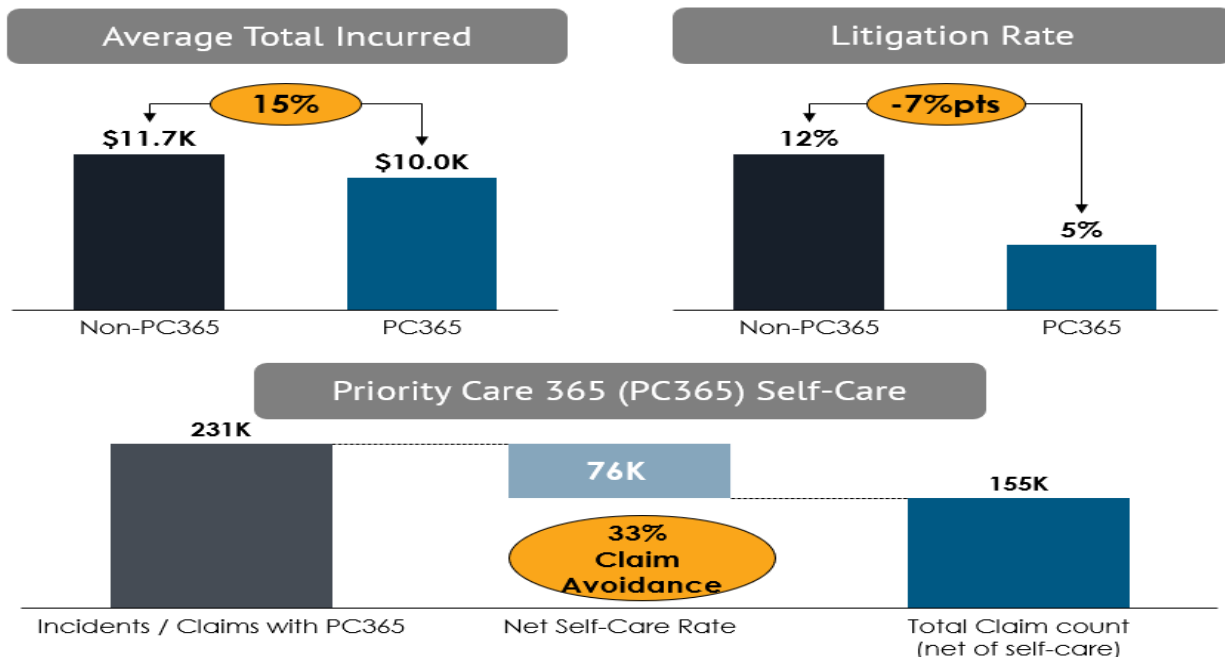
Gallagher Bassett (GB) recommends the State of Oklahoma consider implementing our nurse triage solution PC365 and Clinical Concierge.

GBCARE's Priority Care 365 (PC365) is a fully integrated nurse triage product. The program aims to provide the right care at the right time, helping injured workers recover and return to work sooner. It also reduces the number of claims, improves network penetration, and expedites connection to providers. The standard cost associated with nurse triage is \$95 per call.

Performance Measures:

- Resolves 40% to 45% of all calls with self-care recommendations and no medical treatment.
- 4% to 6% of self-care recipients transfer to medical-only claims.

Below, we have included graphics for additional performance measures:



For injured workers who seek medical treatment after using PC365 services, the trends are positive. GBCARE has a 99% employee satisfaction rate, and the cost and efficiency performance metrics show:

- Increased use of urgent care clinics versus emergency rooms for direction of care, with urgent care average allowance per treatment being 16% of ER allowance.
- More injured workers seeking treatment and getting prescriptions filled by network resources, showing a 5% to 7% increase in network penetration and a 29% to 50% increase in Rx penetration.
- Reduced lag time between employee requests and approvals for provider referrals by 50%.

Overall, PC365 improves the claim experience for injured workers, helping them recover and return to work.

PC365 Workflow Process:

7.10 Offer of Value-Added Products and/or Services

- Evaluates for emergency situations.
- Determines if a language service or a Spanish-speaking nurse is needed.
- Obtains past medical history, current medications, allergies, etc.
- Assesses injury using medical treatment guidelines.
- Sends the Point of Injury (POI) electronically to US HealthWorks or Concentra Medical Center if care is directed to their locations.
- Offers Telemedicine for certain injuries.
 - To use Telemedicine, the employee must give consent and have access to a private space and a smartphone, tablet, or PC with a camera.
- Provides self-care instructions when a self-care disposition is given and attempts to follow up with the employee within 24 to 48 hours of the initial assessment.
- Sends the Medical Awareness Card (MAC) via email or fax to the manager, employee, and/or provider. Pharmacy information can be texted to the employee (with employee consent).
- The MAC provides employee provider and pharmacy information.
- Ties the audio WAV file to our internal claims system for all disposition types.
 - The WAV file, taken with employee consent, is a short clip of the employee describing their injury.
- Automatically enrolls the employee in myMatrixx on all medical dispositions.

Clinical Concierge

GBCARE Clinical Concierge is assigned based on risk factors at the time the claim is reported, with follow-up questions to the injured worker to identify candidates. This resource is helpful for approximately 40% of claims, depending on claim volume and industry type.

Unlike traditional heavy engagement clinical programs, Clinical Concierge is a strategic intervention program focused on:

1. Identifying the assistance the injured worker needs
2. Advocating for the injured worker
3. Directing care
4. Collaborating with the physician on the appropriate treatment plan

After the initial intervention, the case is reviewed to determine if ongoing intervention is needed. About 60% of the time, no further clinical oversight is required.

The Clinical Concierge resource is engaged for the first 10 days of the claim. If ongoing clinical help is needed, it transitions to a regular TCM or FCM assignment. If it transitions to TCM, the same nurse remains engaged with the injured worker to promote trust and foster an ongoing relationship.

- Telephonic Case Management (TCM): The average TCM assignment with GBCARE is approximately 90 days, unlike other models that engage clinical resources for the life of the file, significantly driving up costs.
- Field Case Management (FCM): Focuses on task assignments unless the injury is catastrophic. FCM can coordinate with TCM when a face-to-face resource is needed.

7.10 Offer of Value-Added Products and/or Services

The Clinical Concierge model ensures cost-effective injured worker advocacy, promoting recovery and better claim outcomes for our clients. Positive results include:

- 11% reduction in claim duration
- 35% lower disability duration
- 15% reduction in clinical spend
- 9.5 out of 10 injured worker satisfaction score

ATTACHMENT E5

THIRD PARTY TERMS

Intentionally left blank.

ATTACHMENT F

STATE OF OKLAHOMA CONTRACT WITH GALLAGHER BASSETT SERVICES, INC.

RESULTING FROM SOLICITATION NO. 0900000426

NEGOTIATED EXCEPTIONS TO CONTRACT

The negotiated exceptions set forth below hereby supersede the exceptions set forth in Supplier's Bid, which pages shall be deemed not to constitute a portion of the Contract.	
Term & Section	Language
Attachment D, Oklahoma Information Technology Terms, Definitions, Work Product, § 1.13.	Section 1.13 is hereby deleted in its entirety.
Attachment D, Oklahoma Information Technology Terms, Termination of Maintenance and Support Services, § 2.	<p>Section 2 is hereby deleted in its entirety and replaced with the following:</p> <p>Customer may terminate maintenance or support services without an adjustment charge, provided any of the following circumstances occur:</p> <p>2.1 Customer removes the product for which the services are provided, from productive use or;</p> <p>2.2 The location at which the services are provided is no longer controlled by Customer (for example, because of statutory or regulatory changes or the sale or closing of a facility).</p> <p>If Customer chooses to renew maintenance or support after maintenance has lapsed, Customer may choose to pay the additional fee, if any, associated with renewing a license after such maintenance or support has lapsed, or to purchase a new license.</p>
Attachment D, Oklahoma Information Technology Terms, Commercial Off the Shelf Software, § 10.	Section 10 is hereby deleted in its entirety.
Attachment D, Oklahoma Information Technology Terms Ownership Rights, § 11.	Section 11 is hereby deleted in its entirety.
Attachment D, Oklahoma Information Technology Terms Intellectual	Section 12.2 is hereby deleted in its entirety.

The negotiated exceptions set forth below hereby supersede the exceptions set forth in Supplier's Bid, which pages shall be deemed not to constitute a portion of the Contract.

Term & Section	Language
Property Ownership, § 12.2.	
Attachment D, Oklahoma Information Technology Terms, Intellectual Property Ownership, § 12.8.	<p>Section 12.8 is hereby deleted in its entirety and replaced with the following:</p> <p>To the extent that any Third Party Intellectual Property is embodied or reflected in the Work Product or is necessary to provide services, Supplier shall obtain from the applicable third party for the Customer's benefit, a limited, non-exclusive, revocable license for use of the same during the term of the Agreement, solely for Customer's internal business purposes; likewise, with respect to any Supplier Intellectual Property embodied or reflected in the Work Product or necessary to provide services, Supplier grants to Customer a limited, non-exclusive, revocable license for use of the same during the term of the Agreement , solely for the Customer's internal business purposes. Each such license shall allow the applicable Customer to (i) use, display, perform (by any means), any Third Party Intellectual Property or Supplier Intellectual Property embodied in or delivered to Customer in conjunction with the Work Product and (ii) authorize others to do any or all of the foregoing. Supplier agrees to notify Customer on delivery of the Work Product or services if such materials include any Third Party Intellectual Property. Except for the preceding license, all rights in Supplier Intellectual Property remain in Supplier. On request, Supplier shall provide Customer with documentation indicating a third party's written approval for Supplier to use any Third Party Intellectual Property that may be embodied or reflected in the Work Product.</p>
Attachment D, Oklahoma Information Technology Terms Intellectual Property Ownership, § 12.9.	<p>Section 12.9 is hereby deleted in its entirety and replaced with the following:</p> <p>Supplier agrees that it shall have written agreement(s) that are consistent with the provisions hereof related to Work Product and Intellectual Property Rights with any employees, agents, consultants, contractors or subcontractors providing services or Work Product pursuant to the Contract, prior to the provision of such services or Work Product and that it shall maintain such written agreements at all times during performance of this Contract which are sufficient to support all performance and grants of rights by Supplier.</p>
Attachment D, Oklahoma Information Technology	<p>Section A.2 is hereby deleted in its entirety and replaced with the following:</p>

The negotiated exceptions set forth below hereby supersede the exceptions set forth in Supplier's Bid, which pages shall be deemed not to constitute a portion of the Contract.

Term & Section	Language
<p>Terms Appendix 1, Customer Data, § A.2.</p>	<p>Supplier shall promptly notify the Customer upon receipt of any requests from unauthorized third parties which in any way might reasonably require access to Customer Data or Customer's use of the Hosted environment. Supplier shall notify the Customer by the fastest means available and also in writing pursuant to Contract notice provisions and the notice provision herein. Except to the extent required by law or with respect to subpoenas seeking production of non-privileged information relating to a single claim, Supplier shall not respond to subpoenas, service or process, Freedom of Information Act or other open records requests, and other legal request related to Customer without first notifying the Customer and obtaining the Customer's prior approval, which shall not be unreasonably withheld, of Supplier's proposed responses. Supplier agrees to provide its completed responses to the Customer with adequate time for Customer review, revision and approval.</p>
<p>Attachment D, Oklahoma Information Technology Terms Appendix 1, Indemnity, § H.</p>	<p>Section H is hereby deleted in its entirety and replaced with the following:</p> <p>Supplier agrees to defend, indemnify and hold the State, its officers, directors, employees, and agents harmless from all third-party liabilities, claims, damages, losses, costs, expenses, demands, suits and actions (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification), excluding damages that are the sole fault of Customer, arising from or in connection with Supplier's breach of its express representations and warranties in these Information Technology Terms and the Contract. If a third party claims that any portion of the products or services provided by Supplier under the terms of another Contract Document or these Information Technology Terms infringes that party's patent or copyright, Supplier shall defend, indemnify and hold harmless the State and Customer against the claim at Supplier's expense and pay all related costs, damages, and attorney's fees incurred by or assessed to, the State and/or Customer. The State and/or Customer shall promptly notify Supplier of any third party claims and to the extent authorized by the Attorney General of the State, allow Supplier to control the defense and any related settlement negotiations. If the Attorney General of the State does not authorize sole control of the defense and settlement negotiations to Supplier, Supplier shall be granted authorization to equally participate in any proceeding related to this section but Supplier shall remain responsible to indemnify Customer and the State for all associated costs, damages and fees</p>

The negotiated exceptions set forth below hereby supersede the exceptions set forth in Supplier's Bid, which pages shall be deemed not to constitute a portion of the Contract.

Term & Section	Language
	<p>incurred by or assessed to the State and/or Customer. Should the software become, or in Supplier's opinion, be likely to become the subject of a claim or an injunction preventing its use as contemplated in connection with Hosting services, Supplier may, at its option (i) procure for the State the right to continue using the software or (ii) replace or modify the software with a like or similar product so that it becomes non-infringing.</p>
<p>Attachment D, Oklahoma Information Technology Terms Appendix 1, Termination, Expiration and Suspension of Service, § I.2.a.</p>	<p>Section I.2.a is hereby deleted in its entirety and replaced with the following:</p> <p>In the event of a termination or expiration of the Contract, the parties further agree:</p> <p>Supplier shall implement an orderly return of Customer Data in a format specified by the Customer and, as determined by the Customer:</p> <ul style="list-style-type: none"> a. return the Customer Data to Customer at Customer's cost, at a time agreed to by the parties and the subsequent secure disposal of State Data;
<p>Attachment B, State General Terms, Maintenance of Insurance, Payment of Taxes, and Worker's Compensation, §§ 8.1 and 8.2.</p>	<p>Section 8.1 and 8.2 are hereby deleted in their entirety and replaced with the following:</p> <p>8.1 As a condition of this Contract, Supplier shall procure at its own expense, and provide proof of, insurance coverage with the applicable liability limits set forth below and any approved subcontractor of Supplier shall procure and provide proof of the same coverage. The required insurance shall be underwritten by an insurance carrier with an A.M. Best rating of A- or better.</p> <p>Such proof of coverage shall additionally be provided to the Customer if services will be provided by any of Supplier's employees, agents or subcontractors at any Customer premises and/or employer vehicles will be used in connection with performance of Supplier's obligations under the Contract. Supplier may not commence performance hereunder until such proof has been provided. Additionally, Supplier shall provide State with thirty (30) day notice of cancellation and name the State and its agencies as certificate holder and shall promptly provide proof to the State of any renewals, additions, or changes to such insurance coverage. Supplier's obligation to maintain insurance coverage under the Contract is a continuing obligation until Supplier has no further</p>

The negotiated exceptions set forth below hereby supersede the exceptions set forth in Supplier's Bid, which pages shall be deemed not to constitute a portion of the Contract.

Term & Section	Language
	<p>obligation under the Contract. Any combination of primary and excess or umbrella insurance may be used to satisfy the limits of coverage for Commercial General Liability, Auto Liability and Employers' Liability. Unless agreed between the parties and approved by the State Purchasing Director, the minimum acceptable insurance limits of liability are as follows:</p> <p>A. Workers' Compensation and Employer's Liability Insurance in accordance with and to the extent required by applicable law;</p> <p>B. Commercial General Liability Insurance covering the risks of personal injury, bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of liability of not less than \$5,000,000 per occurrence;</p> <p>C. Automobile Liability Insurance with limits of liability of not less than \$5,000,000 combined single limit each accident;</p> <p>D. Directors and Officers Insurance which shall include Employment Practices Liability as well as Consultant's Computer Errors and Omissions Coverage, if information technology services are provided under the Contract, with limits not less than \$5,000,000 per claim;</p> <p>E. Security and Privacy Liability insurance, including coverage for failure to protect confidential information and failure of the security of Supplier's computer systems that results in unauthorized access to Customer data with limits \$5,000,000 per claim; and</p> <p>F. Additional coverage required in writing in connection with a particular Acquisition.</p> <p>8.2 Supplier shall be entirely responsible during the existence of the Contract for the liability and payment of taxes payable by or assessed to Supplier or its employees, agents and subcontractors of whatever kind, in connection with the Contract. Supplier further agrees to comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and Workers' Compensation. Neither Customer nor the State shall be liable to the Supplier, its employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/or Workers' Compensation or any benefit available to a State or Customer employee.</p>

The negotiated exceptions set forth below hereby supersede the exceptions set forth in Supplier's Bid, which pages shall be deemed not to constitute a portion of the Contract.

Term & Section	Language
<p>Attachment B, State General Terms, Confidentiality, § 11.1.</p>	<p>Section 11.1 is hereby deleted in its entirety and replaced with the following:</p> <p>11.1 The Supplier shall maintain strict security of all State and citizen data and records entrusted to it or to which the Supplier gains access, in accordance with and subject to applicable federal and State laws, rules, regulations, and policies and shall use any such data and records only as necessary for Supplier to perform its obligations under the Contract. The Supplier further agrees to evidence such confidentiality obligation in a separate writing if required under such applicable federal or State laws, rules and regulations. The Supplier warrants and represents that such information shall not be sold, assigned, conveyed, provided, released, disseminated or otherwise disclosed by Supplier, its employees, officers, directors, subsidiaries, affiliates, agents, representatives, assigns, subcontractors, independent contractors, successor or any other persons or entities without Customer's prior express written permission. Supplier shall instruct all such persons and entities that the confidential information shall not be disclosed or used without the Customer's prior express written approval except as necessary for Supplier to render services under the Contract. The Supplier further warrants that it has a tested and proven system in effect designed to protect all confidential information. For clarity, use of State and citizen data as necessary for Supplier to perform its obligations under the Contract includes the use of anonymized or deidentified information (information that can identify neither the claimant nor the client, e.g., stripped of all contact information, client name, claim #) for analytics and metrics that result in comparative modeling, trend analysis, benchmarking and similar information beneficial to the State. Supplier may disclose anonymized or deidentified information to a third party for purposes of assisting in developing such analytics and metrics provided Supplier contractually requires such third party to maintain compliance with Supplier's confidentiality obligations in this Contract, maintain appropriate data security and privacy safeguards, and prohibits re-identification or further disclosure of the data.</p>
<p>Attachment B, State General Terms, Assignment and Permitted Subcontractors, § 13.3.</p>	<p>Section 13.3 is hereby deleted in its entirety and replaced with the following:</p> <p>13.3 If the Supplier is permitted to utilize subcontractors in support of the Contract, the Supplier shall disclose all subcontractors used to perform services for the Customer and shall remain solely responsible for its obligations under the terms of the Contract, for its actions and omissions and those of its agents, employees and</p>

The negotiated exceptions set forth below hereby supersede the exceptions set forth in Supplier's Bid, which pages shall be deemed not to constitute a portion of the Contract.

Term & Section	Language
	<p>subcontractors and for payments to Supplier's employees. The Customer remains responsible for reimbursing Supplier for all such payments made for services outlined in Attachment E.1 - Best and Final Offer. Prior to a subcontractor being utilized by the Supplier, the Supplier shall obtain written approval of the State of such subcontractor and each employee, as applicable to a particular Acquisition, of such subcontractor proposed for use by the Supplier. Such approval is within the sole discretion of the State. Any proposed subcontractor working on the State's premises shall be identified by entity name, and by employee name, if required by the particular Acquisition, in the applicable proposal and shall include the nature of the services to be performed. As part of the approval request, the Supplier agrees that it will maintain a written agreement with the proposed subcontractor under which the subcontractor is bound by and agrees, as applicable, to perform the same covenants and be subject to the same conditions and make identical certifications to the same facts and criteria, as the Supplier under the terms of all applicable Contract Documents. Supplier agrees that maintaining such agreement with any subcontractor and obtaining prior written approval by the State of any subcontractor and associated employees shall be a continuing obligation. The State further reserves the right to revoke approval of a subcontractor or an employee thereof in instances of poor performance, misconduct or for other similar reasons.</p>