

STANDARD AGREEMENT FORM FOR PROFESSIONAL SERVICES

The parties' contract comprises this Standard Agreement Form, as well as its referenced Articles and their Appendices

1. Agency Contract Number CT 190001019	2. DGS Solicitation Number RFP 190000050	3. Financial Coding 018500000	4. Agency Assigned Encumbrance Number n/a
5. Vendor Number DOV10260	6. Project/Case Number	7. Alaska Business License Number BL #2085701	
This contract is between the State of Alaska,			
8. Department of Office of the Lieutenant Governor		Division Division of Elections	hereafter the State, and
9. Contractor Phone: 775-223-7230 dana.latour@dominionvoting.com Dominion Voting Systems, Inc. Contractor hereafter the Contractor			
Mailing Address.	Street or P.O. Box	City	State ZIP+4
1201 18 th Street, Suite 210, Denver, CO 80202			
10. ARTICLE 1. Appendices: Appendices referred to in this contract and attached to it are considered part of it.			
ARTICLE 2. Performance of Service:			
2.1 Appendix A (General Provisions), Articles 1 through 16, governs the performance of services under this contract.			
2.2 Appendix B sets forth the liability and insurance provisions of this contract.			
2.3 Appendix C sets forth the services to be performed by the contractor.			
ARTICLE 3. Period of Performance: The period of performance for this contract begins: <u>August 5, 2019</u> , and ends <u>August 4, 2024</u> .			
ARTICLE 4. Considerations:			
4.1 In full consideration of the contractor's performance under this contract, the State shall pay the contractor a sum not to exceed \$ <u>4,409,808.45</u> in accordance with the provisions of Appendix D.			
4.2 When billing the State, the contractor shall refer to the Authority Number or the Agency Contract Number and send the billing to:			
11. Department of Office of the Lieutenant Governor		Attention: Division of Division of Elections	
Mailing Address P.O. Box 110017, Juneau, AK 99801		Attention: Accounts Payable	
12. CONTRACTOR		14. CERTIFICATION: I certify that the facts herein and on supporting documents are correct, that this voucher constitutes a legal charge against funds and appropriations cited, that sufficient funds are encumbered to pay this obligation, or that there is a sufficient balance in the appropriation cited to cover this obligation. I am aware that to knowingly make or allow false entries or alternations on a public record, or knowingly destroy, mutilate, suppress, conceal, remove or otherwise impair the verity, legibility or availability of a public record constitutes tampering with public records punishable under AS 11.56.815-.820. Other disciplinary action may be taken up to and including dismissal.	
Name of Firm Dominion Voting Systems			
Signature of Authorized Representative	Date 8/6/2019		
Typed or Printed Name of Authorized Representative John Poulos, President & CEO			
Title Contractor			
13. CONTRACTING AGENCY		Signature of Head of Contracting Agency or Designee	Date
Department/Division OOLG/Division of Elections	Date 8/8/19	<i>R. Shawn Henderson</i>	8/9/19
Signature of Project Director <i>Gail Fenumiai</i>		Typed or Printed Name R. Shawn Henderson, Administrative Director	
Typed or Printed Name of Project Director Gail Fenumiai		Signature of Director of Elections <i>Gail Fenumiai</i>	
Title Project Director		Typed or Printed Name of Director of Elections Gail Fenumiai	

NOTICE: This contract has no effect until signed by the head of contracting agency or designee.

APPENDIX A GENERAL PROVISIONS

Article 1. Definitions.

- 1.1 In this contract and appendices, "Project Director" or "Agency Head" or "Procurement Officer" means the person who signs this contract on behalf of the Requesting Agency and includes a successor or authorized representative.
- 1.2 "State Contracting Agency" means the department for which this contract is to be performed and for which the Commissioner or Authorized Designee acted in signing this contract.

Article 2. Inspections and Reports.

- 2.1 The department may inspect, in the manner and at reasonable times it considers appropriate, all the contractor's facilities and activities under this contract.
- 2.2 The contractor shall make progress and other reports in the manner and at the times the department reasonably requires.

Article 3. Disputes.

- 3.1 If the contractor has a claim arising in connection with the contract that it cannot resolve with the State by mutual agreement, it shall pursue the claim, if at all, in accordance with the provisions of AS 36.30.620 – 632.

Article 4. Equal Employment Opportunity.

- 4.1 The contractor may not discriminate against any employee or applicant for employment because of race, religion, color, national origin, or because of age, disability, sex, marital status, changes in marital status, pregnancy or parenthood when the reasonable demands of the position(s) do not require distinction on the basis of age, disability, sex, marital status, changes in marital status, pregnancy, or parenthood. The contractor shall take affirmative action to insure that the applicants are considered for employment and that employees are treated during employment without unlawful regard to their race, color, religion, national origin, ancestry, disability, age, sex, marital status, changes in marital status, pregnancy or parenthood. This action must include, but need not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting out the provisions of this paragraph.
- 4.2 The contractor shall state, in all solicitations or advertisements for employees to work on State of Alaska contract jobs, that it is an equal opportunity employer and that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, age, disability, sex, marital status, changes in marital status, pregnancy or parenthood.
- 4.3 The contractor shall send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' compensation representative of the contractor's commitments under this article and post copies of the notice in conspicuous places available to all employees and applicants for employment.
- 4.4 The contractor shall include the provisions of this article in every contract, and shall require the inclusion of these provisions in every contract entered into by any of its subcontractors, so that those provisions will be binding upon each subcontractor. For the purpose of including those provisions in any contract or subcontract, as required by this contract, "contractor" and "subcontractor" may be changed to reflect appropriately the name or designation of the parties of the contract or subcontract.
- 4.5 The contractor shall cooperate fully with State efforts which seek to deal with the problem of unlawful discrimination, and with all other State efforts to guarantee fair employment practices under this contract, and promptly comply with all requests and directions from the State Commission for Human Rights or any of its officers or agents relating to prevention of discriminatory employment practices.
- 4.6 Full cooperation in paragraph 4.5 includes, but is not limited to, being a witness in any proceeding involving questions of unlawful discrimination if that is requested by any official or agency of the State of Alaska; permitting employees of the contractor to be witnesses or complainants in any proceeding involving questions of unlawful discrimination, if that is requested by any official or agency of the State of Alaska; participating in meetings; submitting periodic reports on the equal employment aspects of present and future employment; assisting inspection of the contractor's facilities; and promptly complying with all State directives considered essential by any office or agency of the State of Alaska to insure compliance with all federal and State laws, regulations, and policies pertaining to the prevention of discriminatory employment practices.
- 4.7 Failure to perform under this article constitutes a material breach of contract.

Article 5. Termination.

The Project Director, by written notice, may terminate this contract, in whole or in part, when it is in the best interest of the State. In the absence of a breach of contract by the contractor, the State is liable only for payment in accordance with the payment provisions of this contract for services rendered before the effective date of termination.

Article 6. No Assignment or Delegation.

The contractor may not assign or delegate this contract, or any part of it, or any right to any of the money to be paid under it, except with the written consent of the Project Director and the Agency Head.

Article 7. No Additional Work or Material.

No claim for additional services, not specifically provided in this contract, performed or furnished by the contractor, will be allowed, nor may the contractor do any work or furnish any material not covered by the contract unless the work or material is ordered in writing by the Project Director and approved by the Agency Head.

Article 8. Independent Contractor.

The contractor and any agents and employees of the contractor act in an independent capacity and are not officers or employees or agents of the State in the performance of this contract.

Article 9. Payment of Taxes.

As a condition of performance of this contract, the contractor shall pay all federal, State, and local taxes incurred by the contractor and shall require their payment by any Subcontractor or any other persons in the performance of this contract. Satisfactory performance of this paragraph is a condition precedent to payment by the State under this contract.

Article 10. Ownership of Documents.

All designs, drawings, specifications, notes, artwork, and other work developed specifically for the State of Alaska in the performance of this agreement are produced for hire and remain the sole property of the State of Alaska and may be used by the State for any other purpose without additional compensation to the contractor. The contractor agrees not to assert any rights and not to establish any claim under the design patent or copyright laws. Nevertheless, if the contractor does mark such documents with a statement suggesting they are trademarked, copyrighted, or otherwise protected against the State's unencumbered use or distribution, the contractor agrees that this paragraph supersedes any such statement and renders it void. The contractor, for a period of three years after final payment under this contract, agrees to furnish and provide access to all retained materials at the request of the Project Director. Unless otherwise directed by the Project Director, the contractor may retain copies of all the materials.

Article 11. Governing Law; Forum Selection

This contract is governed by the laws of the State of Alaska. To the extent not otherwise governed by Article 3 of this Appendix, any claim concerning this contract shall be brought only in the Superior Court of the State of Alaska and not elsewhere.

Article 12. Conflicting Provisions.

Unless specifically amended and approved by the Department of Law, the terms of this contract supersede any provisions the contractor may seek to add. The contractor may not add additional or different terms to this contract; AS 45.02.207(b)(1). The contractor specifically acknowledges and agrees that, among other things, provisions in any documents it seeks to append hereto that purport to (1) waive the State of Alaska's sovereign immunity, (2) impose indemnification obligations on the State of Alaska, or (3) limit liability of the contractor for acts of contractor negligence, are expressly superseded by this contract and are void.

Article 13. Officials Not to Benefit.

Contractor must comply with all applicable federal or State laws regulating ethical conduct of public officers and employees.

Article 14. Covenant Against Contingent Fees.

The contractor warrants that no person or agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee except employees or agencies maintained by the contractor for the purpose of securing business. For the breach or violation of this warranty, the State may terminate this contract without liability or in its discretion deduct from the contract price or consideration the full amount of the commission, percentage, brokerage or contingent fee.

Article 15. Compliance.

In the performance of this contract, the contractor must comply with all applicable federal, state, and borough regulations, codes, and laws, and be liable for all required insurance, licenses, permits and bonds.

Article 16. Force Majeure:

The parties to this contract are not liable for the consequences of any failure to perform, or default in performing, any of their obligations under this Agreement, if that failure or default is caused by any unforeseeable Force Majeure, beyond the control of, and without the fault or negligence of, the respective party. For the purposes of this Agreement, Force Majeure will mean war (whether declared or not); revolution; invasion; insurrection; riot; civil commotion; sabotage; military or usurped power; lightning; explosion; fire; storm; drought; flood; earthquake; epidemic; quarantine; strikes; acts or restraints of governmental authorities affecting the project or directly or indirectly prohibiting or restricting the furnishing or use of materials or labor required; inability to secure materials, machinery, equipment or labor because of priority, allocation or other regulations of any governmental authorities.

Article 17. Use By Political Entities within the State of Alaska.

Contractor agrees to extend the same pricing, terms, and conditions as stated in this Agreement to each and every public procurement unit, and special district within the State of Alaska, which entity is purchasing under substantially the same terms and conditions in this Contract. It is understood that other entities shall make purchases in their own name, make direct payment, and be liable directly to Contractor; and the State shall in no way be responsible to Contractor for other entities' purchases.

APPENDIX B¹ INDEMNITY AND INSURANCE

Article 1. Indemnification

The Contractor shall indemnify, hold harmless, and defend the contracting agency from and against any claim of, or liability for error, omission or negligent act of the Contractor under this agreement. The Contractor shall not be required to indemnify the contracting agency for a claim of, or liability for, the independent negligence of the contracting agency. If there is a claim of, or liability for, the joint negligent error or omission of the Contractor and the independent negligence of the Contracting agency, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. "Contractor" and "Contracting agency", as used within this and the following article, include the employees, agents and other contractors who are directly responsible, respectively, to each. The term "independent negligence" is negligence other than in the Contracting agency's selection, administration, monitoring, or controlling of the Contractor and in approving or accepting the Contractor's work.

Article 2. Insurance

Without limiting contractor's indemnification, it is agreed that contractor shall purchase at its own expense and maintain in force at all times during the performance of services under this agreement the following policies of insurance. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the contractor's policy contains higher limits, the state shall be entitled to coverage to the extent of such higher limits. Certificates of Insurance must be furnished to the contracting officer prior to beginning work and must provide for a notice of cancellation, non-renewal, or material change of conditions in accordance with policy provisions. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach of this contract and shall be grounds for termination of the contractor's services. All insurance policies shall comply with and be issued by insurers licensed to transact the business of insurance under AS 21.

2.1 Workers' Compensation Insurance: The Contractor shall provide and maintain, for all employees engaged in work under this contract, coverage as required by AS 23.30.045, and; where applicable, any other statutory obligations including but not limited to Federal U.S.L. & H. and Jones Act requirements. The policy must waive subrogation against the State.

2.2 Commercial General Liability Insurance: covering all business premises and operations used by the Contractor in the performance of services under this agreement with minimum coverage limits of \$300,000. combined single limit per claim.

2.3 Commercial Automobile Liability Insurance: covering all vehicles used by the Contractor in the performance of services under this agreement with minimum coverage limits of \$300,000. combined single limit per claim.

APPENDIX C SCOPE OF SERVICES

The Contractor, Dominion Voting Systems, Inc., shall provide implementation, installation, testing and training of a new voting and ballot tabulation system, software and hardware, in accordance with the terms and conditions set forth in Request for Proposals (RFP) 190000050. The requirements and specifications set forth in the RFP, including the Program Requirements and Miscellaneous Specifications outlined in Attachment 1 and 2 of the RFP, the Contractor's proposal, including Appendix E (Hardware Maintenance and Software Licensing Agreements), are hereby incorporated into this contract and are binding upon the Parties.

In any case in which the terms of these documents differ or conflict, then pursuant to Appendix A, Article 12, and the General Provisions of this contract supersede any provisions in other appendices. Services to be provided by the Contractor shall include but shall not be limited to the following:

1. **Deliverables:** The Contractor shall provide all software, hardware, firmware, equipment, supplies, support and services for a complete, turn-key voting and ballot tabulation system that will be used to support elections, that provides for both precinct-based ballot counting and central (Regional Office) ballot counting and that provides for HAVA compliant, accessible voting that meets Alaska's requirements and that maximizes accessibility for all Alaskans eligible to vote, including rural and urban voters, voters with disabilities and voters requiring language assistance under Section 203 of the Voting Rights Act (VRA).

The turn-key system shall include:

- A. Precinct-based voting solution for 304 precincts to include ballot counting at the precinct level and HAVA compliant accessible voting.
- B. HAVA compliant accessible voting solution for 137 hand-count precincts and at least 5 early vote stations.
- C. Central ballot counting at Regional Offices for absentee/questioned/early ballots (using scanners that can be loaded with multiple ballots and that do not require feeding ballots one at a time).
- D. Manual entry at Regional Offices for hand-count precinct election results. The system must allow for simultaneous data entry of hand-count results as outlined below:
 - a. Region I – at least 2 users entering results.
 - b. Region III – at least 2 users entering results.
 - c. Region IV – at least 3 users entering results.
- E. Upload of election results from precincts and Regional Offices to central server located in the Director's Office.
- F. Tabulating/Reporting of election results.

The Contractor shall accomplish the work and present the deliverables described in the RFP. Each deliverable must be formally accepted by the DOE before sign-off. The Contractor is responsible for scheduling acceptance "walk through" sessions to present each deliverable to DOE's Project Manager. The division will sign-off on the deliverable, or provide a report documenting why the deliverable is not acceptable within 10 business days (close of business), unless otherwise specified, of the formal walk through.

The division's review time will begin upon receipt of the Contractor's deliverables. Review

dates and times for subsequent project deliverables shall be set when the project plan is approved.

2. **Project Management:** Within 30 days of executing this contract, the Contractor, will finalize and obtain approval from DOE for the complete project schedule, following the below phases, that includes specific tasks, milestones and deliverables. The final schedule must reflect a completion date that allows DOE to successfully administer the August 18, 2020 Primary Election.

Phase	Activities Expected	Deliverable
Phase 1	Project Planning	<ol style="list-style-type: none"> 1. Kick-off Meeting 2. Complete Project Schedule 3. Logistical Delivery Plan
Phase 2	Equipment Delivery, Installation and Testing – Director’s Office and Regional Offices	<ol style="list-style-type: none"> 1. Acceptance Testing Scripts 2. Testing Complete/Sign Off
Phase 3	Equipment Delivery and Testing – Precinct Voting Solution (ICP, ICX)	<ol style="list-style-type: none"> 1. Acceptance Testing Scripts 2. Testing Complete/Sign Off
Phase 4	Training and Documentation	<ol style="list-style-type: none"> 1. System, Operator and User Manuals, Poll Worker Instructions 2. Onsite Training for DOE Staff 3. Logic and Accuracy Test Scripts
Phase 5	Software/Complete System Test (end-to-end) – Mock election	<ol style="list-style-type: none"> 1. Mock Election
Phase 6	Product Implementation/ Election Support Services	<ol style="list-style-type: none"> 1. Completed Installation – System Ready for Election 2. Completed Acceptance Testing – All unresolved items resolved 3. Election database setup/ballot setup 4. Logic & Accuracy Testing 5. Onsite support during Elections
Phase 7	Ongoing Support year 2 (Software & Hardware Licensing, Warranty/Maintenance)	<ol style="list-style-type: none"> 1. Annual Software License and Hardware Warranty/Maintenance year 2
Phase 8	Ongoing Support years 3-5 (Software & Hardware Licensing, Warranty/Maintenance)	<ol style="list-style-type: none"> 1. Annual Software License and Hardware Warranty/Maintenance years 3-5

The contractor must assign a project manager to oversee and coordinate the ballot tabulation system delivery, implementation, training and support within 30 days of signing the contract. The assigned project manager shall provide services to ensure the successful delivery and deployment of the system and will be required to provide updates at least weekly to the DOE project manager regarding equipment delivery, installation, implementation training and support, technical difficulties and all other related matters.

3. **Shipping and Delivery:** The contractor shall provide for the shipping, tracking and delivery of all system components required for the proposed system to the appropriate offices

(Director's and Regional/Satellite) for installation. In addition, the components for the precinct-based solution must be shipped to the appropriate Regional/Satellite Office.

4. **Installation:** The contractor must complete the initial installation of the equipment in each Regional/Satellite Office and the Director's Office. Installation will include:
 - a. System installation and configuration plan for the system installed in the Director's Office and in each Regional/Satellite Office.
 - b. Preparation of the system to ensure the system is secure and operating properly and ready for election use.
 - c. Installation of all components to fully conduct elections.
 - d. Initial acceptance testing to ensure all system components and precinct-based solution components are operating according to specifications. As part of the acceptance testing, the contractor must provide user-friendly acceptance testing scripts and must provide onsite support for DOE staff when performing acceptance testing.
 - e. Once all equipment is delivered and installed, the contractor must work with DOE to conduct a "mock" election to be used for end-to-end and load testing to verify that all installed components operate properly, and operate as a complete, fully-functioning system, including the upload of mock election results. The contractor must provide a demonstration election and ballots to support the mock election as well as test scripts for logic and accuracy testing.
5. **Documentation:** The contractor must provide documentation specific to the hardware and software implemented, including:
 - a. User Procedures, including documentation for precinct-based components as well as central scanning and data-entry of hand-count results at regional offices;
 - b. shipping requirements to meet USPS standards and contractor's warranty;
 - c. election administrator documentation;
 - d. system documentation;
 - e. preventative maintenance plans and procedures; and
 - f. training materials specific to the installation, including setup/takedown processes for precinct-based solution.
6. **Training:** The contractor must provide complete, comprehensive training of the entire system for DOE staff, that covers at a minimum:
 - a. System software and all aspects of preparing the election database (including import/export features, generating ballot files, downloading election database to memory devices, uploading and reporting of election results, backing-up of the database, preparing for logic and accuracy testing);
 - b. operation of regional scanning solution (including software and hardware);
 - c. regional office procedures for data entry of hand-count results;
 - d. preparation, set-up and takedown processes for precinct-based solution (all components); and
 - e. processes for uploading election results from precincts and Regional/Satellite Offices.
7. **Support:** The contractor must provide election support.
 - a. Onsite and offsite database review and programming support during election setup during the first primary and general election the system is in use.

- b. Onsite support at Regional Offices and Director's Office during the first primary and general election the system is in use. Onsite support will be 3 days, consisting of the day prior, day of, and the day after the election.
 - c. During the two weeks prior through two weeks after election day, real time support during Alaska business hours, including weekends.
 - d. U.S. based customer support provided by customer service employees residing within the United States.
 - i. The successful vendor agents will be required to be in compliance with the state's security standards, which may include background checks.
8. **Repair and Maintenance:** The contractor must provide equipment repair and preventative maintenance recommendations, including recommendations for storage and off-cycle preventative maintenance requirements.

APPENDIX D PAYMENT PROVISIONS

In full consideration of the Contractor's performance under this contract, the State shall pay the Contractor a total sum not to exceed \$ 4,409,808.45. This amount includes all hardware, software, licensing, annual maintenance/support, installation/onsite training, travel, labor, and all other miscellaneous cost associated with contract performance.

Billing Procedures and Payment Method: The contractor shall submit an itemized invoice for the services provided and deliverables completed as outlined below and shall be submitted within 30 days after the division has approved and accepted all work. The agency head, designee, or Project Director must accept the deliverables before the payment will be authorized.

Approximately 5% of the total contract price (\$199,111.91) will be withheld from the initial cost of the Democracy Suite Standard, Adjudication Module and Communication Manager software as outlined Item #1 of the Contractor's cost proposal. The amount withheld will be paid within 30 days following successful completion of the first general election conducted using the new system.

PAYMENT SCHEDULE	Deliverable	Initial Payment (does not include the system wide discount portion for each phase)	Hold Back
Phase 1 – Project Planning	<ol style="list-style-type: none"> 1. Kick-off Meeting 2. Complete Project Schedule 3. Logistical Delivery Plan 		
Phase 2 – Director's Office /Regional Office Hardware Delivery and Installation	<ol style="list-style-type: none"> 1. Acceptance Testing Scripts 2. Testing Complete/Sign Off 	\$434,380.00	0
Phase 3a – Precinct Voting Solution (ICP, ICX) Delivery	<ol style="list-style-type: none"> 1. Acceptance Testing Scripts 2. Testing Complete/Sign Off 	\$2,739,802.50	0
Phase 3b – Precinct Voting Solution (Peripherals)	<ol style="list-style-type: none"> 1. Acceptance Testing Scripts 2. Testing Complete/Sign Off 	\$462,608.00	0
Phase 3c – Shipping	<ol style="list-style-type: none"> 1. Equipment Delivery 	\$178,675.00	0
Phase 4 – Training & Documentation Democracy Suite System, ICC Operator, ICC Adjudication, ICP and ICX Operator	<ol style="list-style-type: none"> 3. System, Operator and User Manuals, Poll Worker Instructions 4. Onsite Training for DOE Staff 5. Logic and Accuracy Test Scripts 	\$61,500.00	0

and Train the Trainer (for Poll Workers)			
Phase 5 – Software/Complete System Test(end-to-end)	1. Mock Election	\$175,888.10	\$199,111.91
Phase 6 –Product Implementation & Election Support Services	<ol style="list-style-type: none"> 1. Completed Installation – System Ready for Election 2. Completed Acceptance Testing – All unresolved items resolved 3. Election database setup/ballot setup 4. Logic & Accuracy Testing 5. Onsite support during Elections 	\$197,000.00	0
Phase 7 – Ongoing support year 2	1. Annual Software License and Hardware Warranty/Maintenance year 2	Annual Cost \$252,408.00	0
Phase 8 – Ongoing support years 3-5	1. Annual Software License and Hardware Warranty/Maintenance years 3-5	Annual Cost Year 3: \$265,028.40 Annual Cost Year 4: \$278,279.82 Annual Cost Year 5: \$292,193.81	0
System wide Discount		(\$1,560,767.49)	
TOTAL 5-YEAR CONTRACT		\$3,976,108.05	
Phase 9 – Optional Items	To be determined when items are needed	\$433,700.41	0
TOTAL –YEAR CONTRACT AND OPTIONAL ITEMS		\$4,409,808.45	

ITEMIZED CONTRACT COSTS:

Hardware/Software

The Contractor is to provide the equipment listed below per the associated costs. Specifically, the Contractor will provide the below listed hardware and software and optional items, subject to adjustment, not to exceed the contract price:

1. PRECINCT EQUIPMENT (Phase 3a):

Product Name	Description	Qty	Unit Price	Extension
ImageCast Precinct Tabulator (321C)	Includes Tabulator/Scanner, Internal Battery,, Thermal Printer with Paper Roll, 12 Month Hardware Warranty, 12 Month Firmware Software Application License, two 16GB Flash Memory Cards, two I-Buttons, RJ11 Phone Cable 25'	304	\$3,900.00	\$1,185,600.00
ImageCast X Kit – Prime VVPAT DRE	Includes ICX Prime 21" tablet, VVPAT printer, VVPAT power cable, VVPAT USB cable, 8GB flash drive, three voter smart cards	167	\$3,500.00	\$584,500.00
ImageCast X Kit – Prime BMD	Includes ICX Prime 21" tablet with one backup battery. Ballot marking printer, three voter smart cards, 6' USB A to B Cable, 12-month hardware warranty, 12 month firmware application license	277	\$3,500.00	\$969,500.00
ImageCast X Prime Technician Smart Card – Generic		25	\$8.10	\$202.50
Total				\$2,739,802.50

2. DIRECTOR'S OFFICE "HOST" SITE AND 5 REGIONAL OFFICE HARDWARE (ELECTION MANAGEMENT HARDWARE) (Phase 2):

Product Name	Description	Qty	Unit Price	Extension
EMS Standard Server Kit (R630/WS2012/SS2016)	Includes PowerEdge R630 rack server, 24 port switch, 24" monitor, keyboard/mouse, patch cable, Cepstral, Avast	6	\$17,000.00	\$102,000.00
EMS Client Workstation Kit	Includes Dell T3420, 24" monitor, iButton programmer, high speed media reader, patch cable, smart card reader/writer	12	\$1,700.00	\$20,400.00
EMS Adjudication Workstation Kit	Includes Dell T3420, 24" monitor, SQL Server 2016, CAL, cables, Windows 10 Pro	12	\$1,700.00	\$20,400.00
Smart UPS 1500 (rack mountable)		6	\$800.00	\$4,800.00
EMS Standard Listener Server Kit		1	\$6,495.00	\$6,495.00
Firewall Protection – M200		1	\$2,700.00	\$2,700.00
RAS Server Kit		1	\$4,650.00	\$4,650.00
SIIG USB 3.0 9-Port Hub & 2.1A Charging Port		3	\$145.00	\$435.00
EMS Report Printer – LBP6230DW		6	\$125.00	\$750.00

External Dial Up USB Modem		30	\$225.00	\$6,750.00
ImageCast Central Kit – G1130	Includes Canon Model DR-G1130, Computer w/23" monitor, keyboard/mouse, one 8GB USB Flash Drive & one I-Button, patch cable	10	\$25,000.00	\$250,000.00
ImageCast Central Kit – M160ii	Includes Canon M160ii, Computer w/23" monitor, keyboard/mouse, one 8GB USB Flash Drive & one I-Button, patch cable	2	\$7,500.00	\$15,000.00
Total				\$434,380.00

3. BALLOT TABULATION SOFTWARE (Phase 5):

Product Name	Description	Qty	Unit Price	Extension
Democracy Suite Standard (400K – 600K)		1	\$295,000.00	\$295,000.00
Adjudication Module (400K – 600K)		1	\$50,000.00	\$50,000.00
Communications Manager (400K – 600K)		1	\$30,000.00	\$30,000.00
Total				\$375,000.00

4. PERIPHERALS (Phase 3b):

Product Name	Description	Qty	Unit Price	Extension
ATI Kit – ICX – USB		446	\$375.00	\$167,250.00
ImageCast X Privacy Screen – Standard		446	\$15.00	\$6,690.00
ImageCast Precinct Ballot Box – Plastic Collapsible		287	\$1,000.00	\$287,000.00
Ballot Box – ICP Table Top – Cardboard		36	\$38.00	\$1,368.00
ICP – I-Button Technician Key – Blue		12	\$25.00	\$300.00
Total				\$462,608.00

5. SUPPORT SERVICES (Phase 4 and Phase 6):

Product Name	Description	Days	Unit Price	Extension
Product Implementation & Support		50	\$2,000.00	\$100,000.00
System Acceptance Testing		20	\$1,500.00	\$30,000.00
Logic & Accuracy Testing		10	\$1,500.00	\$15,000.00
Training (/day)		20	\$1,500.00	\$30,000.00
Train The Trainer: Poll Worker		3	\$1,500.00	\$4,500.00
Democracy Suite Full System Training		10	\$1,500.00	\$15,000.00
ImageCast Central Operator Training		4	\$1,500.00	\$6,000.00
ImageCast Central Adjudication Training		2	\$1,500.00	\$3,000.00
ImageCast X Operator Training		2	\$1,500.00	\$3,000.00
Election Setup/Ballot Setup		2	\$3,500.00	\$7,000.00
On-Site Services – Election Day		10	\$4,500.00	\$45,000.00
Total				\$258,500.00

6. ANNUAL LICENSES AND WARRANTIES (Phase 7 and Phase 8):

Product Name	Annual Cost
Year 2 Annual Software Licenses	
1 Democracy Suite Standard Annual License Fee (400K – 600K)	
1 Adjudication Annual Software License Fee (400K – 600K)	
1 Communications Manager Module – Software License Fee (400K – 600K)	
10 ImageCast Central Annual Firmware License – G1130	
2 ImageCast Central Annual Firmware License – M160ii	
444 ImageCast X Annual Firmware License – Prime	
304 ImageCast Precinct Annual Firmware License – 320C	
Total Year 2 Annual Licenses	\$174,024.00
Year 2 Hardware Warranty	
10 ImageCast Central Annual Hardware Warranty – G1130	
2 ImageCast Central Annual Hardware Warranty – M160ii	
444 ImageCast X Annual Hardware Warranty – Prime	
304 ImageCast Precinct Annual Hardware Warranty – 320C	
	\$78,384.00
Total Year 2 Hardware Warranty	
TOTAL YEAR 2 ANNUAL LICENSE AND WARRANTY	\$252,408.00

Product Name	Annual Cost
Year 3 Annual Software Licenses	
1 Democracy Suite Standard Annual License Fee (400K – 600K)	
1 Adjudication Annual Software License Fee (400K – 600K)	
1 Communications Manager Module – Software License Fee (400K – 600K)	
10 ImageCast Central Annual Firmware License – G1130	
2 ImageCast Central Annual Firmware License – M160ii	

444 ImageCast X Annual Firmware License – Prime	
304 ImageCast Precinct Annual Firmware License – 320C	
Total Year 3 Annual Licenses	\$182,725.20
Year 3 Hardware Warranty	
10 ImageCast Central Annual Hardware Warranty – G1130	
2 ImageCast Central Annual Hardware Warranty – M160ii	
444 ImageCast X Annual Hardware Warranty – Prime	
304 ImageCast Precinct Annual Hardware Warranty – 320C	
Total Year 3 Hardware Warranty	\$82,303.20
TOTAL YEAR 3 ANNUAL LICENSE AND WARRANTY	\$265,028.40

Product Name	Annual Cost
Year 4 Annual Software Licenses	
1 Democracy Suite Standard Annual License Fee (400K – 600K)	
1 Adjudication Annual Software License Fee (400K – 600K)	
1 Communications Manager Module – Software License Fee (400K – 600K)	
10 ImageCast Central Annual Firmware License – G1130	
2 ImageCast Central Annual Firmware License – M160ii	
444 ImageCast X Annual Firmware License – Prime	
304 ImageCast Precinct Annual Firmware License – 320C	
Total Year 4 Annual Licenses	\$191,861.46
Year 4 Hardware Warranty	
10 ImageCast Central Annual Hardware Warranty – G1130	
2 ImageCast Central Annual Hardware Warranty – M160ii	
444 ImageCast X Annual Hardware Warranty – Prime	

304 ImageCast Precinct Annual Hardware Warranty – 320C	
Total Year 4 Hardware Warranty	\$86,418.36
TOTAL YEAR 4 ANNUAL LICENSE AND WARRANTY	\$278,279.82

Product Name	Annual Cost
Year 5 Annual Software Licenses	
1 Democracy Suite Standard Annual License Fee (400K – 600K)	
1 Adjudication Annual Software License Fee (400K – 600K)	
1 Communications Manager Module – Software License Fee (400K – 600K)	
10 ImageCast Central Annual Firmware License – G1130	
2 ImageCast Central Annual Firmware License – M160ii	
444 ImageCast X Annual Firmware License – Prime	
304 ImageCast Precinct Annual Firmware License – 320C	
Total Year 5 Annual Licenses	\$201,454.53
Year 5 Hardware Warranty	
10 ImageCast Central Annual Hardware Warranty – G1130	
2 ImageCast Central Annual Hardware Warranty – M160ii	
444 ImageCast X Annual Hardware Warranty – Prime	
304 ImageCast Precinct Annual Hardware Warranty – 320C	
Total Year 5 Hardware Warranty	\$90,739.28
TOTAL YEAR 5 ANNUAL LICENSE AND WARRANTY	\$292,193.81

TOTAL PURCHASE COST OF 1-6 ABOVE				\$5,358,200.53
SHIPPING				\$178,675.00
LESS DISCOUNT				(\$1,560,767.49)
GRAND TOTAL				\$3,976,108.04

7. OPTIONAL ITEMS (Phase 9):

Product Name	Description	Qty	Unit Price	Extension
ICP External Wireless Modem Kit		282	\$299.00	\$84,318.00
Remote UOCAVA Module (400K – 600K) Software		1	\$30,000.00	30,000.00
Mobile Ballot Printing Module (400K-600K) Software		1	\$15,000.00	\$15,000.00
MBP Kit #2 Portable High Volume	Includes OKI C712dn, Dell e3480 Laptop, USB printer cable, 19" printer tray.	20	\$5,800.00	\$116,000.00
ImageCast X Kit – Prime BMD	Includes ICX Prime 21" tablet with one backup battery, Ballot marking printer, three voter smart cards, 6' USB A to B cable, 12-month hardware warranty, 12-month firmware application license	25	\$3,500.00	\$87,500.00
ImageCast Precinct Tabulator (321C)	Includes Tabulator/Scanner, Internal battery, thermal printer with paper roll, 12-month hardware warranty, 12-month firmware software application license, 2 16GB Flash memory cards, 2 I-Buttons, RJ11 phone cable 25'.	25	\$3,900.00	\$97,500.00
System Acceptance Testing		8	\$1,500.00	\$12,000.00
Training		2	\$1,500.00	\$3,000.00
Estimated Shipping				\$25,000.00
TOTAL PURCHASE COST				\$470,318.00
LESS DISCOUNT				(\$133,595.40)
Year 1 Purchase Total				\$336,722.60

OPTIONAL ITEMS ANNUAL LICENSES AND WARRANTY

Product Name	Annual Cost
Year 2 Optional Items Annual License	
1 Mobile Ballot Printing Annual Software License Fee (400K-600K)	
1 Remote UOCAVA Module Annual Software License Fee (400K-600K)	
25 ImageCast X Annual Firmware License – Prime	
25 ImageCast Precinct Annual Firmware License – 320C	
Total Year 2 Annual Licenses	\$12,100.00

Year 2 Optional Items Warranty	
25 ImageCast X Annual Hardware Warranty - Prime	
25 ImageCast Precinct Annual Hardware Warranty – 320C	
20 MBP #2 OKI C712 Annual Hardware Warranty	
Total Year 2 Warranty	\$10,400.00
TOTAL YEAR 2 ANNUAL LICENSE AND WARRANTY	\$22,500.00

Product Name	Annual Cost
Year 3 Optional Items Annual License	
1 Mobile Ballot Printing Annual Software License Fee (400K-600K)	
1 Remote UOCAVA Module Annual Software License Fee (400K-600K)	
25 ImageCast X Annual Firmware License – Prime	
25 ImageCast Precinct Annual Firmware License – 320C	
Total Year 3 Annual Licenses	\$12,705.00
Year 3 Optional Items Warranty	
25 ImageCast X Annual Hardware Warranty - Prime	
25 ImageCast Precinct Annual Hardware Warranty – 320C	
20 MBP #2 OKI C712 Annual Hardware Warranty	
Total Year 3 Warranty	\$10,920.00
TOTAL YEAR 3 ANNUAL LICENSE AND WARRANTY	\$23,625.00

Product Name	Annual Cost
Year 4 Optional Items Annual License	
1 Mobile Ballot Printing Annual Software License Fee (400K-600K)	
1 Remote UOCAVA Module Annual Software License Fee (400K-600K)	
25 ImageCast X Annual Firmware License – Prime	
25 ImageCast Precinct Annual Firmware License – 320C	

Total Year 4 Annual Licenses	\$13,340.25
Year 4 Optional Items Warranty	
25 ImageCast X Annual Hardware Warranty - Prime	
25 ImageCast Precinct Annual Hardware Warranty – 320C	
20 MBP #2 OKI C712 Annual Hardware Warranty	
Total Year 4 Warranty	\$11,466.00
TOTAL YEAR 4 ANNUAL LICENSE AND WARRANTY	\$24,806.25

Product Name	Annual Cost
Year 5 Optional Items Annual License	
1 Mobile Ballot Printing Annual Software License Fee (400K-600K)	
1 Remote UOCAVA Module Annual Software License Fee (400K-600K)	
25 ImageCast X Annual Firmware License – Prime	
25 ImageCast Precinct Annual Firmware License – 320C	
Total Year 5 Annual Licenses	\$14,007.26
Year 5 Optional Items Warranty	
25 ImageCast X Annual Hardware Warranty - Prime	
25 ImageCast Precinct Annual Hardware Warranty – 320C	
20 MBP #2 OKI C712 Annual Hardware Warranty	
Total Year 5 Warranty	\$12,039.30
TOTAL YEAR 5 ANNUAL LICENSE AND WARRANTY	\$26,046.56

TOTAL COST OPTIONAL ITEMS, ANNUAL LICENSE AND WARRANTY				\$433,700.41
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Total Contract Price	\$4,409,808.45
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APPENDIX E HARDWARE MAINTENANCE AND SOFTWARE LICENSE AGREEMENTS

HARDWARE MAINTENANCE AGREEMENT

1. Definitions.

- 1.1. "Party" or "Parties" Dominion and Customer may hereinafter be referred to individually as a Party and collectively as the Parties.
- 1.2. "Hardware" means the Dominion hardware as described in Section 3.1 herein, including all documentation therefore.
- 1.3. "Specifications" means descriptions and data regarding the features, functions and performance of the Hardware, as set forth in user manuals or other applicable documentation provided by Dominion.
- 1.4. "Third-Party Products" means any software or hardware obtained from third-party manufacturers or distributors and provided by Dominion hereunder.

2. SCOPE OF SERVICE

2.1 Services. Dominion shall repair or replace the Hardware so that each item thereof operates in conformity in all material respects with its Specifications, so long as such Hardware is operated with its designated software and with Third-Party Products (if applicable) approved by Dominion for use with the Hardware. If any Hardware items listed in Section 3.1 fails to operate in conformity with the Specifications during the Agreement term, Dominion shall fully repair or, at Dominion's sole option, replace the Hardware.

The following conditions apply to the Services:

2.1.1 Customer shall bear the shipping costs to return the malfunctioning item of Hardware to Dominion, and Dominion shall bear the costs for ground-shipping the repaired or replaced item of Hardware to Customer. Shipping costs are based on ground service rates. If faster shipping service is required, the shipping cost shall be at the Customer's expense.

2.1.2 Repairs will be conducted and parts replaced at the Dominion repair depot, followed by a preventative maintenance inspection.

2.1.3 The following services are among those not covered by this Agreement, but may be available at Dominion's current time and material rates:

- a. Replacement of consumable items including but not limited to batteries, paper rolls, ribbons, seals, smart cards, and removable memory devices, disks, etc.;
- b. Repair or replacement of Hardware damaged by accident, disaster, theft, vandalism, neglect, abuse, or any improper usage;
- c. Repair or replacement of Hardware modified by any person other than those expressly authorized in writing by Dominion;

- d. Repair or replacement of Hardware products from which the serial numbers have been removed, defaced or changed.

2.1.4 In the event Dominion discovers that the Hardware returned by the Customer is not malfunctioning and is working in compliance with its Specification, Customer shall be responsible for the cost of shipping the item back to the Customer and for repayment of the time and material required to examine the Hardware at Dominion's then current rates.

3. TERM AND TERMINATION

3.1 Term. Subject to earlier termination as described below, and unless otherwise agreed in writing by the Parties, this Agreement shall have a term of two (2) years commencing on the Effective Date of July 29, 2019 and ending on the second anniversary of the Effective Date. The customer may request a one-year extension in writing to the company, 30 days prior to anniversary and subject to a price increase.

3.2 Termination. Either Party may terminate this Agreement prior to the expiration of its term if the other Party has materially breached any provision of this Agreement and such breach has remained uncured for at least thirty (30) days following written notice thereof.

4. WARRANTIES DISCLAIMER, LIMITATIONS OF LIABILITY

4.1 Warranties Disclaimer. Except as specifically described in Section 2.1 of this agreement, Dominion disclaims all warranties whether written, oral, express, implied or statutory with respect to the products or services, including all warranties and conditions of merchantability and fitness for a particular purpose, or arising from a course of dealing, usage or trade practice.

4.2 Limitation of Liability. Dominion's total aggregate liability for any loss, damage, costs or expenses under or in connection with this Agreement, howsoever arising, including without limitation, loss, damage, costs or expenses caused by breach of contract, negligence, strict liability, breach of statutory or any other duty shall in no circumstances exceed the total dollar amount of the Agreement. Except as set forth in Appendix B, neither party shall be liable for any loss of profits, loss of business, loss of data, loss of use or any other indirect, incidental, special or consequential loss or damage whatsoever, howsoever arising, incurred by the other party or any third party, whether in an action in contract, negligence or other tort, even if the parties or their representatives have been advised of the possibility of such damages.

5. GENERAL PROVISIONS

5.1 Severability. If any provision hereof should be held invalid, illegal or unenforceable in any respect in any jurisdiction, then, to the fullest extent permitted by law, (i) all other provisions hereof shall remain in full force and effect in such jurisdiction and shall be liberally construed in order to carry out the intentions of the Parties as nearly as may be

possible and (ii) such invalidity, illegality or unenforceability shall not affect the validity, legality or enforceability of such provision in any other jurisdiction.

5.2 Notices. Any notice by a Party under this Agreement shall be in writing and either personally delivered, delivered by email, facsimile or sent via reputable overnight courier (such as Federal Express) or certified mail, postage prepaid and return receipt requested. Notices shall be sent to the address of the Parties set forth in the first paragraph hereof, or in any case to such other address of which either Party may from time to time notify the other in accordance with this Section 6.3. All notices shall be deemed effective on the date of actual receipt.

5.3 Governing Law and Jurisdiction. The validity, construction and interpretation of this Agreement, and the rights and duties of the Parties, shall be governed by and construed in accordance with the laws of the Customer's state identified on Page 1 of this Agreement.

5.4 No Waiver. The waiver by either Party of a breach of a default of any provision of this Agreement by the other Party shall not be construed as a waiver of any succeeding breach of the same or any other provision, nor shall any delay or omission on the part of either Party to exercise or avail itself of any right, power or privilege that it has, or may have hereunder, operate as a waiver of any right, power or privilege by such Party.

5.5 Section Headings. Captions and section headings hereof are for reference purposes only and shall not control or alter the meaning of this Agreement as set forth in the text.

5.6 Force Majeure. Neither Party shall be liable in damages, or shall be subject to termination of this Agreement by the other Party, for any delay or default in performing any obligation hereunder if that delay or default is due to any force majeure event, including without limitation any natural disaster, act of any government or other authority or statutory undertaking, act of terrorism, industrial dispute, fire, explosion, accident, power failure, flood, riot or war (declared or undeclared); provided that, in order to excuse its delay or default hereunder, a Party shall notify the other of the force majeure event, specifying the nature and particulars thereof and the expected duration thereof; and provided, further, that within fifteen (15) calendar days after the termination of force majeure event, such Party shall give notice to the other Party specifying the date of termination thereof.

5.7 Third-Party Beneficiary. No person shall be a third-party beneficiary pursuant to this Agreement. No obligation of Dominion or Customer may be enforced against Dominion or Customer, as applicable, by any person not a party to this Agreement.

5.8 Execution in Counterparts. This Agreement may be executed in counterparts, each of which counterparts, when so executed and delivered, shall be deemed to be an original, and all of which counterparts, taken together, shall constitute one and the same instrument.

SOFTWARE LICENSE AGREEMENT

1. Definitions.

1.1. "Party" or "Parties" Licensor and Licensee may hereinafter be referred to individually as a Party and collectively as the Parties.

1.2. "Software" means software and firmware licensed by Licensor hereunder, in object code form, including all documentation therefore.

1.3. "Specifications" means descriptions and data regarding the features, functions and performance of the Software, as set forth in user manuals or other applicable documentation provided by Licensor.

1.4. "Third-Party Products" means any software or hardware obtained from third-party manufacturers or distributors and provided by Licensor hereunder.

2. **Term.** This Agreement is effective as of the Effective Date and expires on the day before the first anniversary of the Effective Date ("Initial Period"), unless earlier terminated or extended as provided herein. After the Initial Period, Licensee may extend the effectiveness of this Agreement for up to four (4) years ("Software Renewal Term") by paying the Annual Software License Fee set forth in Schedule A of the Agreement within thirty (30) days of receiving an invoice from Licensor. The period during which this Agreement is in effect is referred to herein as the "Term". On expiration of the Term (a) the licenses granted in this Agreement will automatically terminate, (b) Licensee shall cease any further use of the Software, and (c) return the Software pursuant to Section 12 herein. Notwithstanding such expiration or termination, Section 4 (Payment) to the extent any payment is due and Section 7 (Confidential Information) will survive any expiration or termination of this Agreement in accordance to their respective terms. The terms of this Agreement that do not survive expiration or termination will nonetheless be effective in determining the Parties' rights and obligations for events taking place before such expiration or termination.

3. License Terms.

3.1. License to Software. Subject to the terms of this Agreement, Licensor grants Licensee a non-exclusive, non-transferrable license to use the Software solely for the Licensee's own internal business purposes and solely in conjunction with the Software and hardware. This License shall only be effective during the Term and cannot be transferred or sublicensed. This License includes the types and numbers of copies specified in Schedule A of the Software identified therein.

3.2. Print Copyright License. Subject to the Print Copyright License terms and conditions as defined in Schedule B to this Agreement, Licensor grants to Licensee a non-exclusive, non-transferable print copyright license as defined in Schedule B.

3.3. Third-Party Products. Subject to the terms of this Agreement and when applicable, Licensor agrees to sublicense any software that constitutes or is contained in Third-Party Products, in object code form only, to Licensee for use during the Term as part of the System for the purposes described in Section 3.1 of

this Agreement. This sublicense is conditioned on Licensee's continued compliance with the terms and conditions of the end-user licenses contained on or in the media on which such software is provided.

3.4. No Other Licenses. Other than as expressly set forth in this Agreement, (a) Licensor grants no licenses, expressly or by implication, and (b) Licensor's entering into and performing the Agreement will not be deemed to license or assign any intellectual property rights of Licensor to Licensee or any third party. Without limiting the foregoing sentence, Licensee agrees to use each copy of the Software outlined in Schedule A hereto, with which the copy is supplied, agrees not to use any Software as a service bureau for elections outside the Licensee's jurisdiction and agrees not to reverse engineer or otherwise attempt to derive the source code of any Software. The Licensee shall have no power to transfer or grant sub-licenses for the Software. Any use of all or any portion of the Software not expressly permitted by the terms of this Agreement is strictly prohibited.

4. **Payment**. In consideration of the grant of the license, the Licensee shall pay Licensor the Annual Software License Fee set forth in Schedule A of the Agreement within thirty (30) days of receiving an invoice from Licensor. Licensee is responsible for all sales, excise, personal property or other taxes or duties on the amounts paid or products or services provided under this Agreement. If Licensee is exempt from such taxes or duties, Licensee shall provide Licensor with a tax exemption certificate.

5. **Upgrades and Certification**. During the Term, Licensor may provide upgrades to Licensee under the following terms and conditions.

5.1. Upgrades. In the event that Licensor, at its sole discretion, certifies a software upgrade under the applicable provisions of the election laws and regulations of the Licensee's State, Licensor may make the certified software upgrade available to the Licensee. The Licensee shall bear the costs and labor of installing the software upgrade.

5.2. Certification Requirement. Notwithstanding any other terms of this Agreement, Licensor shall not provide, and shall not be obligated to provide under this Agreement any upgrade, enhancement or other software update that has not been certified under the applicable provisions of the election laws and regulations of the Licensee's State.

6. **Warranties**. The following warranties will apply to all Software during the Term.

6.1. Software. Licensor warrants that the Software, for a period of one (1) year following delivery to the Licensee, will function substantially in accordance with the Specification. If the Licensee believes that the Software is not functioning substantially in accordance with the Specifications, the Licensee shall provide Licensor with written notice of the material failure within thirty (30) days of discovering the material failure, provided that the Licensee can reproduce the material failure to Licensor. The Licensee's exclusive remedy under this warranty shall be, at Licensor's sole option (a) return of the Annual Software License Fee set forth in Schedule A paid by the Licensee (if any) for the Software, or (b) Licensor shall use reasonable efforts to correct the material failure of the Software. The

foregoing warranty shall be void in the event of the Software (i) having been modified by any party other than Licensor or (ii) having been used by the Licensee for purposes other than those for which the Software was designed by Licensor. If Licensor establishes that the reported material failure is not covered by the foregoing warranty, the Licensee shall be responsible for the costs of Licensor's investigative and remedial work at Licensor's then current rates.

6.2. Third-Party Products. The warranties in this Section 6 do not apply to any Third-Party Products. However, to the extent permitted by the manufacturers of Third-Party Products, Licensor shall pass through to Licensee all warranties such manufacturers make to Licensor regarding the operation of such Third-Party Products.

6.3. NO OTHER WARRANTIES. LICENSOR DISCLAIMS ALL OTHER WARRANTIES AND REPRESENTATIONS, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY BASED ON A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

7. Confidential Information. Licensee acknowledges that the Software and related documentation (collectively, the "Information") (i) constitutes confidential and proprietary trade secrets, disclosure of which would materially injure Licensor's business and competitive position, and (ii) is exempt from disclosure under, the terms of any applicable freedom of information, open public records act or similar statute ("FOIA Statute"). Licensee therefore agrees, to the maximum extent permitted by law, to keep confidential and not to disclose any of the Information to any other person or entity, or use such Information for any purpose other than as expressly permitted by this Agreement. Licensee shall limit disclosure to employees of Licensee having a need to know to perform their duties to Licensee who have agreed in writing to be bound by the restrictions of this Section 7. In the event Licensee receives a request for Information under the FOIA Statute, Licensee shall inform Licensor of such request within ten (10) days of Licensee's knowledge or such shorter period as necessary under the FOIA Statute to avoid prejudice to Licensor's ability to oppose disclosure. In the event Licensee is nonetheless required by law to disclose any of the Information, Licensee shall give written notice to Licensor at the earlier of (i) twenty (20) business days prior to disclosure or (ii) such longer period as may be required by applicable law.

8. Prohibited Acts. The Licensee shall not, without the prior written permission of Licensor:

8.1. Transfer or copy onto any other storage device or hardware or otherwise copy the Software in whole or in part except for purposes of system backup;

8.2. Reverse engineer, disassemble, decompile, decipher or analyze the Software in whole or in part;

8.3. Alter or modify the Software in any way or prepare any derivative works of the Software or any part of parts of the Software;

8.4. Alter, remove or obstruct any copyright or proprietary notices from the Software, or fail to reproduce the same on any lawful copies of the Software.

9. Limitation of Liability. Licensor's total aggregate liability for any loss, damage, costs or expenses under or in connection with this Agreement and in connection with the Software howsoever arising, including without limitation loss, damage, costs or expenses caused by breach of contract, negligence, strict liability, breach of statutory or any other duty shall in no circumstances exceed the License fee paid by the Licensee to Licensor under this Agreement. Except as set forth in Appendix B, neither party shall be liable for any loss of profits, loss of business, loss of data, loss of use or any other indirect, incidental special or consequential loss or damage whatsoever, howsoever arising, incurred by either Party or any third party, whether in an action in contract, negligence or other tort, even if the parties or their representatives have been advised of the possibility of such damages.

10. Force Majeure. Licensor's obligations hereunder will be suspended so long as its performance is impeded or prevented by causes beyond Licensor's reasonable control, including natural disasters, embargoes, acts of war (including terrorist attacks), labor disturbances and acts or regulations of governmental entities.

11. Termination for Cause. If either Party materially breaches this Agreement and does not cure the breach within 30 days after receiving written notice of the breach from the non-breaching Party, the non-breaching Party may terminate this Agreement as of a termination date specified in that notice or in a subsequent notice delivered within the 30-day period. If the breach cannot be completely cured within the 30-day period, no default will occur if the Party receiving the notice begins curative action within the 30-day period and thereafter proceeds with diligence and in good faith to cure the breach as soon as practicable.

12. Return of Software. Upon termination or expiration of this Agreement, Licensee shall (i) forthwith return to Licensor all Software in its possession or control, or, if so requested by Licensor, destroy all such Software from any electronic media, and certify in writing to Licensor that it has been destroyed.

13. Miscellaneous.

13.1. Assignment. Neither Party may assign any rights or delegate any obligations under this Agreement without the prior written consent of the other Party; provided that Licensor may subcontract Services upon 30 days' prior written notice to Licensee. Any attempted assignment in violation of this Section 13.1 will be null and void.

13.2. Severability. If any term of this Agreement is held to be unenforceable, the other terms of this Agreement will be enforced to the fullest extent permitted by law.

13.3. Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

13.4. Governing Law. This Agreement will be construed under the laws of the Customer's state identified on Page 1 of this Agreement, and the state and federal courts within the Customer's state shall have non-exclusive jurisdiction for all actions to enforce this Agreement.

13.5. Waiver. No waiver or failure by a Party to assert any right under this Agreement on any one occasion will operate as a waiver of any other right on that occasion or any right on any other occasion.

13.6. Notices. All notices under this Agreement will be delivered personally, email, sent by nationally recognized express courier or sent by certified or registered U.S. mail, return receipt requested, to the addresses set forth on Page 1. Notices will be deemed effective on personal receipt, receipt of such electronic facsimile confirmation, two days after such delivery by courier or such mailing by U.S. mail.

13.7. Interpretation. This Agreement, including all Schedules, is the complete and final expression of the Parties' agreement regarding its subject matter and supersedes all prior or contemporaneous communications or agreements, written or oral, by the Parties regarding such subject matter. In the event of any conflict between these Terms and Conditions and any provisions set forth in any other part of this Agreement, these Terms and Conditions will prevail. No amendment or supplement to this Agreement is effective unless in writing and signed by both Parties' authorized representatives. The word "include" (or any of its derivatives) is deemed to be followed in all contexts by the words "without limitation." Headings are included for convenience and will be ignored in interpreting this Agreement.

13.8. No Third Party Beneficiaries. Licensor and Licensee agree that this Agreement is for the benefit of the parties hereto and is not intended to confer any rights or benefits on any third party, and that there are no third-party beneficiaries of this Agreement or any part or specific provision of this Agreement, and no third party shall have any right to enforce this Agreement or any provision hereof.

PRINT COPYRIGHT LICENSE TERMS AND CONDITIONS

1. Definitions.

- 1.1. "Derivative Works" shall mean any work that is based upon or derived from the Licensor's voting systems' ballots, including without limitation, sample ballots and voting booklets.
- 1.2. "Voting Systems' Ballots" shall mean any ballot created for use with any voting system owned or licensed by the Licensor.

2. Print Copyright License and Use.

- 2.1. Copyright License Grant. Licensor grants to the Licensee a non-exclusive, non-transferable copyright license to print, reproduce, distribute or otherwise copy the Licensor's Voting Systems' Ballots or any Derivative Works (collectively the "Materials") pursuant to the terms and conditions of this Schedule A.
- 2.2. Copyright License Use. Other than as expressly set forth herein, (a) Licensor grants no other licenses, expressly or by implication, (b) Licensor's entering into and performing the Agreement will not be deemed to license or assign any intellectual property rights of Licensor to Licensee or any third party, and (c) the copyright license granted herein cannot be transferred or sublicensed and the Voting Systems' Ballots or Derivative Works cannot be reproduced by any third party without the prior written consent of the Licensor, including without limitation:
 - (i) any commercial or non-commercial printer
 - (ii) any third party vendor using ballot on demand system.
- 2.3. Rights and Interests. All right, title and interest in the Material, including without limitation, any copyright, shall remain with the Licensor.

3. No Copyright Warranties. LICENSOR DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY BASED ON A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.