


|   |                    |  |   |  |                  |  |
|---|--------------------|--|---|--|------------------|--|
| <b>SOLICITATION, OFFER, AND AWARD</b>   |                    |  | 1. Caption  |  | Page of Pages    |  |
|   |                    |  | Lottery Gaming System   |  | 1                | 152  |
| 2. Contract Number  |                    | 3. Solicitation Number   | 4. Type of Solicitation   |  | 5. Date Issued   |  |
|   |                    | CFOPD-25-R-002   | <input type="checkbox"/> Sealed Bid (IFB)<br><input checked="" type="checkbox"/> Sealed Proposals (RFP)<br><input type="checkbox"/> Sole Source<br><input type="checkbox"/> Emergency |  | 11/21/2024       |  |
| 6. Type of Market   |                    |  | SBE Designated Category:  |  |                  |  |
| <input checked="" type="checkbox"/> Open<br><input type="checkbox"/> Set Aside<br><input type="checkbox"/> Open Market with Set-Aside   |                    |  |   |  |                  |  |
| 7. Issued By:   |                    |  | 8. Address Offer to:  |  |                  |  |
| Office of the Chief Financial Officer<br>Office of Contracts and Procurement<br>1100 4th Street, SW, Room 620E<br>Washington, DC 20024  |                    |  | Office of Chief Financial Officer<br>Office of Contracts and Procurement<br>1100 4th Street, SW, Room 620E<br>Washington, DC 20024  |  |                  |  |
| NOTE: In sealed bid solicitations "offer" and offeror" means "bid" and "bidder"   |                    |  |   |  |                  |  |
| <b>SOLICITATION</b>   |                    |  |   |  |                  |  |
| 9. Sealed offers in original and <u>redacted</u> copy for furnishing the supplies or services in the Schedule will be received by the point of contact on Page 1 of this solicitation   |                    |  |   |  |                  |  |
| via the Gateway portal, pursuant to Section L.12, until <u>2:00PM</u> local time <u>11-Mar-25</u>   |                    |  |   |  |                  |  |
| (Hour) (Date)   |                    |  |   |  |                  |  |
| 10. For Information Contact   | A. Name            |  | B. Telephone  |  |                  | C. E-mail Address  |
|   | Annmarie McQueen   |  | (Area Code)<br>202  | (Number)<br>235-6867   | (Ext)            | <a href="mailto:annmarie.mcqueen@dc.gov">annmarie.mcqueen@dc.gov</a> |
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| X   | B                  | Supplies or Services and Price/Cost  | 2   | LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS                |                  |  |
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| <b>OFFER</b>  |                    |  |   |  |                  |  |
| 12. In compliance with the above, the undersigned agrees, if this offer is accepted within <u>365</u> calendar days from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified herein. |                    |  |   |  |                  |  |
| 13. Discount for Prompt Payment   | 10 Calendar days % | 20 Calendar days %   | 30 Calendar days %  | Calendar days %  |                  |  |
|   |                    |  |   |  |                  |  |
| 14. Acknowledgement of Amendments (The offeror acknowledges receipt of amendments to the SOLICITATION):   |                    |  | Amendment Number  | Date   | Amendment Number | Date   |
|   |                    |  |   |  |                  |  |
|   |                    |  |   |  |                  |  |
|   |                    |  |   |  |                  |  |
| 15A. Name and Address of Offeror  |                    |  | 16. Name and Title of Person Authorized to Sign Offer/Contract  |  |                  |  |
|   |                    |  |   |  |                  |  |
| 15B. Telephone  |                    | 15 C. Check if remittance address is different from above - Refer to Section G |   | 17. Signature  |                  | 18. Offer Date   |
| (Area Code)   | (Number)           | (Ext)  |   |  |                  |  |
| <b>AWARD (TO BE COMPLETED BY GOVERNMENT)</b>  |                    |  |   |  |                  |  |
| 19. Accepted as to Items Numbered   |                    | 20. Amount   |   | 21. Accounting and Appropriation                                 |                  |  |
|   |                    |  |   |  |                  |  |
| 22. Name of Contracting Officer (Type or Print)   |                    | 23. Signature of Contracting Officer (District of Columbia)                    |   |  | 24. Award Date   |  |
|   |                    |  |   |  |                  |  |
|  Government of the District of Columbia  |                    |  | <b>Office of the Chief Financial Officer</b>  |  |                  |  |

## SECTION B

### CONTRACT TYPE, SUPPLIES OR SERVICES AND PRICE

#### **B.1 GENERAL INFORMATION**

B.1.1 The District of Columbia Office of the Chief Financial Officer, Office of Contracts, on behalf of Office of Lottery and Gaming (“OLG” or “District”) seeks to enter into a Contract for the following gaming system(s) and related services:

- (a) Traditional lottery (draw games, monitor games, and terminal generated instant win games);
- (b) iLottery (eInstants, and traditional lottery games sold over the internet);
- (c) Instant tickets (instant tickets manufacturing, warehousing, tel-sel, and instant ticket distribution); and
- (d) Second chance drawings supporting all product lines and platforms.

#### **B.2 CONTRACT TYPE**

The District contemplates award of a requirements contract with cost reimbursement components.

#### **B.3 NONPROFIT FAIR COMPENSATION ACT OF 2020, D.C. Code § 2-222.01 et seq.**

B.3.1 The Contractor shall pay its subcontractors which are nonprofit organizations, as defined in the Nonprofit Fair Compensation Act of 2020, the same indirect cost rates as the nonprofit organization subcontractors would have received as a prime contractor, in accordance with D.C. Code § 2-222.01.

#### **B.4 GENERAL PRICING REQUIREMENTS**

- B.4.1 **ALL-INCLUSIVE PRICING.** The stated price shall be fixed, inclusive of all of the Contractor’s direct cost, indirect cost, and profit; including travel, material, and delivery costs. The price shall include all cost associated with the services described in and required by the Contract.
- B.4.2 The Contractor’s payment will be based on the specified percentages of sales processed by the Contractor’s Central Gaming System or as otherwise listed in the Pricing Schedule in Section B.6.
- B.4.3 The Contractor shall not receive compensation until the conversion is complete and the Central Gaming System is fully operational and accepted, in writing, by OLG.
- B.4.4 The Contractor’s “base” compensation shall be based on the pricing under Sections B.6.1 – B.6.3 and cover all items represented in the Contract. The compensation for programs, equipment, and services represented in the Contract not explicitly identified as optional items or services shall be deemed included in the “base” compensation. The Contractor’s sole additional compensation shall be based on the District’s election of items and services specifically identified as Optional Equipment and Services in Section B.6.4.

**B.4.5 COST REIMBURSEMENT CEILING.** Pursuant to Title 27 of the DC Municipal Regulations Section 2405, and Section G.8 herein, the cost reimbursement ceiling in which the Contractor will be reimbursed for third-party iLottery games, per Section C.5.2(a)(5), for banking fees, per Sections C.5.11 and C.5.12, and for licensing fees, per Section C.6.5(c), as pass-through costs without markup, is hereby established at \$4,200,000.00 for the Base Period, and at \$7,800,000 for the Option Period.

**B.5 REQUIREMENTS CONTRACT**

B.5.1 The District will purchase its requirements of the services included herein from the Contractor, in an amount not to exceed \$67,700,000.00 for the Base Period, and \$74,300,000.00 for the Option Period, if exercised, which includes the Contract's cost reimbursement ceiling. The estimated quantities stated herein reflect the best estimates available. The estimate shall not be construed as a representation that the estimated quantity will be required or ordered, or that conditions affecting requirements will be stable. The estimated quantities shall not be construed to limit the quantities which may be required from the Contractor by the District or to relieve the Contractor of its obligation to fill all such orders.

B.5.2 Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering Clause, Section G.7.

**B.6 PRICE SCHEDULE**

**B.6.1 Traditional Lottery Games.**

B.6.1.1 Base Period \_\_\_\_%. For the Base Period, the Contractor will be compensated of Traditional Lottery gross sales (excluding promotional tickets). Traditional Lottery Games include Draw Games, Monitor Games, and Terminal Generated Instant Win Games. Promotional sales are not included in the calculation of Traditional Lottery gross sales and the Contractor shall not be compensated for promotional sales. Base System equipment shall be included in the calculation of this pricing.

B.6.1.2 Option Period \_\_\_\_%. For the Option Period, the Contractor will be compensated percentage of Traditional Lottery gross sales (excluding promotional tickets). Traditional Lottery Games include Draw Games, Monitor Games, and Terminal Generated Instant Win Games. Promotional sales are not included in the calculation of Traditional Lottery gross sales and the Contractor shall not be compensated for promotional sales. Base System equipment shall be included in the calculation of this pricing.

**B.6.2 iLottery Games.**

B.6.2.1 eInstant Games Base Period \_\_\_\_%. For the Base Period, the Contractor will be compensated said percentage of eInstant Games Net Gaming Revenue (gross sales minus winner payout) for eInstant Games sales (excluding promotional sales). eInstant Games are defined as any game designed for fast play, characterized by higher payouts, and that reveals in less than four and a half minutes in an electronic format. Promotional sales are not included in the calculation of iLottery Net Gaming Revenue, and the Contractor shall not be compensated for promotional sales.

B.6.2.2 Draw iLottery Games Base Period \_\_\_\_\_%. For the Base Period, the Contractor will be compensated said percentage of Draw iLottery Games Net Gaming Revenue (gross sales minus winner payout) for draw game sales (excluding promotional sales). Draw iLottery Games are defined as any game or game design provided on the lottery Central Gaming System and designed to be played with a play slip in paper or electronic form with a reveal of four and a half minutes or longer. Promotional sales are not included in the calculation of iLottery Net Gaming Revenue, and the Contractor shall not be compensated for promotional sales.

B.6.2.3 eInstant Games Option Period \_\_\_\_\_%. For the Option Period, the Contractor will be compensated said percentage of eInstant Games Net Gaming Revenue (gross sales minus winner payout) for eInstant Games sales (excluding promotional sales). eInstant Games are defined as any game designed for fast play, characterized by higher payouts, and that reveals in less than four and a half minutes in an electronic format. Promotional sales are not included in the calculation of iLottery Net Gaming Revenue, and the Contractor shall not be compensated for promotional sales.

B.6.2.4 Draw iLottery Games Option Period \_\_\_\_\_%. For the Option Period, the Contractor will be compensated said percentage of Draw iLottery Games Net Gaming Revenue (gross sales minus winner payout) for draw game sales (excluding promotional sales). Draw iLottery Games are defined as any game or game design provided on the lottery Central Gaming System and designed to be played with a play slip in paper or electronic form with a reveal of four and a half minutes or longer. Promotional sales are not included in the calculation of iLottery Net Gaming Revenue, and the Contractor shall not be compensated for promotional sales.

**B.6.3 Instant Tickets and Related Services (Including Instant Ticket printing, Warehousing, Tel-Sel and Distribution).**

B.6.3.1 Base Period \_\_\_\_\_%. For the Base Period, the Contractor will be compensated said percentage of gross instant ticket sales.

B.6.3.2 Option Period \_\_\_\_\_%. For the Option Period, the Contractor will be compensated said percentage of gross instant ticket sales.

**B.6.4 Optional Equipment and Services.**

a) OLG may require that some options be delivered as part of the initial System and OLG may exercise some options after Contract award. The District reserves the right to exercise options at Contract award. Additional Retailer Terminals and Self Service Wireless Ticket Checkers beyond the Section C.4.3, Base System quantities may be required in such instances as the number of lottery retailers significantly increases over the term of the Contract or high selling retailers require multiple terminals.

**b) OLG Specified Options.**

**1) Additional Retailer Terminals**

|   |          |
|---|----------|
| Per Unit Cost When Ordered in Batches of at least ten (10)    | \$ _____ |
| Per Unit Cost When Ordered in Batches of at least twenty (20) | \$ _____ |
| Per Unit Cost When Ordered in Batches of at least thirty (30) | \$ _____ |

**2) Additional Self Service Wireless Ticket Checkers – a self-service ticket checker that has advanced features, including hardware and software installation and service.**

|   |          |
|---|----------|
| Per Unit Cost When Ordered in Batches of at least ten (10)    | \$ _____ |
| Per Unit Cost When Ordered in Batches of at least twenty (20) | \$ _____ |
| Per Unit Cost When Ordered in Batches of at least thirty (30) | \$ _____ |

**3) iLottery Options.**

|  |          |
|--|----------|
| Fixed cost per eInstant game for additional eInstant games above the two game per month requirement. | \$ _____ |
|--|----------|

**4) Instant Ticket Optional Features.** The Contractor shall submit pricing for Instant Ticket Optional Features in accordance with Section L.3.3.2(2)b.i.2. OLG may exercise the option for purchasing Instant Ticket Optional Features in the best interest of OLG.

**c) Lottery-Invited Options.**

**1) Upgraded Real Time Accounting for Instant Tickets - Technology and/or methods that permit retailers to account for instant tickets as they are sold. The price includes hardware and software installation and services.**

|  |          |
|--|----------|
| Per Equipment Unit Cost When Ordered in Batches of at least ten (10) | \$ _____ |
|--|----------|

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|   |          |
|---|----------|
| Per Equipment Unit Cost When Ordered in Batches of at least twenty (20) | \$ _____ |
| Per Equipment Unit Cost When Ordered in Batches of at least thirty (30) | \$ _____ |

**d) Offered Options.** The Contractor shall submit pricing for Offered Options in accordance with Section L.3.3.2(2)b.iii. OLG may decide to exercise the option for purchasing an Offered Option in the best interest of OLG.

## SECTION C

### DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

#### C.1 **INTRODUCTION**

C.1.1 The District of Columbia Office of the Chief Financial Officer, Office of Contracts, on behalf of Office of Lottery and Gaming (“OLG” or “District”) seeks to enter into a Contract for the following gaming system(s) and related services:

- (a) Traditional lottery (draw games, monitor games, and terminal generated instant win games);
- (b) iLottery (eInstants, and traditional lottery games sold over the internet),
- (c) Instant tickets (instant tickets manufacturing, warehousing, tel-sel, and instant ticket distribution); and
- (d) Second chance drawings supporting all product lines and platforms.

#### C.2 **BACKGROUND**

C.2.1 Since its inception in 1982, the DC Lottery has awarded more than \$4.6 billion in prizes to members of our community and transferred more than \$2.3 billion to the District’s General Fund, based on audited fiscal year 2023 data, which supports essential services in the District. More detail on DC Lottery and its mission is available at <https://dclottery.com/>.

C.2.2 OLG currently offers the following portfolio of games:

- (a) Numbers games: DC2, DC3, DC4, and DC5;
- (b) Lotto games: Powerball and Mega Millions; Lucky for Life
- (c) Monitor games: Keno, Race2Riches (horse race themed game) and The Lucky One;
- (d) Fast Play instant win games;
- (e) Tap-N-Play games: Instant games that are played on self service terminals by tapping the screen;
- (f) eInstants; and
- (g) Scratchers.

C.2.3 Lottery sales in Fiscal Year 2023 totaled \$221 million, up \$4 million or 1.8%, as compared to \$217 million in Fiscal Year 2022.

C.2.4 OLG has maintained a focus on iLottery as it works to overcome the loss of commuters and diminished foot traffic at retail locations. In Fiscal Year 2023, OLG accelerated the launch of its new e-Instant games for iLottery players to every two weeks and added a new third-party e-Instant game provider that expanded the variety of our e-Instant game portfolio and provided players with new game styles. iLottery growth has been exceptionally strong since its launch in

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December 2020 with more than 52,850 players registered (as of November 1, 2024). iLottery sales were approximately \$30.4 million in Fiscal Year 2023, which was up 44.3%, or \$9.3 million, compared to Fiscal Year 2022. This tremendous growth was primarily driven by e-Instants, which achieved total sales of \$27.2 million in Fiscal Year 2023. This was an increase of \$8.1 million or 42.4% compared to the prior year.

C.2.5 Retail based instant tickets still present a significant growth opportunity for OLG. OLG continued with its instant ticket optimization initiatives in Fiscal Year 2023, evaluating and enhancing key variables that impact the life cycle of an instant ticket and its sales. Ticket sizes and prize structures were optimized, and new game planning tools were implemented. The number of instant ticket games launched increased from 28 in Fiscal Year 2022 to 37 in Fiscal Year 2023, including the launch of the new \$30 Ultimate Riches instant ticket that was uniquely positioned within the DMV area. Instant ticket sales in Fiscal Year 2023 were \$43.1 million, compared to \$43.9 million in Fiscal Year 2022, representing a 1.8% reduction year-over-year.

C.2.6 OLG offers a robust portfolio of traditional lottery games sold through its retail network located throughout the District. Included in OLG’s traditional game portfolio are a family of four Numbers games (*DC-2, DC-3, DC-4* and *DC-5*); three multi-state “lotto” draw games (*Powerball, Mega Millions* and *Lucky for Life*); three Monitor games (*Keno, Race2Riches* and *The Lucky One*); an array of Tap-N-Play games played on a touch screen self-service terminal known as the “MP”; an array of instant win draw games sold via self-service and sales terminals; and Instant “scratcher” tickets. DC Lottery terminals do not currently allow for credit card sales due to OLG policy, however, the functionality is required to be available in terminals should a change for acceptance of credit card sales be made in the future.

C.2.7 OLG has 363 licensed lottery retailers as of 6/10/2024.

C.2.8 OLG projects sales and net revenue as follows:

| Category             | FY 2025            |                   | FY 2026            |                   | FY 2027            |                   | FY 2028            |                   | FY 2029            |                   | 5-Year               |                    |
|----------------------|--------------------|-------------------|--------------------|-------------------|--------------------|-------------------|--------------------|-------------------|--------------------|-------------------|----------------------|--------------------|
|                      | Proj. Sales        | Net Revenue       | Proj. Sales        | Net Revenue       | Proj. Sales        | Net Revenue       | Proj. Sales        | Net Revenue       | Proj. Sales        | Net Revenue       | Proj. Total          | Net Revenue        |
| Traditional Terminal | 133,350,000        | 66,675,000        | 134,016,750        | 67,008,375        | 134,686,834        | 67,343,417        | 135,360,268        | 67,680,134        | 136,037,069        | 68,018,535        | 673,450,921          | 336,725,460        |
| Draw iLottery        | 3,150,000          | 1,575,000         | 3,165,750          | 1,582,875         | 3,181,579          | 1,590,789         | 3,197,487          | 1,598,743         | 3,213,474          | 1,606,737         | 15,908,289           | 7,954,145          |
| e-Instants           | 31,500,000         | 3,780,000         | 31,657,500         | 3,798,900         | 31,815,788         | 3,817,895         | 31,974,866         | 3,836,984         | 32,134,741         | 3,856,169         | 159,082,895          | 19,089,947         |
| Instant Tickets      | 42,000,000         | 9,240,000         | 42,210,000         | 9,286,200         | 42,421,050         | 9,332,631         | 42,633,155         | 9,379,294         | 42,846,321         | 9,426,191         | 212,110,526          | 46,664,316         |
| <b>Total</b>         | <b>210,000,000</b> | <b>81,270,000</b> | <b>211,050,000</b> | <b>81,676,350</b> | <b>212,105,250</b> | <b>82,084,732</b> | <b>213,165,776</b> | <b>82,495,155</b> | <b>214,231,605</b> | <b>82,907,631</b> | <b>1,060,552,631</b> | <b>410,433,868</b> |

| Category             | FY 2030            |                   | FY 2031            |                   | FY 2032            |                   | FY 2033            |                   | FY 2034            |                   | 5-Year               |                    |
|----------------------|--------------------|-------------------|--------------------|-------------------|--------------------|-------------------|--------------------|-------------------|--------------------|-------------------|----------------------|--------------------|
|                      | Proj. Sales        | Net Revenue       | Proj. Sales        | Net Revenue       | Proj. Sales        | Net Revenue       | Proj. Sales        | Net Revenue       | Proj. Sales        | Net Revenue       | Proj. Total          | Net Revenue        |
| Traditional Terminal | 136,717,255        | 68,358,627        | 137,400,841        | 68,700,420        | 138,087,845        | 69,043,923        | 138,778,284        | 69,389,142        | 139,472,176        | 69,736,088        | 690,456,401          | 345,228,200        |
| Draw iLottery        | 3,229,541          | 1,614,771         | 3,245,689          | 1,622,845         | 3,261,918          | 1,630,959         | 3,278,227          | 1,639,114         | 3,294,618          | 1,647,309         | 16,309,994           | 8,154,997          |
| e-Instants           | 32,295,414         | 3,875,450         | 32,456,892         | 3,894,827         | 32,619,176         | 3,914,301         | 32,782,272         | 3,933,873         | 32,946,183         | 3,953,542         | 163,099,937          | 19,571,992         |
| Instant Tickets      | 43,060,553         | 9,473,322         | 43,275,855         | 9,520,688         | 43,492,235         | 9,568,292         | 43,709,696         | 9,616,133         | 43,928,244         | 9,664,214         | 217,466,583          | 47,842,648         |
| <b>Total</b>         | <b>215,302,763</b> | <b>83,322,169</b> | <b>216,379,277</b> | <b>83,738,780</b> | <b>217,461,173</b> | <b>84,157,474</b> | <b>218,548,479</b> | <b>84,578,261</b> | <b>219,641,222</b> | <b>85,001,153</b> | <b>1,087,332,914</b> | <b>420,797,838</b> |

Traditional factored payout % = 50%  
 \*Draw iLottery factored payout % = 50%  
 \*e-Instants factored payout % = 88%  
 Instant Tickets factored payout % = 78%

**C.3 GLOSSARY**

- Americans with Disabilities Act (ADA) – Americans with Disabilities Act, as amended from time to time, per 42 U.S.C. § 12101 et seq., and regulations thereunder, as modified.



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2. Automatic Clearing House (ACH) – An electronic network for financial transactions which processes large volumes of credit and debit transactions for Retailers in batches (see EFT).
3. Backup Data Center – The data center that shall be ready at any moment to take over production of the System from the Primary Data Center.
4. Base System – The terminals and peripherals to be provided at system conversion.
5. Central Gaming System – The information system to be provided by the Contractor that will provide the ability to control, monitor and report all lottery activity and includes the infrastructure components to implement and/or support all lottery functions, including, but not limited to:
  - a. Retailer licensing and management;
  - b. Sales;
  - c. Drawings processing (including Second-Chance drawings);
  - d. Validations;
  - e. Claims and prize processing (including second-chance prize claims);
  - f. Marketing and promotions support;
  - g. Inventory, warehousing, and distribution ;
  - h. Reporting and business intelligence;
  - i. Customer-facing applications; and
  - j. Retailer and Players web portals.
6. Closed-Circuit Television (CCTV) – A closed network television system that is monitored, primarily for surveillance and security purposes. CCTV relies on strategic placement of cameras, and observation of the camera's input on monitors somewhere and video is recorded and stored for future use.
7. Consumables – Play slips, ticket stock, printer paper, printer ribbons, ink supply, toner, and any other operational supplies required by retailers to operate their terminals. The term “Consumables” does not include point-of-sale promotional items or instant tickets.
8. Contractor – The responding Offeror with whom the District executes a Contract pursuant to the District’s solicited Lottery Gaming System and Related Services.
9. Electronic Funds Transfer (EFT) – A transfer (either deposit or withdrawal) of funds, using federal-standard wire transfer protocols.
10. Encryption – The process of transforming information to make it unreadable to anyone except those possessing special knowledge that meets or exceeds the requirements of encryption and encryption key management used by the United States government as certified by the National Institute of Standards and Technology (NIST), and that has not yet been broken or compromised, or determined by the Lottery to not be viable.
11. Executive Director – The Executive Director of the Office of Lottery and Gaming.
12. Graphical User Interface (GUI) – A computer interface that incorporates, at a minimum, windows, icons, and menus.

13. Intellectual Property – Any rights with respect to inventions, discoveries, or improvements, including patents, patent applications and certificates of invention; trade secrets, know-how, or similar rights; the protection of works of authorship or expression, including copyrights and future copyrights; and trademarks, service marks, logos, and trade dress; and similar rights under any laws or international conventions throughout the world, including the right to apply for registrations, certificates, or renewals with respect thereto, and the rights to prosecute, enforce, and obtain damages.
14. Internal Control System (ICS) – The audit system and its associated processes that performs auditing of the gaming system component to ensure the integrity, security, and accuracy of gaming transactions.
15. Primary Data Center – The computer facility that supports the Central Gaming System which is maintained and operated by the Contractor.
16. Retailer – Also referred to herein as Agent and Retail Sales Agent, is a business licensed by OLG as a DC Lottery outlet.
17. System – A collection of hardware, software, facilities, and procedural elements which provides useful services and which produces useful outputs. Herein there are numerous references to systems, inclusive of references to systems that are subsystems of other referenced systems. The immediate context and adjectives or labels define which systems are being discussed. When used without other qualification, “System” refers to the comprehensive Central Gaming System.
18. Terminal – Machine designated to facilitate mainly lottery product sales or validations at a point-of-sale.
19. User Acceptance Testing (UAT) – An extensive verification process to demonstrate and ensure that the System and software conforms to all requirements.

#### **C.4 TRADITIONAL LOTTERY GAMING SYSTEM TECHNICAL SPECIFICATIONS**

- C.4.1 **Overall System Description and Layout.** The Contractor shall install, operate and maintain a full-service Central Gaming System designed for the use by a US lottery. The System shall include retail devices, retailer management, draw games, instant games, prize validations, Internal Control System (ICS) integration, retailer communications network and other technologies that may present themselves in the future. The System shall be fast, reliable, flexible and secure. The System will be the information system for OLG to control, monitor and report all lottery activity and the System shall be capable of aggregating sales from, if any, other gaming systems such as a subscription systems and an iLottery system. The System shall be a fully functioning, integrated gaming system that OLG can solely rely on to run a successful lottery. The Contractor shall provide all components necessary for a successful lottery. The Contractor shall commit to capturing and defining OLG’s business needs and tailoring the system to meet the defined needs. The Contractor shall participate in strategic planning and game design to achieve maximum growth potential and revenue.
- C.4.2 **System Hardware and System Software Upgrades.** Software changes and corrections shall be provided at no additional cost, even if additional development, coding, and engineering are

required to create or adapt software for OLG's needs. All System hardware and software shall be replaceable at any time by more modern models or versions simply by means of System upgrades. In case support for any hardware module, component, or system software is discontinued by the manufacturer or supplier, the Contractor shall replace the support, at the Contractor's cost, if required by OLG, for the respective hardware modules, components, or system software modules prior to the support being discontinued. The Contractor shall without delay inform OLG of any such support discontinuation that they may become aware of. The Contractor shall ensure that its application software is patched and running on current and supported hardware and operating system software. It is the Contractor's obligation to acquire and install an appropriate upgrade with OLG's prior approval. If the application requires modification or rewrite due to an upgrade (hardware or software), it is the responsibility of the Contractor to provide the new or modified application.

C.4.3 Equipment that shall be included as part of the Base System is as follows:

- (a) **Five hundred fifty (550)** Retailer terminals (including the terminal, thermal printer, customer display unit, player advertising display, and bar code reader);
- (b) **Two hundred fifty (250)** Lottery Draw Game Self Service Terminals.
- (c) **Three hundred fifty (350)** Combined Instant Ticket Vending Machine (ITVM) and Lottery Draw Game Self Service terminals (touchscreen required);
- (d) **Five (5)** Combined Instant Ticket Vending Machine (ITVM) and Lottery Draw Game Self Service terminals (touchscreen required) that meet Walmart's specific requirements for lottery vending machines;
- (e) **Three hundred (300)** Monitor Game Screens (multiple sizes up to 50 inches, including heavy-duty hardware and mounting brackets that are compliant with the Video Electronics Standards Association (VESA) Mounting Interface Standard (MIS));
- (f) **Five hundred (500)** Self Service Wireless Ticket Checkers; and
- (g) **Twenty (20)** portable handheld terminals for selling tickets at events such as fairs and festivals. Handheld terminals shall process credit and debit card payments.

C.4.4 **Central Gaming System**

- (a) The Central Gaming System shall support all existing and future lottery games.
- (b) The retail network shall be designed to handle an increase in terminal counts and capacity as needed with no additional charge to OLG.
- (c) The Contractor will be responsible for costs of maintenance and enhancements of the hardware and software as needed.
- (d) All Systems shall meet the standards set forth by Multi State Lottery Association (MUSL) Rule 2. The Contractor shall make all changes necessary, at no additional cost to OLG, to maintain MUSL Rule 2 compliance throughout the term of the Contract.

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- (e) The Contractor shall be able to support a MUSL Rule 2 alternative for lockdown and ticket stock alternatives.
- (f) Primary and secondary data centers shall meet Tier II standards as defined by the Uptime Institute.
- (g) Both data centers shall reside in the continental United States.
- (h) The Contractor shall not modify any software, hardware or System parameters without the prior written consent of OLG.
- (i) **Primary Data Center Systems.** All games, databases, and games administration functions for mission-critical on-line and instant gaming support shall be supported by a protectively redundant configuration. Each processing complex at the primary data center shall consist of at least two (2) physically separate systems, networked or coupled for high availability processing and storage redundancy. A component failure in one primary data center system shall not cause a failure in other system(s).
  - (1) After contract award, any change to the primary data site location or systems configurations shall be reviewed and approved by OLG in advance.
  - (2) Systems shall have bandwidth flexibility.
  - (3) Systems shall be designed for scalability and maximum throughput of transactions.
  - (4) Systems shall have controls to prevent a lost or corrupt transaction.
  - (5) Systems shall have safeguards against paying a prize more than once. The Contractor will be responsible for multiple payments of one prize.
  - (6) Systems shall have safeguards against paying an erroneous prize.
  - (7) Systems shall be designed so that they achieve no single point of failure.
  - (8) Systems shall be designed with fault tolerance.
  - (9) Security shall be designed within the system.
  - (10) Systems shall be designed where there is not a possibility of a ticket printing that has not been recorded on at least two (2) geographically separated systems.
  - (11) Staffing shall be provided at the primary site.
  - (12) Systems shall have a time-synchronizing mechanisms to ensure consistent time recording and reporting for events and transactions. Synchronization with an external time source is required.

**C.4.5 Backup Data Center Systems.** The Contractor shall provide a remote Backup Data Center with two (2) or more remote backup systems that will take over for the primary data center systems if necessary. Data transferred to and recorded at the remote backup systems shall always contain the most recent transactions, allowing a takeover.

- (a) After contract award, any change to the Backup Data Center site location and systems configurations shall be reviewed and approved by OLG in advance.
- (b) The backup systems shall be a mirror configuration of the same processing capacity and architecture as the Primary Data Center host systems.
- (c) Staffing shall be provided for the backup site.
- (d) Operations staff located at the Backup Data Center shall be familiar with OLG Systems and processes and available at all times to run the back up systems in the event that primary site staff is unavailable.
- (e) The Primary Data Center system shall have seamless failover to the backup system including the telecommunications network.
- (f) The Backup Data Center shall be available to become the primary data center in the event of a long term outage of the Primary Data Center.
- (g) On a scheduled basis or upon request of OLG, the Backup Data Center shall be fully functional by operating in production from that site.

**C.4.6 Retailer Web Site (RWS).** The Contractor shall provide a secure, fully functional retailer website where retailers can access their financial and liability data with a minimum, but not limited to, the following:

- (a) The RWS Graphical User Interface (GUI) shall be available for mobile platforms.
- (b) Self-service passwords shall be provided so that retailers can manage their own passwords.
- (c) OLG shall have the ability to reset a retailer's password.
- (d) Retailer commissions shall be reportable by timeframe (daily, weekly, monthly, quarterly, yearly, date range).
- (e) Report formats available shall include at a minimum: XML, CSV, PDF, text, HTML and Excel.
- (f) A minimum of twenty-four (24) months of historical records shall be provided.
- (g) The RWS shall provide sales comparison reporting for each retailer, surrounding retailers and total lottery sales that is interactive and can be based on search criteria such as the individual retailer, entire chain, zip code and x miles from the retailer location and can be based on a time frame such as this month, last week, and from date to date.

- (h) The RWS shall allow chain heads, subordinates and franchisees to be able to view information according to their business rules.
- (i) The RWS shall have the capability for retailers to schedule reports to be emailed to them at varying periods of time.
- (j) The RWS has the capability of push notifications via mobile (i.e. text alerts or messages).
- (k) The RWS shall have the capability to receive OLG messages and/or push notifications to the RWS.
- (l) The RWS shall provide winner information to respective retailers.
- (m) The Contractor shall provide the hardware, software, security, network access and content management of the retailer website.
- (n) The Contractor shall incorporate a training system into the RWS to provide training to retailers and their staff on new games, terminal operations, responsible gaming, and other relevant content. The system shall at a minimum be able to track individuals trained, when an individual's training began and when it has been completed.
- (o) The RWS shall provide a place for OLG to place documents of interest to the retailers such as retailer newsletters and printable Point of Sale (POS).

**C.4.7 Internal Control System (ICS).** The Contractor shall provide an Internal Control System (ICS) obtained from an independent vendor. OLG reserves the right to require removal of the ICS vendor for poor performance for issues including, but not limited to, continuous out of balance reports, ICS crashing, or failure to make timely system updates. The ICS receives transaction files from the Contractor's Systems to provide system controls, draw balancing as well as other administrative functions. The Contractor shall support the following:

- (a) Auto-balance with the ICS.
- (b) Integrate its draw processes with the ICS draw processes.
- (c) Fault tolerant communication links between the Contractor's Systems at their primary and backup sites and production ICS. The Contractor shall be responsible for implementation, the cost and maintenance of the connections. The design shall guarantee virtually 100% uptime between the ICS and the Contractor's Systems.
- (d) Secure communication links between the Contractor's test Systems and the test ICS.
- (e) Data transfers to the ICS that will provide processing of transaction data from the production systems. The links shall be provisioned with sufficient capacity to ensure timely processing of files. If it is determined in the future that the links are too slow, the Contractor shall increase capacity at no charge to OLG.
- (f) Configure network access to the ICS according to MUSL Rule 2 recommendations.

**C.4.8 System Integration with the Instant Ticket Management System.** The Contractor shall provide an Instant Ticket Management System (ITMS) which shall include, but not limited to inventory management, game management, ticket validation, game accounting and reporting. The ITMS shall support portal access to inventory availability, inventory inquiry, inventory statistics, retailer settlement (percentage validation and days), retailer inquiry product availability and ticket returns.

**C.4.9 System Status Visibility.** The Contractor shall provide a method that allows OLG to see terminal status (active and selling, down, etc.), telecommunication status, and any other statuses that the network components may be in. The network view shall range from high level network down to the terminal component level. Current and historic statistics shall be captured and available to OLG staff.

#### **C.4.10 User Acceptance Test (UAT) System**

- (a) The Contractor shall provide a User Acceptance Test (UAT) System to be used exclusively by OLG that mirrors the production System. OLG staff will perform customer acceptance testing in OLG's test center but reserves the right to use the Contractor's test lab at no additional costs.
- (b) The Contractor shall provide a staging System to be used exclusively by the Contractor to deploy and test code before going to the production environment that mirrors the production System.
- (c) The Contractor's UAT System shall be separate from OLG's test System so that different versions of the Systems can be tested simultaneously.
- (d) OLG's UAT System shall reside on a network isolated from the production System. The UAT System shall interface with the test ICS, instant ticket management test System, the subscription test System and other test Systems as required. Contractor's software shall accurately meet the specifications when it is turned over to OLG.
- (e) The Contractor shall provide dedicated staff that are knowledgeable of the System and OLG's business processes to be available on site while the Contractor and OLG are testing.
- (f) The UAT System shall handle more than one logical day that will be tested on one physical day, for the purpose of expediting testing.
- (g) Load simulation shall be provided.
- (h) The Contractor shall equip OLG's UAT center with at least seven (7) additional full function retailer terminals configured with OLG's designated release of software. The Contractor shall also include other ticket selling devices delivered by the Contractor, including player activated vending machines and hand-held terminals. At least one of each type of terminal and communications combination delivered to the field shall be provided for testing.
- (i) The Contractor shall not conduct software development or its own quality assurance activities on any of the production Systems, nor on OLG's test System.

- (j) Malfunctioning equipment shall be fixed or replaced in a manner that will cause minimal testing interruptions.
- (k) The Contractor shall provide access to the Contractor's defect tracking system to ensure consistency of software requests.

**C.4.11 Operating Hours.** The System shall be able to accommodate nearly twenty-four (24) hour a day operations.

**C.4.12 System Maintenance Requirements.** The Contractor shall implement maintenance plans for all System hardware and software.

**C.4.13 System Failover Scenarios for Operations.** The Contractor shall provide detailed plans for System failover under all scenarios and all Systems to the Contracting Officer's Technical Representative (COTR) within sixty (60) calendar days after the Contract is fully executed.

**C.4.14 Disaster Recovery Plan.** The Contractor shall provide a Disaster Recovery Plan to the COTR within sixty (60) calendar days after the Contract is fully executed. The Disaster Recovery plan shall encompass the primary and backup sites, equipment warehouse, Consumables warehouse, ICS, Contractor personnel and OLG personnel. Procedures for computer operations staff, especially regarding failure situations, shall be an easy-to-understand, documented procedure. It is required that in addition to operator-prompted failover, the System, primary or backup, shall be able to recover from failures without operator intervention ("auto-failover"). Replacement of equipment or facilities due to a disaster will be done at no expense to OLG. In the event of irreparable damages at the Primary Data Center, or of an unplanned, extended abandonment of the Primary Data Center, the Contractor shall provide at no additional cost those host Systems, facilities, and other components necessary to resume lottery sales under an operational scenario using two (2) or more data centers. Such host Systems, facilities, and other components shall be furnished, installed, and operational within thirty (30) days after the disaster. Until a permanent Primary Data Center can be re-established, substitute facilities shall meet the same or better environmental and security measures as the prior Primary Data Center. The Disaster Recovery Plan shall meet all MUSL requirements.

**C.4.15 Retailer Network.** The Contractor shall implement a network that meets the following requirements:

- (a) The retailer network shall be designed with security, scalability, fault tolerance, fault notification (non-responding terminals, communications outages, and other network failures);
- (b) The retailer network shall be designed to include the ability to utilize the Standard In-Lane, Application Protocol Interface (API) issued by the National Association of State and Provincial Lotteries (NASPL);
- (c) The retailer network shall utilize state-of-the-industry telecommunication technologies to provide efficient, scalable, and reliable telecommunications that mitigate weather related issues;



- (d) The retailer network shall include a diverse communication solution for at least 30% (or as determined by OLG) of the terminals in the event that the primary terminal communication fails. The diverse communication solution shall also be deployed for OLG Prize Center terminals;
- (e) The retailer network shall utilize up to date Encryption methodologies;
- (f) The retailer network shall be capable of downloading software and other data intense downloads;
- (g) The Contractor shall be responsible for terminal up time and will interface with the communications carriers;
- (h) The retailer network shall incorporate capabilities to identify events on the gaming Systems such as x% retailers down, software change made, and x file has not been transferred to OLG;
- (i) The Contractor shall provide a single point of contact and propose a communications and escalation plan to respond to all retailer network issues;
- (j) If it is determined that any parts of the retailer network are inadequate, the Contractor shall upgrade at no additional expense to OLG;
- (k) The Contractor shall be responsible for all wiring, installation, monitoring, security, and costs associated with the retailer network.

**C.4.16 Terminals and Peripherals** Terminal and peripherals shall support current as well as future sales channels, including Keno, Race to Riches, and Self-service terminals for lottery games.

**C.4.17 Retailer Terminals.** The Contractor shall provide full feature terminal(s) that utilize state-of-the-industry technologies to provide efficient, scalable, and reliable POS terminals with rapid play slip entry and ticket printing that will best meet the needs of OLG retailers and players. One terminal model will be selected for all retailers.

- (a) Additionally, the Contractor shall:
  - (1) Be responsible for cost, manufacture, installation and upkeep of branding treatments to be applied to the terminals as requested by OLG.
  - (2) Provide a methodology that will prohibit ticket stock from running out before completed transactions are printed. There shall be no occurrence of transactions not printing or erroneously printing due to ticket stock coming to the end of the roll in the terminal.
  - (3) Provide an inventory tracking system that identifies by serial number peripherals (i.e. ticket checkers) that are attached to the terminal.
  - (4) Provide at least five (5) additional terminals and peripherals for the purpose of on-going training of retailers and OLG staff at OLG headquarters.

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- (5) Provide a current printed and electronic Terminal Operating user guide as approved by OLG, and updates at no additional cost to OLG.
  - (6) Provide a current interactive digital Terminal Operating user guide for the RWS with the option to print all or parts of the guide, and updates at no additional cost to OLG.
  - (7) Provide current and historic communication retries and errors for each terminal to OLG.
- (b) OLG has the right to require the Contractor to “swap out” a terminal that appears to be causing problems.
- (c) Each terminal and its components shall be new.
- (d) Each terminal shall include the following features:
- (1) Attractive, easy to use retailer displays capable of displaying varying character sizes, fonts and graphics.
  - (2) One multimedia display per terminal.
  - (3) Color and markings approved by OLG.
  - (4) A serial number or bar code for maintenance and logistics, but no manufacturer or Contractor logo or identification.
  - (5) Appear as new as possible, and the Contractor will replace or repair them as necessary and at the request of OLG.
  - (6) Stickers and branding treatments on the terminal shall also appear as new as possible, and the Contractor will replace or repair them as necessary and at the request of OLG.
  - (7) The use of open architecture with the expectation that the terminal may need to integrate a third-party peripheral.
  - (8) A play slip/document reader that shall have the ability to read and process stacks of play slips.
  - (9) At least one wireless ticket checker with customizable GUI touch screen display to determine if all game type tickets/plays are winners.
  - (10) A state-of-the-art bar code reader (corded but detachable) that shall be able to read all major vendors instant tickets, Universal Product Code (UPC), PDF417, two-dimensional bar codes and other standards. The reader shall also be able to read mobile devices and be positioned to read future technologies.
  - (11) A fast, robust printer that can produce tickets and reports.

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- (12) A printer that utilizes both true type and open type fonts.
  - (13) A printer that does not have limitations on graphics or logos to be printed on the ticket.
  - (14) A printer that provides stacking for printed tickets, in the order in which they were printed, that will accommodate at least fifty (50) tickets printing serially in a multiple ticket request (multi-play).
  - (15) A jam resistant printer.
  - (16) Speakers that emit music and sounds.
  - (17) Speakers that play a different sound for different scenarios that occur on the terminal such as player won and a certain promotion was played.
  - (18) Speakers that cannot be turned off or lowered below a volume determined by OLG.
  - (19) Diagnostics and self-healing capabilities to fix and correct certain issues and errors that the terminal experiences.
- (e) Each terminal shall include the following capabilities:
- (1) The ability to be upgraded for performance and additional functionality, (including in background mode).
  - (2) The ability to ensure that every ticket sold contains a web code and include a stacked linear barcode or similar with the web code information for use with the mobile app scanning.
    - (A) A web code is a special 25 alpha-numeric string that is produced from a proprietary algorithm.
    - (B) The original web code shall be printed on the exchange ticket as the result of a multi-draw ticket being cashed before all draws on the ticket are complete.
  - (3) The ability to print tickets manually and via play slips.
  - (4) The ability to provide a printable transaction report of tickets produced. If there is an interruption in the processing of a ticket print, the transaction report shall provide an indicator on the last completed play.
  - (5) The ability to display on the home screen a date (legal sell age) that would be compared to the player's date of birth to ensure they are at least 18 years old (i.e. today's date minus 18 years). Leap years shall be accounted for when calculating the date.

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- (6) The ability to sell, cash and cancel draw tickets. Currently DC2, DC3, DC4 and DC5 are the only games that may be cancelled during a predetermined time frame as determined by OLG.
- (7) The ability to cash Instant tickets by manual entry of the ID number or scan of the bar code on the ticket. Keyless validation, scan and pin, as well as other methods shall be provided.
- (8) The ability to issue, activate, confirm, return and settle Instant Ticket packs.
- (9) The ability to auto settle packs of Instant tickets based on percent of pack validation, x number of days after activation, number of packs activated, and other auto settle criteria as determined by OLG.
- (10) The ability to issue Quick Pick (full and partial), advanced play and multi-draw features on all draw games as determined by OLG.
- (11) The ability to reprint last transaction, last play, last draw cash and last Instant cash.
- (12) The ability to Repeat Play a ticket by scanning the ticket into a terminal or vending machine.
  - (A) Repeat Play is an alternative to completing a play slip.
  - (B) Repeat Play reprints all the selections from the original ticket including your numbers, the number of draws, boards, play type, play amount, Megaplier and Power Play Option.
  - (C) Quick Pick plays will be printed with the same numbers as the original play.
  - (D) The Repeat Play feature shall be able to retrieve tickets back thirty (30) days or as determined by OLG.
- (13) An instant product single ticket accounting functionality that may be activated by the retailer at the discretion of OLG.
- (14) The ability to operate in a training mode.
  - (A) Training mode transactions that generate ticket facsimiles shall be marked "TRAINING MODE INVALID - NOT FOR SALE" or equivalent in the body of the ticket.
  - (B) Training mode at retailer locations shall be controllable from the Central Gaming System and create a transaction for the Central Gaming System advising that the terminal has entered/exited training mode.
  - (C) All retailer-site training transactions shall be logged into the Central Gaming System and labeled as training transactions.

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- (D) Training mode shall be capable of simulating all transactions allowed without updating production files such as the winner file.
- (15) The ability to support messaging features, including an informational message area on the terminal that can be updated at any time (i.e. scroll bar at the top).
  - (A) Content shall be able to be different for certain retailers, trade styles, cities, and other pertinent attributes.
- (16) The ability to support use of role-based user ids for owner, manager, sales rep, Contractor field staff, clerk IDs, and other applicable roles with associated functionality and ability to track transactions for each.
- (17) The ability to accommodate an unlimited number of IDs at each terminal.
- (f) The following special terminal functions shall be supported:
  - (1) Mail and messages;
  - (2) News;
  - (3) Screen Brightness Control;
  - (4) Special Field Service sign on and functions;
  - (5) Diagnostics;
  - (6) Draw Game Inquiry;
  - (7) Instant Inquiry;
  - (8) eLearning; and
  - (9) Volume Control.
- (g) Downloading of software or multimedia messages shall not interfere with the performance of the terminal.
- (h) Retailer accounting reports shall be supported on the terminal and shall include the following functionalities:
  - (1) **Instant Inventory reports**
    - (A) Pack Settlement – Current Week;
    - (B) Pack Settlement – Last Week;
    - (C) Pack Status;
    - (D) Confirmed Packs;

- (E) Active Packs;
- (F) Summary Inventory;
- (G) Detailed Inventory; and
- (H) Return Ticket (Full and Partial) Reports.

(2) **Financial Reports**

- (A) Clerk Sales;
- (B) Game Sales;
- (C) Sales Summary;
- (D) Actual Cash Out;
- (E) Top Prize Remaining;
- (F) Weekly Invoice; and
- (G) Weekly Adjustments.

- (i) Instant Inventory reports shall be able to display and print a minimum of two hundred (200) unique packs or as determined by OLG.
- (j) Non-selling activities, such as running reports on a terminal, shall not affect selling capabilities on any other terminal at a retail location that has multiple terminals.
- (k) Lottery Sales Representatives shall have return privileges via the terminal to place tickets into a return status.

**C.4.18 Multimedia Display.** The monitor/display for each terminal shall be capable of displaying winner awareness messages, game education messages, and player transactions.

- (a) The Contractor shall provide a dynamic web-based content management System to create the multimedia content to be displayed on the retailer multimedia display.
- (b) The multimedia display shall be an optimal size for players to see the video graphics that are played on the display (shows) and be able to see their terminal transactions such as player purchases and cashing amounts. The display shall be connected to the terminal and face the player.
- (c) The Contractor shall provide mounting and hardware for the various configurations that may be used by a retailer where the multimedia display is not attached to a terminal, but is to be mounted, such as in a spot other than where the terminal is located. The Contractor shall provide all configurations.

- (d) The multimedia display shall have the ability to be updated any time of the day with things such as, but not limited to, jackpot amounts, commercials, photographs, winner information, video, flash, animation, and amber alerts.
- (e) The display shall be capable of high-definition video, full motion video and sound.
- (f) Content management, administration and development shall be easy to use. Content shall be able to be different for certain retailers, trade styles, and other pertinent factors.
- (g) A method shall be employed by the Contractor to review the multi-media show that is running in production to ensure the multimedia display requirements are met to support the games.

**C.4.19 Self Service Vending Machines.** The Contractor shall provide self-service vending machine(s) that utilize state-of-the-industry technologies to provide attractive, easy to use, efficient, scalable, and reliable for all players. The vending machine shall support all current and future OLG instant ticket games and terminal games.

- (a) Self-Service Vending Machines shall meet the following requirements:
  - (1) Minimum 24 bin vending machines.
  - (2) Each vending machine shall be equipped with a play slip holder for up to seven (7) terminal games. Each play slip holder shall also be equipped with slots for pencils.
  - (3) Each vending machine shall be equipped with a minimum 1,000 bill cash box with lock. Key access to the cash box shall be unique to each machine.
  - (4) The capability of dispensing non-traditional, oversized Instant tickets such as ticket books.
  - (5) The capability of electronically displaying instant ticket statistics such as odds, remaining prizes, and game highlights for each Instant game being offered in the vending machine.
  - (6) Attractive, easy to use displays.
  - (7) Provide single ticket/game inventory management. Reports shall be available at the host System.
  - (8) Provide bin level inventory management.
  - (9) Shall be Americans with Disabilities Act compliant.
  - (10) Provide a methodology that will prohibit ticket stock from running out before completed transactions are printed. There shall be no occurrence of transactions not printing or erroneously printing due to ticket stock coming to the end of the roll in the terminal.

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- (11) Vending machines shall have the ability to send immediate alerts (i.e. email and text) when certain events occur, such as when a bin dispenses its last ticket.
  - (12) The capability to produce a "voucher" when a resulting prize is under \$600. This voucher shall be able to be used at a retailer terminal to obtain cash and able to be read by all vending machines as currency to purchase more games.
  - (13) The ability to send sales data, sales reports, bin status and all incidents such as the remote disabling/enabling of the machine and cash box open. All data shall be transmitted back to the host System to be used for reports.
  - (14) The ability to read driver's licenses and state IDs from US states with the purpose of validating the player's age. The machine shall not operate unless the age on the driver's license or ID is 18 years or over.
  - (15) Self-service vending machines shall have an embedded multimedia display that can display the same or different content as the retail terminal.
  - (16) The ability to accept payment from debit cards, credit cards and from smart phones and smart devices that have the capability of contactless payment, i.e. Apple Pay for iPhones and Google Pay for Android phones. The Contractor shall bear all financial costs of accepting these cards. Within sixty (60) calendar days of Contract execution, the Contractor shall provide a certificate of Payment Card Industry Data Security Standard (PCI) compliance to the COTR.
  - (17) The vending machine shall be capable of supporting at least five (5) levels of users with tiered privileges, i.e. Retailer/Clerk, Contractor technician and Lottery Sales Representatives.
  - (18) An audible alert shall sound if the wrong passcode is entered.
  - (19) The vending machine shall have FULL and PARTIAL pack return functionality that are consistent with the lottery retailer terminal.
  - (20) The vending machine shall have a consumable delivery screen.
- (b) The Contractor shall provide three (3) additional vending machines (of each model delivered) for placement in OLG training rooms and other locations.
  - (c) The Contractor shall provide the appropriate material (i.e. perforated ticket tape) to connect two tickets together for seamless load into the machine.
  - (d) The Contractor shall supply a method for the retailer to remotely disable and enable access to the vending machine. This will also allow the driver's license reader to be by-passed. If a remote device is used, two remote devices shall be supplied for each vending machine. A time out feature shall be provided that would reactivate the driver's license reader after a number of minutes (to be determined by OLG) of inactivity.



- (e) The Contractor shall be responsible for cost, manufacture and installation of branding treatments and stickers to be applied to the self-service vending machines as requested and approved by OLG. Branding treatments and stickers shall remain in “as new” condition or will be replaced by the Contractor at no additional cost to OLG.

**C.4.20 Terminal Ticket Stock.** MUSL approved ticket stock shall be provided by the Contractor and conform to the following specifications:

- (a) The Contractor shall include security features on the ticket stock and methods to investigate and verify damaged and altered tickets.
- (b) The Contractor shall provide one (1) roll of sample ticket stock to OLG thirty calendar days prior to use.
- (c) Ticket stock shall be able to be pre-printed front and back with text, images and colors using designs provided by, or approved by OLG.

**C.4.21 Retailer Consumable Supplies.** The Contractor shall supply ticket stock, pencils, and play slips to retailers.

- (a) The Contractor shall be responsible for all costs of design, printing and distributing play slips, pencils and ticket stock as approved by OLG.
- (b) The Contractor shall keep OLG supplied with pencils for the play centers. The design on the pencils shall be approved by OLG.
- (c) The Contractor shall provide a predictive inventory management program that will ensure retailers will not run out of play slips, pencils, or ticket stock.
- (d) The Contractor shall provide a System to allow OLG sales representatives to order Consumables for retailers via an automated System.

**C.4.22 Equipment Maintenance Requirements.** The Contractor shall have a preventive maintenance program for all Contract deployed equipment to improve equipment life and avoid any unplanned down time or maintenance activity resulting in lost sales. All equipment shall look and perform as close to new as possible including all stickers and branding treatments.

**C.4.23 Software and Data Management.** The Contractor shall utilize a software and data management program that incorporates the following:

- (a) A Problem Notification and Escalation plan that will be reviewed and approved by OLG.
- (b) A software life cycle methodology.
- (c) A Change Management approach.

**C.4.24 Additional Gaming System Requirements.** The gaming System shall incorporate the following requirements:

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- (a) Security and control features.
- (b) Drawing controls.
- (c) Terminal messaging.
- (d) Instant game file load and maintenance.
- (e) Instant ticket management including Instant Ticket validation, accounting, and inventory Control.
- (f) Accounting features (e.g. Integrated Terminal Game and Instant, etc.).
- (g) A subscription System that may be implemented after go-live of the new System.
- (h) A management dashboard/portal that displays sales, validation and winner information that can be tailored for each user. High level data shall have the capability to be drilled down to detail data that can then be further analyzed.
- (i) Reporting features and samples including analytics and ad hoc reporting.
- (j) Promotional capabilities.
- (k) Monitor Games. OLG currently operates three monitor games (Keno, Race2Riches and The Lucky One) and may initiate additional monitor games during the Contract. Monitor games require the use of monitors to display the winning numbers. The Contractor's System shall support monitor game retailers that have a retailer terminal for selling tickets and multiple game monitors.
- (l) Parameterize as many configuration items as possible (i.e. Bank and routing number for weekly invoice Electronic Funds Transfer (EFT)) to reduce the amount of time needed for programming changes when a configuration item changes.
- (m) Capability to disable/enable terminal features (i.e. suppress selling tickets and set a higher prize payout limit). These capabilities shall be available System wide as well as for individual terminals as parameters that can be quickly and easily changed.
- (n) The ability to change ticket status; incorporate rules to charge the retailer (such as stolen chargeable, stolen non-chargeable, or missing chargeable) as defined by OLG.
- (o) The ability to send alerts when pre-defined events occur on the System.

**C.4.25 User Interfaces.** The Contractor shall provide a web-based interface into the Central Gaming System which shall at least have the following characteristics:

- (a) Utilize standard controls in GUIs.
- (b) Employ data entry efficiencies such as auto-populating city and county based on zip code, auto-complete, auto-lookup of previous winner during claimant information data entry.

- (c) Maintain a consistent look and feel on all screens in all user interfaces and GUIs.
- (d) OLG's Security department shall have the ability to reset passwords.
- (e) Permissions within the gaming System to have the ability to be assigned via a role-based access control methodology.
- (f) All user interfaces shall be available to run on the latest versions of browser software (i.e. Edge, Chrome, iOS, and Android).

**C.4.26 Retailer Management System.** The Contractor shall provide a robust, flexible and full function retailer management System to include, but not limited to, the following:

- (a) Retailer licensing to include current OLG business processes and license types.
- (b) Application tracking and renewal.
- (c) Problem management.
- (d) Accounting and billing.
- (e) Sales and activity reporting.
- (f) Retailer incentives.

**C.4.27 Prize Validations and Payment System.** The Contractor shall provide a robust, flexible, full function validation System that will validate all current, as well as future games, and include the following:

- (a) Provide validation and payment of all prize levels.
- (b) Validation and payment of non-cash prizes (merchandise, trips, and prizes from second chance drawings) by converting the prize to a cash value.
- (c) The ability to process a prize type that includes a cash and non-cash in one prize (ability to pay a trip prize that includes spending cash).
- (d) Calculate Federal and State taxes to be withheld and prepare and print the appropriate tax withholding documents (i.e., W2Gs) for each winner of a combined prize of \$600 and over. Such documents shall be stored electronically and accessible by OLG for reprint on demand. All claimant winning information shall be processed at tax year end and formatted for the Federal and State transfer.
- (e) Account for and track annuity prize payments, in which payments are made over a number of years.
- (f) All payments shall be checked against the ineligible player file and retailer file and processed so that payment is not to an ineligible recipient.

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- (g) Tickets flagged for defined circumstances (stolen ticket, etc.) shall be placed in a security hold within the System to be investigated and processed as directed by OLG.
- (h) Ability to check District debt setoff file during the claim process and deduct the amount plus any fees found from payment amount. Debt shall be checked for all prizes on a single claim for prizes claimed at OLG's Prize Center, including merchandise prizes. The debt setoff file will be supplied by OLG at intervals to be determined.
- (i) Provide one screen and methodology for all types of claims.
- (j) Allow multiple prizes for one claimant without re-entering claimant information.
- (k) Allow multiple claimants on one prize.
- (l) Allow a check to be voided by authorized personnel.
- (m) Support multiple payment methods, i.e., check, ACH, and card.
- (n) Functionality to EFT claimant funds over a certain threshold to the claimant's bank account and the functionality to process EFTs at OLG Headquarters only. EFTs shall be approved at OLG Headquarters even when being processed at a regional office.
- (o) Employ a two-step authorization process where one person validates the prize and the second pays the prize. These cannot be the same person within one claim.
- (p) The System shall print the check(s), W2G, player receipt and a second signature page with all pertinent information regarding a claim, i.e., Claim number and ticket number.
- (q) Ability to check all databases (retailer, player, and winner) for a matching Social Security Number (SSN). If a record is found, pertinent data shall be presented on the validation screen for selection, verification, and edit.
- (r) The System shall include providing and maintenance of check printers and electronic signatures for OLG offices that pay claims. A minimum of two (2) additional check printers shall be available to ensure minimal wait time if a printer is down in a Prize Center Office.
- (s) Provide a manual method for entering claims that could not be processed through the normal process.
- (t) Process file imports into the Claims System, for processing claims that are not generated as part of the normal gaming System process (i.e. second chance draws).

**C.4.28 Data Management of Files.** In addition to selling and cashing tickets, the System shall include, but not be limited to, the following capabilities:

- (a) Extract files as needed formatted to OLG specifications i.e. CSV, TXT, RTF, XML etc.

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- (b) Accept files for bulk load into the System, i.e., a file of financial adjustments to be applied to specific retailers.
- (c) Support a MUSL Rule 2 alternative for lockdown.
- (d) Demonstrate/illustrate that a transaction cannot be lost.
- (e) Each transaction shall have a unique serial number.
- (f) Tickets may not be duplicated.
- (g) Cut off sales automatically when a potential liability has been reached. The liability limit shall be a parameter that can be changed immediately.
- (h) All System operator commands executed shall be logged and stored for future inspection.
- (i) Monitoring of transactions, traffic and System utilization shall be accessible to OLG personnel.
- (j) All matrix type games shall have dynamic pools of tickets and sales (past, current and future) that can be viewed at any time before and after game close.
- (k) Incomplete transactions such as communications retries shall be logged and reconciled.
- (l) Protection against application compromise or service disruption.
- (m) Regular file updates to files that change regularly, i.e., USPS zip codes.

**C.4.29 Tax Reporting.** The Contractor shall provide the data files and forms needed to meet annual end of year IRS and District's Office of Tax and Revenue tax reporting and remittance requirements for all games offered under this Contract.

- (a) Generate tax forms such as W2Gs and 1099s (for both players and retailers) as specified by current tax laws. Provide historical documents that can be immediately accessed by OLG staff.
- (b) The Contractor shall provide an end of year tax process to process, reconcile, prepare files, and print 1099s according to current tax laws. Authorized OLG staff shall have the ability to make manual adjustments through the year and during the reconciliation process.

**C.4.30 Reporting.** The Contractor shall provide a database and reporting software solution for providing comprehensive reporting capabilities. All formats and content shall be developed between OLG and the Contractor. The solution shall satisfy all current and future reporting needs of OLG. The Contractor shall provide OLG discretion to design specific standard reports and ad hoc reports based on the capacities of the Contractor's reporting solution. The Contractor shall be responsible for timely and accurate reports as needed. The Contractor shall provide, at no additional cost to OLG, all software and/or stored procedure changes for scheduled administrative reports, ad hoc reports, screen displays, processing options, and other features required for OLG to manage the gaming System, meet reporting obligations, and respond to new

business needs or rules. This shall pertain to any expanded reporting and new reporting necessary for management information applications, as well as to the interface reporting necessary for accurate tracking by OLG staff of service and repair calls.

- (a) The following characteristics are additionally required:
- (1) The database shall hold data generated by the gaming System and contain sales history by game for the term of the Contract. Previous sales history from prior to the Contract shall be included as determined by OLG.
  - (2) Where possible offer wildcard and fuzzy logic searches.
  - (3) Drill down capability.
  - (4) Full search of all fields including comment fields.
  - (5) Comprehensive search of all databases using one search screen such as the ability to see in one report - retailers and winners by searching on any field available, such as, SSN, last name, first name, address, retailer number, game, and play type.
  - (6) Ability to sort on all fields after the query is complete.
  - (7) Ability to set time frames (i.e. 1/1/2015 - 12/31/2015, this month, last month, etc.) for all reports.
  - (8) Provide granularity of data such as the ability to distinguish features and play types of all games i.e. break out Power Play from Powerball for future daily sales.
  - (9) All reporting mechanisms shall have context sensitive help.
  - (10) Ability to download all reports in standard formats including, but not limited to: EXCEL, HTML, XML, PDF, CSV, TXT, RTF.
  - (11) Ability to schedule reports for users and groups of users, view all scheduled reports and store previous scheduled reports.
  - (12) Scheduled reports shall have the capability to be emailed to individuals and groups.
  - (13) Informational usage reports from third party vendors such as UPS tracking records, age verification, geo-location, and other relevant third party vendors.
- (b) OLG has knowledgeable database administration staff who require the following:
- (1) Data normalization.
  - (2) Utilize data change tracking standards such as SCD type 2 for reasons such as keeping track of sales history of sales representatives that have changed territories. A Type 2 SCD retains the full history of values. When the value of a

chosen attribute changes, the current record is closed. A new record is created with the changed data values and this new record becomes the current record.

- (3) Utilize data cleansing and verification processes to prevent corrupt or inaccurate records.
- (4) Access to SQL commands and design view.
- (5) Access to administrator level (user, universe, etc.) security.

**C.4.31 Staffing.** The following staff shall be required to be assigned to OLG's account.

- (a) Dedicated Operations Manager and staff;
- (b) Analytics and Reporting Support;
- (c) Dedicated Retailer Training Support;
- (d) Marketing and Sales Support Staff;
- (e) Dedicated Field Service Manager;
- (f) Dedicated Business Analyst will be required on-site before and during conversion until OLG is satisfied that the conversion is complete; and
- (g) Dedicated Multimedia staff.

**C.4.32 Marketing and Games Support (All Product Lines).** The Contractor shall provide the following:

- (a) A two (2) year marketing plan that describes the Contractor's strategic thinking and what game products they have to offer that would help to grow OLG's portfolio, including new game recommendations as well as a marketing plan to support the existing draw games through promotions or game add-ons. The Marketing Plan shall be provided to the COTR within sixty (60) calendar days of Contract execution.
- (b) Provide an annual minimum budget of \$300,000 for game research and development. OLG will determine the research and development to be conducted. Any unused research funds shall roll over to the next Contract year.
- (c) Game performance data and analysis shall be performed in the System and reports and analyzed data shall be available to OLG Marketing team as needed for planning. The Contractor shall also provide analysis and report on game performance data upon request by OLG.
- (d) The Contractor shall provide a robust and flexible promotion System that can support running a new promotion without waiting for a software change and that will interact with

OLG's players' club. Within sixty (60) calendar days of Contact execution the Contractor shall provide to the COTR a promotional plan to evaluate promotion results and recommend new promotions to OLG. Promotions required but not limited to free play, cross promotions, cash prize, coupon, partner prize, raffle prize, voucher, markup prize, buy x get y of every game with the ability to base the "X" on a transaction cost versus ticket cost (i.e., include Pick 3 multi-board) and play type, every nth and payout on 2 winning numbers (Pick 3 and Pick 4). Promotions shall have the ability to change a prize amount based on a qualifying purchase (i.e., purchase \$10 worth of Powerball tickets during x period and double any low tier prize won). For certain promotions, the ability to award a prize that utilizes manually selected numbers versus a Quick Pick shall be available.

- (e) The Contractor shall provide each retailer an attractive and functional play center device, primarily for marketing purposes.
  - (1) The Contractor shall be responsible for all costs associated with the play centers.
  - (2) Play centers shall be delivered and maintained by the Contractor.
  - (3) A minimum of four (4) of the Play centers shall meet Walmart requirements.
  - (4) The Contractor shall propose a plan to keep the play centers fresh and in proper working order and provide the plan to OLG upon request. At no time shall any part of the play center be cracked, damaged or unsightly.
  - (5) The play centers shall be ADA compliant.
  - (6) Play center design shall be approved by OLG.

**C.4.33 Hotline Services for Retailers.** The Contractor shall provide toll free telephone hotline service to retailers for the purpose of handling incoming calls from OLG retailers. The Contractor shall provide retailer hotline services that meet the following requirements:

- (a) The hotline services shall be available daily from 6:00 a.m. through 2:00 a.m.
- (b) The Contractor shall be responsible for the cost of implementing and maintaining a toll free line for retailers to call for service.
- (c) The Contractor shall be responsible for the front-end message and menu that presents additional menu selections to be connected with OLG retailer customer services, OLG security and others as approved by OLG.
- (d) The ability to open and close the hotline introductory menu selections in real time as the business needs change. The menu shall be configurable to present different messages depending on the time of day such as opening the link to OLG retailer hotline outside of



- normal business hours when a new game launches or close the link to OLG hotline during inclement weather.
- (e) The Contractor hotline staff shall be trained to diagnose and resolve all System issues pertaining to the retailer. Hotline staff shall have access to the same equipment as the retailers in order to aid in troubleshooting.
  - (f) All hotline calls shall be monitored and recorded.
  - (g) All hotline calls shall be categorized, tracked, analyzed, and reported. Recordings shall be made available to OLG upon request.
  - (h) Statistical reports of hotline activity shall be provided to OLG at least weekly and on demand.
  - (i) OLG staff shall have access to the Contractor's call management System.
  - (j) The Contractor shall provide a staffing plan in sixty (60) calendar days of Contract execution that shall have sufficient personnel to respond to callers. The plan shall explain how the Contractor plans to mitigate backlogs and call overloads.
  - (k) Call records and recordings shall be retained for a minimum of one (1) year.

**C.4.34 Services.** The Contractor shall provide the following services:

- (a) Field Service Support including OLG access to the Field Service scheduling and tracking System.
- (b) Retailer recruitment and retention.

**C.4.35 Facilities and Security**

- (a) **Facilities Build-Out.** The Contractor shall be responsible for the lease and build-out of all Contractor building infrastructures.
- (b) **Security Plan.** During the implementation period, the Contractor shall establish a Security Plan, subject to the written approval of OLG, that protects the integrity of the transactions processed, operations and the physical environment. The Security Plan shall include a security/data breach process and be updated, reviewed, and approved annually by OLG.
- (c) **Physical Security.**
  - (1) The Contractor shall install and administer a digital CCTV System with enough camera capacity to monitor all gaming Systems, games management activities, and sensitive facility areas, as determined by OLG Security Department. Cameras shall have tilt, pan, and zoom features (mechanical or digital). Each camera shall have no less than 1080p resolution. Two (2) cameras, as designated by OLG, shall have 4k resolution. Video storage shall be no less than 90 days at 30fps. Enterprise

level viewing software shall be made available that provides OLG Security Department with 24/7 remote viewing capability to the cameras and recordings, using H.264 or newer compression and the appropriate network infrastructure in place to allow for smooth streaming video.

- (2) For all areas deemed “sensitive” by OLG Security Department, the Contractor shall have an electronic access control System in place (card or biometric). Access control records to areas determined by OLG to be sensitive, shall be retained for no less than one (1) year and available to OLG upon request.
  - (3) Facility access records shall be retained for a minimum of six (6) months.
- (d) **Data/Game Security.** The Contractor shall be responsible for the security of the Central Gaming System. The following security requirements apply to all Systems in the Contractor’s primary and backup data center including the production, backup and testing Systems as well as any administrative host Systems supporting games management or other applications operated by the Contractor.
- (1) All System and users requiring access (for any purpose) shall be approved by OLG. The Central Gaming System shall support controls and procedures that allow OLG to audit all System access.
  - (2) System access shall be granted only to those services required to provide the intended System functions, such as computer services activities that support the maintenance, operation, and enhancement of the System. Contractor staff shall be granted access only to the functions and file Systems needed to perform their job functions.
  - (3) Ensure host Systems are not vulnerable to unauthorized access or data compromise. The Contractor’s security program shall include signature management (virus definitions, IDS, etc.).
  - (4) The Contractor shall provide an automated notification process to the OLG Security Department of Contractor System access, network access and remote access.
  - (5) OLG shall be granted the ability to administer OLG user access to all Contractor Systems.
  - (6) The System must include ticket stock controls such as prenumbered ticket stock rolls and means of accounting for the location of the ticket stock (warehouse, specific retailer, etc.) to verify a ticket was printed on stock assigned to a particular retailer.
  - (7) The System must include control procedures for software changes.
  - (8) Software check sums shall be available daily and on demand for all Systems.
  - (9) The System must include real time fraud detection.

- (10) The System shall provide various audit trails that are created when game management information is modified.
  - (11) The System must include controls and protection of Personally Identifiable Information (PII) related data.
  - (12) The System must have third party/independent code review or compliance review for quality and malicious content.
  - (13) Comply with or implement security best practices/industry standards (i.e., NIST, OWASP, ISO etc.) and report on the standards or best practices that they are using. If the Contractor uses a certification process for a standard (i.e., ISO), copies of the certification(s) shall be provided before go-live.
  - (14) All Random Number Generators (RNGs) used in the Systems shall be certified by an OLG authorized outside vendor.
  - (15) Provide PCI compliance certification as applicable with the implementation and annually as required.
  - (16) Perform or have performed by a third party, regular penetration and vulnerability testing as determined by OLG.
  - (17) There shall never be fewer than two (2) dedicated OLG project computer operators on-site.
- (e) **Business Continuity Plan.** The Contractor shall provide a Business Continuity Plan annually that shall be reviewed and approved by OLG. The Business Continuity Plan shall, at a minimum, provide information on how the facilities, or substitute facilities, will be operational and secured to continue business operations during and after an unplanned, catastrophic event.

**C.4.36 Implementation/Conversion Plan.** The Contractor shall implement a comprehensive conversion plan to ensure a smooth conversion and continuity of operations. At a minimum, the plan shall address the following requirements:

- (a) Business analysis and requirements gathering plan.
- (b) Conversion and cut-over plan that demonstrates no loss of sales.
- (c) Transition current OLG retailers from the existing terminals to the Contractor's proposed terminal(s).
- (d) Transition current OLG players from the existing vending machines to the Contractor's proposed machine(s).
- (e) Project reporting and monitoring.
- (f) Data center set-ups.

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- (g) Hotline services.
- (h) Communication networks.
- (i) Delivery and installation of retailer equipment.
- (j) Contractor staffing.
- (k) Data verification and conversion.
- (l) Data feeds required by OLG Systems.
- (m) Software development and testing.
- (n) Customer acceptance testing.
- (o) Back office Systems.
- (p) Retailer Web Site.
- (q) Historic data load into the Contractor System:
  - (1) Draws - all
  - (2) Annuities - all
  - (3) Retailer Sales and History - 5 years
  - (4) Instant Games - all active
  - (5) Player data - 5 years
  - (6) Claims - 5 years
- (r) Interface with ICS.
- (s) Interface with the Instant Ticket Management System.
- (t) Terminal and inventory cut-over plan that demonstrates no inconvenience and loss of sales to the retailer.
- (u) Staffing plan including on-site project manager and business analyst.
- (v) Define roles and responsibilities for the Contractor and OLG staff.
- (w) Training plan for retailers and OLG staff.

**C.4.37 Audit Requirements.** The Contractor shall, at a minimum, meet specific auditing and accounting obligations as specified below:

- (a) The Contractor shall have a complete corporate financial audit conducted annually, at its own expense. The audit shall follow generally accepted auditing standards (GAAS), or the appropriate non-U.S. equivalent. A copy of the Contractor's certified financial statements shall be provided within one quarter after the close of the Contractor's fiscal year.
- (b) The Contractor shall provide OLG with Securities and Exchange Commission (SEC) 10-K reports (or the appropriate non-U.S. equivalent) as they are issued, together with any other reports required pursuant to Section 13 of the Securities and Exchange Act of 1934, as amended.
- (c) The Contractor shall have a complete internal control audit conducted annually of the Contractor's Districts operations by an independent certified public accounting firm (CPA), at its own expense. The Contractor shall provide, for OLG's approval, the firm(s) to perform work, and the controls included for evaluation of operation effectiveness. This audit shall be conducted pursuant to Statement on Standards for Attestation Engagements (SSAE) No. 16 (SOC 1: SSAE 16 Type 2 Examination, and SOC 2: SSAE 16 Type 2 Examination) or its successor document, as issued by the American Institute of Certified Public Accountants. The audit shall cover a one (1) year time period. OLG reserves the right to require the first internal control audit to be conducted prior to Conversion to the new System (an SSAE 16 SOC 1 Type 2 and SOC 2 Type 2 Examination), at no cost to OLG. The Contractor shall provide the COTR with copies of the SOC I Type 2, and SOC 2 type 2 (or its successor document) immediately after the reports have been finalized by the contracted CPA firm.
- (d) The Contractor and its authorized subcontractors shall maintain its books, records and all other evidence pertaining to the Contract in accordance with generally accepted accounting principles (GAAP) (or the appropriate non-U.S. equivalent) and such other procedures specified by OLG. These records shall be available to OLG, its internal auditors or external auditors, and other designees at all times during the Contract period and for five (5) years from the Contract expiration date or final payment on the Contract, whichever is later.
- (e) OLG may contract with an independent firm to perform a lottery security audit every two (2) years. The Contractor's site and System(s) shall be included in the scope of this audit. The audit will be conducted at OLG's expense. The Contractor shall cooperate with any such audits and to correct all audit findings on the date specified by OLG, at no expense to OLG.

**C.4.38 Attachment of Third Party Systems, Terminals or Products.**

- (a) OLG reserves the right to require the Contractor to allow any required access to, and to provide support to OLG and to an OLG Contractor or Retail Sales Agent in attaching to the System or otherwise installing terminals, terminal peripherals, products, or Systems other than those required by this Contract. The Contractor may protect its proprietary information through the execution of a commercially reasonable non-disclosure agreement by the third party contractor. Provisions that will cause a non-disclosure agreement to be commercially unreasonable shall be determined at the discretion of the Contracting Officer.

- (b) The Contractor shall supply to OLG specifications to permit other products other than products produced by the Contractor to carry out all functions and capabilities required by OLG. The Contractor shall provide required support and access to OLG and to an OLG Contractor or Sales Agent for additional products including, but not limited to, providing facilities and support to allow other parties to attach, install and/or test products. OLG will monitor progress to ensure full cooperation.

#### C.4.39 Equipment and Software Corrections and Upgrades.

- (a) **Corrections.** The Contractor shall report any relevant deficiencies in licensed third-party software used in the System and is responsible for ensuring that corrections from the supplier are incorporated in the configuration in a timely and responsible manner. At the time the Contractor is notified by a supplier that a release is scheduled to have support dropped, it is Contractor's obligation to acquire and install an appropriate upgrade with the OLG's prior approval.
- (b) **Workload Growth.** The Contractor shall provide the following equipment (i.e. computer hardware, terminals, all network communication equipment and monitoring devices) and software changes necessary to support the following, at no additional cost to the District:
  - i. Increased volumes of terminal game transactions.
  - ii. Increased volumes of instant product distribution and sales.
  - iii. Expanded requirements from multi-jurisdictional organizations in which OLG participates or elects to participate in the future.
- (c) **Reporting Changes.** All software and stored procedure changes for scheduled administrative reports, ad hoc reports, screen displays, processing options, and other features required for the OLG to manage the gaming System, meet reporting obligations, and respond to new business needs or rules, are included. This Section shall pertain to any expanded reporting necessary for management information terminals, as well as to the interface reporting necessary for accurate tracking by OLG staff for service and repair calls.
- (d) **Other Changes.** Changes and enhancements to the equipment and software identified in the contract and current requirements and which are not otherwise accommodated by the Pricing Method and Options detailed in the Contract, such as additional terminal peripherals, game enhancements, game options, promotions, new games, new terminal types, new administrative reporting or changes to existing administrative reporting and new retailer user interface features, will be handled as follows:
  - i. Software changes are included in the base price, even if additional developments are required to create or adapt software for OLG's needs; and,
  - ii. Capital equipment, facilities, third-party licenses, or substantive service additions or changes will have their pricing negotiated with the OLG.

### C.5 iLOTTERY TECHNICAL SPECIFICATIONS

- C.5.1 The Contractor shall install, operate and maintain a state-of-the-art full service iLottery System designed for the use by OLG. The System shall include draw games, eInstant games, prize validations and payments, ICS integration, and other technologies that may present themselves

in the future. The System shall be fast, reliable, flexible, and secure. The iLottery System shall be a full functioning, integrated iLottery System that OLG can solely rely on to run a successful iLottery.

**C.5.2 Game Development Services.** The Contractor shall provide a portfolio of iLottery play games to be deployed on the System. These games shall be customized to meet the specifications of OLG, such as game logos, play symbols, and prize allocations. The iLottery System shall include the following requirements:

- (a) **Minimum Quantity.**
  - (1) A minimum of two (2) eInstant games per month shall be provided to OLG at no cost.
  - (2) The Contract shall support iLottery play of OLG draw games.
  - (3) The Contractor shall convert all current, at the time of transition, eInstant games for continued play.
  - (4) OLG has the sole authority to deem any games as inadequate and a replacement game shall be provided at no additional cost.
  - (5) At the request of OLG, the Contractor shall provide and support third-party games. Integration costs shall be at no additional cost. The price to OLG for the third-party games shall be negotiated by the Contractor. The Contractor shall obtain and be responsible for any requirements necessary for any third-party game. The final price shall be pre-approved by OLG and submitted to OLG for payment. OLG's price for the third-party game shall be a reimbursable expense. There shall be no additional charge to OLG by the Contractor for services rendered to obtain the third-party game.
- (b) **Additional Games.** OLG shall be able to procure additional games, beyond the minimum quantity provided, from the Contractor at a fixed cost per game.
- (c) **Draw Game Requirements.** The Contractor shall provide all necessary requirements to manage any draw games (e.g., Mega Millions, Powerball, etc.) that are available on the System.
- (d) **Price Point Selection.** All games shall support a wide range of price point selections in order to provide maximum consumer choice.
- (e) **Device and Screen Compatibility.** Games shall be developed in a manner that is optimized for desktop, tablet, and mobile devices. The Contractor shall be responsible for adapting games, at no cost to OLG, to meet evolving trends in technology.
- (f) **Game Compliance.** Games shall meet all standards and requirements as imposed by OLG or any associations that are affiliated with a particular game, such as the Multi-State Lottery Association ("MUSL").

- (g) **Subscription Support.** The System shall provide support to sell games on a renewal basis (“Subscriptions”) and shall manage any associated payment implications to support the automatic purchase without player intervention, provided that payment card information on file for the player is still valid.
- (h) **Winner Determination Capabilities.** The System shall support at least one (1) method to randomly determine winning prize shares in a manner that is consistent with defined prize tables for each game. Any winner determination processes and technologies shall be certified by an accredited third-party and provided to OLG no less than once per year.

### C.5.3 Customer Service Center (CSC)

- (a) **Support Channels.** At a minimum, voice, email, and live chat support shall be provided.
- (b) **Support Availability.** Contractor shall provide CSC support to players on a continuous basis (i.e., 24/7/365) without interruption over the term of the Contract.
- (c) **Oversight Capabilities.** OLG shall be provided with adequate oversight (including access to CSC personnel) and reporting capabilities to establish final operational control and ability to measure performance. The CSC reporting shall be searchable and support the ability to view a complete record of historical correspondences. The ability to view aggregate CSC reporting, such as total inquiries per time period, shall be supported by the System.
- (d) **Data Retention.** The System shall retain all CSC correspondences for a period of no less than five (5) years. OLG shall be provided with access to all correspondence.
- (e) **Satisfaction Measurement.** The System shall provide the capabilities to collect satisfaction sentiments from players based on CSC interactions, and to provide detailed reporting to OLG in a quantitative and qualitative manner.
- (f) **Staffing Levels.** CSC staffing shall be provided, at no cost to OLG.
- (g) **Failover and Disaster Recovery.** The CSC shall be equipped with staffing and technology redundancy in a manner that mitigates risk (e.g., backup CSC on different electric grid) and ensures continuous operations. A disaster recovery plan shall be provided and approved by OLG prior to the startup date and on an annual basis.
- (h) **Player Hotline.** The Contractor shall provide an interactive voice response (“IVR”) System and dedicated toll-free hotline, which shall be published for player inquiries.
- (i) **System Access and Case Transfers.** OLG shall be provided with direct access to CSC System components. The System shall be able to receive and transfer case history notes and live calls between the CSC and OLG’s designated internal Systems.
- (j) **Subject Matters Supported.** The CSC staff shall be trained to provide support for all features as outlined in this Contract including, but not limited to, iLottery, player retention, and the mobile apps. CSC staff shall also answer and manage any calls related to winning



numbers information and any questions that are of a general nature that do not require specialized training.

**C.5.4 Data Integration Capabilities.** Data integration shall include following requirements:

- (a) **Player Database Integration.** The System shall have the ability to export all System data (e.g., wagering, non- wagering, etc.) to external System(s) as required by OLG. This data shall be exported, at a minimum, at the close of business each day.
- (b) **Communication Systems Integration.** The System shall be readily integrated with external communication Systems in order to trigger player communications such as email, SMS, or push notifications. Some data shall be required to be fed in regular intervals to third party communications partners for external campaign development and triggering.
- (c) **Advertising Systems Integration.** The System shall have the ability to integrate with advertising tracking mechanisms such as advertising pixels or affiliate-specific tracking parameters.
- (d) **Analytics Systems Integration.** The System shall provide support for site analytics tracking mechanisms, such as Google Analytics, on all pages or user interface (UI) components that are provided on the site. This shall support the ability to establish and track conversion funnels with the capability to pass parameters in order to relate purchase value back to specific campaigns or site conversion paths. OLG shall provide a Google Analytics Tracking ID for each portal as necessary.
- (e) **A/B Testing System.** The System shall have the ability to integrate with an A/B testing System, as provided by OLG. This includes integration of the player-facing UI components of the System in addition to any data integration that shall be passed back to the A/B testing System for measurement.

**C.5.5 Staffing Support Model.** OLG shall be provided with ample and experienced staffing services to support the startup and ongoing iLottery, and digital operations. Such staff shall include the following:

- (a) **Project Manager.** The Contractor shall be required to provide a project manager. This individual shall be responsible for coordinating all documentation, project schedules, meetings, and all other communications required to manage the System and supporting operations. The project manager shall be able to facilitate timely changes and adjustments on the fly, especially to live features and promotions, and respond promptly to all requests. The Contractor shall provide a process for OLG to seek additional assistance if issues arise with the performance or responsiveness of the project manager.
- (b) **Solutions Architect.** The Contractor shall be required to provide a solutions architect that is specialized in understanding the System and readily available to OLG for consultation. This individual shall be responsible for gathering OLG's requirements and identifying viable technical solutions.

- (c) **Data Analyst.** The Contractor shall be required to provide a data analyst. This individual shall be responsible for compiling data, synthesizing data patterns, performing segmentation, capturing insights into written reports, and maintaining dashboards and distribution reports.
- (d) **Digital Graphic Designer.** The Contractor shall be required to provide a digital graphic designer. This individual shall be responsible for creating onsite assets, UI component designs, and paid media advertising assets in a manner that is optimized for each channel (e.g., web, mobile, etc.).
- (e) **Strategic Planning Services.** Within sixty (60) calendar days of Contract execution, the Contractor shall provide the COTR with an initial two (2) year strategic plan for iLottery and marketing initiatives. The strategic plan shall include specific details on the rollout of new proposed products and the reasoning as to the timing. The Contractor shall be required to collaborate onsite with OLG at least quarterly in order to determine long-range planning activities that shall contribute towards the established revenue goals for iLottery.

#### C.5.6 Reporting Capabilities and Services.

- (a) **General Services.** The Contractor shall be required to provide ongoing support for reporting development, customization, and distribution to OLG. Certain reports shall be required to be automated and scheduled on a recurring basis.
- (b) **Reconciliation Reporting.** The System shall generate a reconciliation report that applies all financial conditions, including commission payments, to determine an exchange of funds due to OLG as a result of iLottery gaming profits.
- (c) **Balancing Reports.** The System shall generate reporting that enables OLG to perform all balancing functions between the central gaming System and the ICS. A mirror copy of all financial reports shall be configured on the ICS.
- (d) **Daily iLottery Reporting.** Reports shall be automated that provide visibility into daily iLottery activities such as new registrations, returning players, deposits, wagers, prizes paid, prizes pending and breakdowns for the various sales channels (e.g., desktop, mobile, app, etc.).
- (e) **iLottery Game Reporting.** The System shall provide reporting related to wagers and wins of all games. This includes any third-party games that are integrated with the System.
- (f) **Tax Reporting.** The System shall have capabilities to export files in a format, as specified by OLG, which can be combined with retail claim center data in order to create all required tax reporting.
- (g) **Expired Prizes Reporting.** The System shall have capabilities to export a file of expired prizes, as defined by OLG, which have not been claimed by a player. All unclaimed prizes shall be transferred directly to OLG and are not subject to Contractor's percentage of sales.

- (h) **Expired Player Wallet Reporting.** The System shall have capabilities to expire Player Wallet balances, as defined by OLG, after a defined period of player inactivity. Any expired Player Wallet balances shall be subject to the District's escheat laws.
- (i) **Game Card Reporting.** The System shall have capabilities to report on game card activities such as number of redemptions, value redeemed, and any associated bonuses.
- (j) **Geolocation Reporting.** The System shall provide reporting related to the performance of geolocation services such as the number of successful and blocked connections.
- (k) **Identity Verification Reporting.** The System shall log any parameters associated with identity verification and shall be available on a player-specific basis. An immediate export of failure reasons shall be logged and made available to the CSC in order to inform customer support activities.
- (l) **Virtual Claims Reporting.** The System shall provide reporting related to virtual prize claim center activities, such as a detailed report of all prizes paid and the staff member that authorized the claim. Reports shall be provided daily in a manner that meets the operational needs and requirements of OLG.
- (m) **Back Office User Reporting.** The System shall provide reporting that allows OLG to pull a manifest of all active and disabled users of the back office System, along with the assigned permission settings by user.
- (n) **Business Intelligence Reporting.** The System shall be integrated with a business intelligence software application that can provide adaptable reporting, scheduling, and automation to OLG. A minimum of twenty-five (25) user seat licenses to the business intelligence software application shall be provided to OLG.

#### C.5.7 Facilities and Infrastructure.

- (a) This section only applies if the iLottery data center is separate from the traditional lottery gaming System data center.
- (b) **Configuration at Primary Data Center.** The primary data center shall conform to all federal and state regulatory requirements and shall be located in the continental United States. The primary data center shall also conform to any relevant PCI requirements or security requirements imposed by OLG and any associations (e.g., MUSL) that provide game oversight.
- (c) **Configuration at Backup Data Center.** The backup data center shall conform to all federal and state regulatory requirements and shall be located in the continental United States. The backup data center shall also conform to any relevant PCI requirements or security requirements imposed by OLG and any associations (e.g., MUSL) that provide game oversight. The backup data center shall be located in an area that minimizes and separates risk of concurrent failure with the primary data center, such as isolation on separate power grids. Additionally, the backup data center shall be tested every six (6) months for readiness in a planned failover.

- (d) **System Performance and Scalability.** The System shall be designed to maximize performance and speed across a wide variety of devices and connection types. The Contractor shall provide response and load times for common user interactions (e.g., load an instant game, make a wager, call the registration page, login, etc.) in a table format with an average time to completion. The table shall contain two (2) columns and indicate an average response time for a broadband connection and a cellular connection. The System shall be scalable to meet the growing traffic needs of OLG and shall not experience degraded performance.
- (e) **System Availability and Monitoring.** The System shall be available on an ongoing basis without interruption (i.e., 24/7/365) and shall provide at least seven (7) days advance notice for any planned downtime for System maintenance that shall be pre-approved by OLG.
- (f) **Disaster Recovery Plan.** A disaster recovery plan shall be provided to OLG for approval prior to the System startup date and at the start of each Contract year.
- (g) **Communication Networks.** The Contractor shall provide communication networks utilized in establishing connectivity between the data centers, the ICS, and the player-facing site.

C.5.8 **Player Registration.** The Contractor shall deliver a registration process for players prior to gaining access to additional Privileged Access Management (PAM) features and functionality available within the iLottery System. The Contractor shall provide a solution to handle the registration process of players. The Contractor shall provide software and services that ensure total accuracy of age and identity verification of players has occurred before they can obtain a player account. The Contractor shall be required to obtain third-party certified verification of any identity verification services being utilized prior to launch and on a recurring basis during the Contract as defined by OLG.

#### C.5.9 **Player Database**

- (a) The Contractor shall maintain a database that maintains all current and historical player and transactional information. The player database shall include, but is not limited to:
  - (1) **Player Data.** The System shall support a player database for iLottery management functions. Database elements may include, but are not limited to, player ID, name and address, telephone number, e-mail address, bank account information required for EFT transactions, status and history, W-2G, Federal and District of Columbia tax reporting information, account status, and any outstanding child support debts collected by the DC Office of the Attorney General (“Offsets”). All sensitive player information is encrypted and stored in the Contractor database, following all industry security rules, except from credit and debit card information which is handled by third party vendors. The exact information elements to be stored in the database shall be determined in conjunction with OLG during the phase of implementation in which specifications of the functional requirements of the player database will be developed. Any changes to player data shall be logged in the System with associated details such

as date, timestamp, System type being accessed, and logging the user making changes (e.g. employee identifier or player-initiated change).

- (2) **Funds Transfer Activity.** The System shall record all internal and external funds transfers.
  - (3) **Wager and Winnings Activity.** When a player purchases a wager or wins a prize, the account record shall maintain a history of the player's wagers and prizes. Non-winning results and expired wagers may be removed subject to expiration policies set by OLG.
  - (4) **Promotions History.** The System shall record all promotional offers to players.
  - (5) **Responsible Gaming Activity.** The System shall record all changes made to responsible gaming controls.
- (b) **Data Conversion.** As directed by OLG, the Contractor may be required to convert existing player database(s) in order to maintain common sign-on credentials for current players.
  - (c) **Signature Capture.** The iLottery System shall store a digitized signature for the player.
  - (d) **Reporting and Download.** The System shall provide reporting on the player database, and downloads to Excel of player database information.

#### C.5.10 Player Account Management System.

- (a) **Age and Identity Verification.** The System shall have capabilities to perform verification of players, with strict protocols to block attempted registrations that do not meet the most stringent age and identity verification controls. The verification method shall also be able to determine player residency and allow or disallow access based on OLG-specified criteria.
- (b) **Player Registration.** The System shall provide capabilities to support the registration of players and shall be designed to ensure that only one (1) account can be created per person. Player accounts are multi-purpose and enable iLottery Play, and any future programs that require registration.
- (c) **Player Geolocation.** The System shall have capabilities to perform geolocation of players across land-based, Wi-Fi, and cellular connection types. The System shall apply the most stringent controls to ensure that all play occurs within District boundaries and not within any designated exclusion zones within the District as determined by OLG.
- (d) **Player Authentication.** The System shall support a secure method to login users, including mandating minimum password security criteria and support two-factor authentication. The System shall have capabilities to restrict player accounts from login for any OLG-specified reason.
- (e) **Player Wallets.** The System shall provide capabilities to fund player-specific deposit accounts ("Player Wallets") that can be utilized for player transactions. The Player

Wallets shall have full featured (i.e., no limitations) availability for third-party integrators, including game library providers, as specified by OLG. Player Wallets shall utilize logical separation of deposit, promotion, credits, and winnings (“Balance Classifications”) with the ability to strictly control which Balance Classifications are available for withdrawal by the player. Additionally, the varying Balance Classifications shall be available for display to players and OLG back office users through user interface (“UI”) components.

(f) **Responsible Gaming Controls.**

- (1) The System shall utilize a diverse and progressive mix of responsible gaming (“RG”) controls. The RG controls allow OLG to establish minimum, maximum, and default responsible gaming settings for player accounts.
- (2) The System shall provide capabilities for players to define personal limits, within defined time periods, for deposit and loss amounts. The RG controls shall allow players to instantaneously enable stricter settings (e.g., smaller deposit limit) while imposing buffer periods (e.g., 48-hour waiting period) for any attempts to increase limits.
- (3) The System shall provide capabilities to track the duration of logged-in sessions and any net losses during that session. RG controls are desirable to allow players to assign play session time limits or loss limits. Triggered prompts that remind the player how long they have been playing in a session are also desirable.
- (4) The System shall allow players to define periods of exclusion from accessing the System. The solution shall ensure that any Balance Classifications eligible for withdrawal can be issued back to the player prior to exclusion lockout.
- (5) The System shall update all communication Systems (including any third-party Systems) in real-time of a player exclusion event and provide a subsequent update when that exclusion period has expired.
- (6) **Player Communication Preferences.** The System shall support capabilities for players to manage opt-in or opt-out communication preferences including the ability to opt-in and opt-out of promotional email messaging, text messaging, and push notifications with fully configurable custom options based on criteria provided by OLG. Preferences shall be inclusive of iLottery Play, jackpot alerts, and all other facets of player communication.
- (7) **Player Notifications.** The System shall have the capability to send transactional notifications (e.g., emails, text messages, etc.) and marketing notifications that will be managed by the System. Additional UI components controlled by the PAM, such as in-site dynamic notices, shall also be available for customization and deployment by OLG.
- (8) **Player Data and History.** The System shall maintain a complete history of player transactions including deposits, purchases, winnings, claims, uploaded

documentation, loyalty activities, and any other transactions that are associated with a player. This data and history shall be made accessible to players and back office users through UI components. OLG shall be the exclusive owner of all data that is recorded on the System and the Contractor shall have a limited use license to the data during the term of the Contract.

- (9) **Secure Upload Center.** The System shall provide capabilities for registered players, and certain qualified failed registrations, to upload and transfer documents in a secure manner to OLG.

#### C.5.11 Banking Services.

- (a) Banking fees shall be paid by the Contractor and will be reimbursed by OLG on a monthly basis.
- (b) The Contractor is required, to the extent applicable, to ensure that all third parties including financial institutions and credit card processors, each of which is engaged to carry out iLottery and shall have access to credit/debit card nonpublic cardholder data, shall adhere to the Payment Card Industry ("PCI") Data Security requirements and pursuant to their agreements with the Contractor, shall have agreed to the following:
- (1) That the applicable subcontractors are responsible for security of cardholder data in their possession;
  - (2) That such nonpublic cardholder data can ONLY be used for assisting the OLG in completing a transaction, supporting the District, providing fraud control services, or for other uses specifically allowed by law;
  - (3) That the Contractor shall provide business continuity in the event of a major disruption, disaster, or failure;
  - (4) That the Contractor shall contact the OLG to advise it of any breaches discovered in data security where a Cardholder's "personal information" or "PI" (as such term is defined in the ID Theft Protection Act) has been compromised;
  - (5) That in the event of a security intrusion, the Payment Card Industry representative, or a Payment Card Industry approved third-party, shall be provided, by the applicable subcontractor, with full cooperation and access to conduct a thorough security review and the review shall validate compliance with the Payment Card Industry Data Security Standard for protecting Cardholder data;
  - (6) That the applicable subcontractors shall properly dispose of nonpublic Cardholder data when no longer needed;
  - (7) That the applicable subcontractors shall continue to treat nonpublic Cardholder data as confidential upon termination of the iLottery requirements of the Contract; and

- (8) That each subcontractor shall provide the OLG with documentation verifying PCI Data Security certification has been achieved and shall advise the OLG of all failures to comply with the PCI Data Security Requirements (which failures include, but are not limited to System scans and self-assessment questionnaires), and shall provide a timeline for corrective action; provided that, if the subcontractors are listed on the PCI Security Standards Council's validated service provider list, the OLG shall not require any other certification;
  - (9) If the subcontractor is not listed on the PCI Security Standards Council's validated service provider list, the OLG shall receive a copy of such subcontractor's Attestation of Compliance and its most recent scan (performed by a qualified scan vendor), which documents shall be provided annually with proof of quarterly scans from such subcontractors for OLG approval.
- (c) Contractor shall provide software and services that allow players to transfer funds to and from a virtual wagering account ("VWA"). The System shall support configurable fees, by each payment mechanism available (e.g. debit card transfers vs. ACH transfers), for OLG to designate and assess the player upon the transferring of funds to and from a VWA. Fees shall be configurable in real-time and not require software development to perform a change. For transfer of funds into a VWA, any applicable fees shall be charged to the originating payment source and not deducted from the VWA.
  - (d) Funding limits, both minimums and maximums, by payment mechanism shall be configurable within the System. Configurable limits shall include daily, weekly, monthly, and yearly parameters. The OLG shall designate funding limits according to the District of Columbia Regulations that apply to iLottery. The Contractor shall advise the OLG regarding any limits that may be necessary to minimize exposure to possible fraud activities. The System shall provide other rules and configurable settings that mitigate possible payment fraud activities.
  - (e) The Contractor shall hold VWA funds in an FDIC insured bank account or as otherwise approved by OLG. The Contractor shall provide all banking services necessary to add funds to VWA's including, but not limited to, providing gateway, acquiring processor and acquiring bank. Each of the banking services subcontractors are subject to OLG approval. The System shall support open architecture for integrating banking services subcontractors as necessary by the Contractor. The Contractor shall maintain robust transaction routing capabilities for alternative banking services.

C.5.12 As a part of the VWA, the Contractor shall establish a player custodial account and a sweep account.

- (a) The Contractor shall fund the player custodial account with deposits made to player wallets, wagers placed by bettors and wagers won by bettors. Funds deposited in the player custodial account, although appearing as part of the Contractor's financial statements, shall only be withdrawn or transferred in accordance with the terms of this Contract. Funds deposited in the player custodial account shall not be assigned, pledged or used as collateral for any security interest.



- (b) The Contractor shall fund the sweep account with wagers lost by bettors. Funds deposited in the sweep account, although appearing as part of the Contractor's financial statements, shall only be withdrawn or transferred in accordance with the terms of this Contract. Funds deposited in the sweep account shall not be assigned, pledged or used as collateral for any security interest.
- (c) The Contractor shall remove all funds resulting from lost wagers from the player custodial account and transfer those funds into the sweep account at minimum on a monthly basis.
- (d) The Contractor shall monitor the accounts daily and perform bank reconciliations on a monthly basis. The bank reconciliations shall be provided to the OLG upon request. The Contractor shall investigate and resolve all transactional chargebacks, shortages and unauthorized withdrawals and deposits; and provide a description of the cause and resolution.
- (e) The Contractor shall provide online access to the OLG for all related bank accounts and third-party vendor platforms.
- (f) The Contractor shall pay the third-party banking fees and submit an invoice to the OLG for reimbursement for the third-party fees.
- (g) After reconciliation of the sweep account and the player custodial account, the Net Gaming Revenue (NGR), as defined by Section B.6.2 shall be determined by the OLG. The NGR shall constitute District funds. The Contractor shall remit one hundred percent (100%) of the NGR to the OLG within three (3) business days of electronic invoicing by the OLG. Invoicing of the NGR by the OLG shall generally occur on a monthly basis but may occur more frequently as required by the OLG. The Contractor shall remit the NGR electronically using the payment information contained on the bottom of the OLG invoice. The OLG will pay the Contractor after the NGR has posted to the OLG's bank account and upon receipt of a proper invoice from the Contractor. Any invoice received by the OLG prior to the posting of the NGR to the OLG's bank account shall be considered an improper invoice and rejected by the OLG.
- (h) Failure of the Contractor to timely transfer funds in accordance with the terms of this Contract or instructions issued by the District shall be considered a material breach of the Contract and the District may, in its sole discretion, take any of the following actions: (i) Deduct the delinquent amount of funds from any amounts owed by the District to Contractor; or (ii) make a claim for the delinquent amount of funds against Contractor's performance bond, provided however, no such claim against contractor's performance bond will be made unless insufficient funds are available under subsection (i) to cure the breach and until Contractor is given written notice by the OLG of its intent to make such a claim and Contractor is provided an opportunity to cure within the succeeding 2 business days.
- (i) The Contractor shall act as the Merchant of Record and shall be responsible for all payment acceptance, dispute resolution handling, indemnification of payment fraud and all expenses associated with these services.

- (j) The Contractor shall provide the OLG with web-accessible reporting tools that provide access to data related to banking services activities. This includes, but is not limited to, reporting features that provide player-specific activity logs and aggregate data such as total deposits and withdrawals and amount by payment type.

**C.5.13 Compliance and Risk Requirements.** The Contractor shall be responsible for ensuring compliance with all state, federal, anti- money laundering (“AML”), and payment card industry PCI imposed regulations associated with the acceptance of payments and external transfer of funds. The Contractor shall be solely liable for all risk, such as chargebacks, related to payment activities.

**C.5.14 Payment Processing Services.**

- (a) The System shall provide all necessary components and services in order to accept financial transactions from players and to issue financial payments to players.
- (b) The Contractor shall provide OLG, upon request, its list of all payments types that will be accepted, payment processors that will be used and the bank that will be used in performance of this section.
- (c) **Backup and Failover Capabilities.** The payment acceptance System shall be configured in such a way that it can easily switch to additional service providers (e.g., payment processor, acquiring bank, etc.) in order to maintain uninterrupted payment operations.
- (d) **Player Wallet Funding Methods.** The Contractor shall provide a solution that accepts, at a minimum, the following payment methods: Credit card payments, debit card payments and automated clearing house (“ACH”) bank transfers in a manner that provides the most immediate availability of funds to players.
- (e) **ACH Funding Verification.** The Contractor shall implement a bank account and owner verification process for ACH funding, including capability to pre-note for new funding sources.
- (f) **Player Facing Fees.** The Contractor shall disclose all fees that may be assessed against players, including but not limited to, payment errors, chargebacks, and insufficient funds. All fees shall follow ecommerce best practices. The process shall ensure that players have every opportunity to avoid unnecessary fees.
- (g) **Single Credit or Debit Funding and Purchase.** The Contractor shall incorporate a method that allows a registered player to purchase any games with a credit or debit card without funding a wallet. The payment card information shall not be retained.
- (h) **Guest Checkout.** The Contractor shall provide a method that allows a player to fund and purchase as a guest checkout (without registering with the System). The System shall require the player to provide sufficient personal information to conduct an ID check, the ability to notify via email on a win and prize payment to the player for prizes under \$600 on the credit or debit card used to purchase the game.

- (i) **Minimum Purchases and Deposits.** The System shall include the capability to adjust minimum purchase and deposit amounts. OLG requires a minimum deposit of four dollars (\$4.00) to be configured on the System.
- (j) **Saved Payment Types.** The System shall save previously utilized payment types in a manner that is secure and meets any payment card industry (“PCI”) requirements. Players shall be able to remove a saved payment type from their profile, and the System shall retain any historical reporting in such cases.
- (k) **Payment Enablement and Disablement.** The System shall support the ability to place a specific payment instrument on hold within a player account while also supporting the ability to re-enable the payment type.
- (l) **Prepaid Acceptance.** The System shall be configured to enable the redemption of OLG-issued prepaid instruments (“Prepaid Cards”). Reporting shall be made available to OLG for each of the Prepaid Card options supported by the System. For the purposes of clarity, OLG shall be responsible for creating, distributing, issuing, activating, and expiring Prepaid Cards and the benefactor of any expired funds shall be determined by OLG. The System, however, shall be responsible for enabling the redemption of Prepaid Cards.
- (m) Capabilities are desired to support the following Prepaid Card redemption methods:
  - (1) A method whereby redemption codes can be loaded onto the System and validated upon submission. This supports a method whereby codes can be distributed, such as on an instant ticket, and validated through a defined expiry date.
  - (2) A method whereby redemption codes can be decrypted and validated against a predefined pattern. This supports a method whereby codes can be printed on-demand, such as on an OLG terminal, and validated through a defined expiry date.
  - (3) A method whereby redemption codes can be verified against a third-party System through the use of an application programmable interface (“API”) call. This supports a method whereby codes can be preprinted and not yet validated, such as merchandised prepaid cards, and validated through a third-party issuance System.

#### C.5.15 Payment Issuance.

- (a) **Withdrawal Methods.** The System shall provide methods by which a player can quickly withdraw winnings available from within a Player Wallet.
- (b) **AML Compliance.** The System shall provide all necessary validations to ensure that AML and any other regulatory validations are properly performed prior to the release of any payments.
- (c) **Payment Holds.** The System shall support the ability to place a specific payment instrument on hold within a player account while also supporting the ability to re-enable the payment type.

#### C.5.16 Virtual Prize Claim Center.

- (a) **Immediate Prize Payments.** The System shall have capabilities to issue immediate prize payment to a player without any manual intervention. OLG requires prizes of less than six hundred dollars (\$600.00) to be paid instantaneously to a Player Wallet.
- (b) **Large Prize Claim Thresholds.** The System shall have capabilities to move a prize into a pending status that requires further manual processing by OLG. OLG requires prizes greater than six hundred dollars (\$600.00) to be placed into a pending status.
- (c) **Claim Center Back Office.** The System shall provide a back office capability that enables OLG staff to access a queue of all pending prize claims. The System shall provide ease of use to OLG staff for prioritizing, searching, tracking, processing, and closing all steps required in order to issue a prize payment over six hundred dollars (\$600.00), including annuities. OLG staff shall be able to view any processed claims and details including tax withholdings, offsets, and amount paid to Player Wallet.
- (d) **Message Exchanges.** The System shall trigger automated messages to players, as defined by OLG, in order to request any documentation necessary to complete a prize claim. OLG shall receive a notification in the back office System when a player has sent a correspondence or document upload. OLG shall be able to view and download the correspondence or document upload and send a customized message to the player from within the back office if necessary.
- (e) **Document Storage.** The System shall retain any documentation related to claims for each player in a manner that is compliant with any state, federal, PCI or other laws or regulations. When a player makes a subsequent claim, the System shall not trigger automated messages to players, when necessary, documentation is already on file. In these cases, the System shall allow OLG to expedite the prize claim process.
- (f) **Offset Management.** The System shall provide capabilities for OLG staff to apply an offset against a pending prize claim and log any necessary comments. All offset payments shall be tracked separately in the System and made available within reporting to OLG staff. An export file of all offset payments by player shall be made available to OLG.
- (g) **Tax Withholdings.** The System shall be configured to automatically calculate tax withholdings for standard federal and state rates. An export file of tax withholdings shall be available to OLG. This includes an annual file, rolled up by player for all wins, which will be transferred to OLG for W2-G filing.
- (h) **Prize Claim Hold.** The System shall be configured to automatically place prize claims on hold based upon criteria/threshold as defined by OLG. The hold may only be lifted/bypassed by designated OLG personnel.
- (i) **Completion of Prize Claim.** The System shall allow OLG to mark a claim as approved, while removing any tax withholdings and offsets, and initiate a final credit to the Player Wallet that is available for immediate withdrawal. The System shall support a two-person verification process before the claim is approved.

- (j) **Exceptions and Overrides.** The System shall allow for exception claims and overrides that do not meet the defined workflow associated with a prize claim. This includes, but is not limited to, the ability to override default tax withholdings or to mark prizes as paid through external Systems. An export file of exception claims shall be available to OLG.

#### C.5.17 Promotions Capabilities.

- (a) **Promotion Codes.** The System shall support the ability to define and accept a wide variety of promotion codes that can be redeemed by players in order to trigger an offer for points and other prizes. The System shall support the ability to issue multiple promotion codes concurrently. The promotion codes shall be captured by the System and available for reporting or extraction (to third-party Systems or otherwise) on a per-player basis.
- (b) **Free Games.** The System shall have the ability to assign free games to players. The System shall support variable parameters such as the quantity, price point, or play settings associated with free games. The free games shall be assignable with a variety of criteria, such as login, registration, or a qualifying purchase. Free games assignment is required for all games that are provided under the Contract.
- (c) **Deposit Offers.** The System shall have the ability to configure offers that provide a percentage or fixed-value bonus in combination with a transaction to fund a Player Wallet (“Deposit”). This shall include the ability to assign a maximum limit for the Deposit bonus.
- (d) **Discount Offers.** The System shall have the ability to configure offers that provide a discount on the purchase of plays. This shall include all games that are provided under the Contract.
- (e) **Play and Win Events.** The System shall provide capabilities to log qualifying activities (e.g., wagers on certain games, deposits, etc.) as entries into a prize giveaway. The System shall allow for the random selection of prize winner(s), in addition to capabilities to issue prizes as a payment directly into a Player Wallet.
- (f) **Bonus Payout Events.** The System shall support the ability to define time periods whereby prize payments, at defined levels, for certain games are enhanced by a percentage value or dollar amount. For example, prizes of \$500 and greater earn a twenty percent (20%) bonus from 4:00 p.m. to 8:00 p.m. on a specific day.
- (g) **Promotion Triggers and Conditions.** The System shall support a wide variety of qualifying parameters in order for a promotion to be available to a player. For example, qualifying parameters may include a new registration, login, player segment, deposit activity, wager on a specific game, watching a responsible gaming video, engaging with OLG-specified content, or a date-specific event such as a birthday. The System shall support any specifications as determined by OLG for each promotion, such as eligibility dates, expiry dates, or limitations.
- (h) **General Capabilities.** Each promotion shall have a unique identifier (not promotion name) on the System in order to support reporting capabilities. OLG shall have the ability to run varying promotions concurrently on the System. The System shall have capabilities

to ensure that individual players are not assigned conflicting promotions at the same time. OLG shall have the ability to run reports at custom intervals (real-time, hourly, daily, weekly, etc.) based upon the specific promotional offers for any promotions (i.e., redemption of promotional offers).

## **C.6 INSTANT TICKET PRODUCTION, WAREHOUSING AND TEL-SEL**

C.6.1 The Contractor shall be the primary producer/supplier of OLG instant tickets. OLG may, at its own cost, contract with other instant ticket producers to obtain up to five (5) additional instant ticket games per Contract year.

C.6.2 **Instant Ticket Staffing** - In addition to staffing for traditional and iLottery games, the Contractor shall provide a dedicated account services team to assist with Instant game development. The Account Team shall include the following positions:

- (a) **Account Manager** - responsible for managing the Contractor's relationship with OLG. Coordinates, directs and implements the Contractor's instant game development processes. Confers with OLG to assess needs, determine goals and establish plans while ensuring the accuracy of each phase of the production process. This position will also be responsible for managing all aspects of OLG's licensed product development process as it pertains to those licensed products owned by the Contractor or any partner or subsidiary of the Contractor.
- (b) **Account Services Representative**- responsible for serving as the day-to-day liaison with OLG ensuring the successful and timely completion of working papers and/or Customer Specifications Document and any and all communications between OLG and the Contractor as related to instant game development. The Account Manager and/or the Account Representative will also serve as the contact with OLG as it pertains to:
  - (1) **Quality Control** - responsibilities include the accuracy of all content in the working papers and/or Customer Specifications Document, printing processes and continuous quality inspection of final product.
  - (2) **Information Technology** - responsibilities include the accuracy of all game data in each instant game as specified in the working papers and/or the Customer Specifications Document and Security requirements.
- (c) **Graphic Artists** - responsible for creative design and final ticket graphic output.

C.6.3 The Account Team members shall have knowledge and experience as it applies to the following job functions:

- (a) Prize structure design;
- (b) Game design elements including names, themes, play formats, and color selection;
- (c) Graphic design;
- (d) Secure computer game tape/production file generation;

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- (e) Production scheduling;
- (f) Secure instant ticket manufacturing processes;
- (g) Quality control and assurance;
- (h) Packaging and distribution;
- (i) Lottery sales, industry trends and market analysis relating to game recommendations;
- (j) Product management;
- (k) Information technology;
- (l) Accounting; and
- (m) Security.

C.6.4 OLG does not require Instant Ticket personnel assigned to this account to be based in Washington, DC.

C.6.5 **Ticket Support** - The Contractor shall provide ongoing assistance in the support of Instant Game products and shall provide:

- (a) **Game Designs** – The Contractor shall provide OLG with ticket artwork at least thirty (30) days prior to Working Papers development, prize structures and play styles for each Instant game.
- (b) **Trademark and Service Mark Search and Registration** – The Contractor shall conduct trademark and service mark searches for all game names used during the term of the Contract and provide to OLG a written legal opinion as to the permissible use of each game name based upon a search of registrations and applications for registration filed with the United States Patent and Trademark office, applicable state agencies and other appropriate sources. Any trademarks and service marks owned by OLG need not be searched.
- (c) **Licensing Agreements** – The Contractor, when required by OLG, shall obtain and be responsible for any licensing agreement whenever necessary for any game to be printed during the term of the Contract. The licensing fee shall be pre-approved by OLG and submitted to OLG for payment

C.6.6 **Meetings** – The Contractor shall participate in various planning meetings with OLG staff and/or other OLG contractors.

C.6.7 **Proprietary and Patented Processes** – The Contractor shall make available for use by OLG, and included in the base price for tickets, all currently held proprietary and/or patented printing and production processes, patented game plays or ink technologies, and copyrights, service marks or trademarks owned by the Contractor. If any proprietary and/or patented printing and production processes, patented game plays or ink technologies, and copyrights, service marks or

trademarks are developed or acquired by the Contractor during the term of this Contract, then these items also shall be made available to OLG within the base ticket price. OLG shall have the right to acquire licensed properties from other sources for incorporation into Instant Games produced by the Contractor.

C.6.8 **Ticket Artwork** - The Contractor shall provide to OLG for approval a conceptual art design for the front and back of tickets a minimum of thirty (30) days before Working Paper development begins.

C.6.9 **Prize Structures** - The Contractor shall recommend the best possible prize structures to maximize Instant Game sales and Net Income. The Contractor shall guarantee that each book of tickets is produced based on randomization of all prizes. The Contractor shall propose the various levels of prizes and the combination of wins available in the game, the probability of winning prizes, the numbers of winners, and the cost of such prizes. The prize structure shall include, but not be limited to, the following:

- (a) Game name, number, date, and version;
- (b) Ticket price point;
- (c) Production quantity;
- (d) Revenue generated;
- (e) Percent of prize payout;
- (f) Each tier level for prizes and play action indicating how each tier is won;
- (g) Overall probability of winning any prize in the game and consolidated probability if there is more than one way to win a prize;
- (h) Number of winners per book;
- (i) Prize cost and percent of prize fund dedicated to each prize level, subtotaled by low, mid, and high tiers as indicated in the Working Papers;
- (j) Book size;
- (k) Total number of books; and
- (l) Ticket size.

C.6.10 The prize structure shall be submitted to OLG electronically in Excel format (which will be able to be changed/revised by OLG) and shall be accompanied by an explanation regarding the various details of running the game. OLG shall review the proposed prize structure and may indicate changes or instructions. The Contractor shall then produce the game in accordance with the final approved prize structure.



**C.6.11 Game Design Selection** - OLG will observe all existing federal and state copyrights and trademarks. However, OLG shall have the right to select game designs that have been, in whole or in part, originated by OLG, originated by the Contractor, or originated by another vendor. If OLG chooses a particular game and the Contractor identifies that game as one subject to copyright or trademark by another vendor or state prior to the execution of Working Papers, then the Contractor will, at OLG's discretion, either negotiate an appropriate fee, or change the game.

**C.6.12 Instant Ticket Requirements For All Games**

**(a) Instant Ticket Quality**

- (1) OLG, as a District agency dealing with independent retailers and the consuming public, requires a product of exceptionally high quality. OLG security staff will be present when trucks arrive at the Contractor's ticket warehouse, prior to delivering tickets to retailers. Trucks shall not be opened except in the presence of OLG security staff. Tickets will be inspected by OLG upon delivery. OLG shall have the right to inspect up to one hundred percent (100%) of the Instant Tickets for compliance with the specifications herein. However, inspection by OLG does not relieve the Contractor of its responsibility to meet all Contract requirements.
- (2) Instant Tickets shall meet the following minimum quality printing standards:
  - (A) No scratches across the latex covering of the tickets;
  - (B) No uneven, rough latex coverings;
  - (C) No holes in the latex coverings exposing portions of the hidden symbols;
  - (D) No latex coverings "dripping" on the design printing;
  - (E) No latex coverings that smear or fail to come off when rubbed;
  - (F) No overprint and display designs that is unclear or not crisply printed;
  - (G) No tickets out of order within a book;
  - (H) No OLG symbols that are chopped or incomplete;
  - (I) No foil coating that rips away when the ticket is rubbed, if applicable;
  - (J) No miscounted number of tickets in a book;
  - (K) No perforations that allow tickets to fall out of books without pre-fold;
  - (L) No tears in foil, if applicable;
  - (M) No delamination of foil from paper stock, if applicable;
  - (N) No inks offset on latex coverings from one ticket to another;

- (O) No off-register latex coverings or overprint designs;
  - (P) No symbols not totally covered by the latex covering;
  - (Q) No symbols that smear under normal handling or with slight moisture;
  - (R) No unevenly trimmed tickets;
  - (S) No foil shaving within books, if applicable; and
  - (T) Any additional commonly accepted industry standards that may apply.
- (b) **Stock** - Tickets shall be printed on ten (10) point or heavier virgin card stock white coated on one (1) side, which shall be fully recyclable. OLG shall have the right to utilize other ticket stock types offered by the Contractor.
- (c) **Inks** - Inks shall not smear, run, or stain under normal handling or use by consumers, nor shall they be chemically or dermatologic ally irritating under normal handling and use by consumers. Inks shall be resistant to water and other common solvents except in the latex and overprinting of the latex. Inks shall be of such a nature that there is no “offsetting” from the front of tickets to the back of tickets on an adjacent page and vice versa.
- (d) **Front Display Printing** - The front of the ticket shall be printed in up to six (6) graphic colors (not including black and white) which at the option of OLG may include full bleed. In addition, OLG may request certain games to be printed in four (4) color process.
- (e) **Ticket Patterns and Pick-Out** -No winning or losing game tickets shall be recognizable from any characteristics of the game tickets or ticket patterns other than OLG symbols concealed by the rub-off material. It shall not be possible to ascertain whether a ticket is a winning or losing ticket, using any practical or economical technique, unless the application of the technique renders the ticket unsalable to the public or easily recognizable as having been tampered with.
- (f) **Bar Codes**
- (1) **2D Bar Code** - Physical Location of the 2-D Bar Code on the ticket to be determined between OLG and the Contractor. The white background space behind the 2-D barcode shall be minimized where possible.
  - (2) **PDF417 Symbology**. On the ticket front (under scratch off material), shall be a barcode represented in the PDF417 symbology. This barcode shall allow for full validation of the ticket such that the retailer simply scans this barcode and does not have to key a PIN. It shall also allow players to check a ticket’s value by scanning it at a ticket-checker station.
  - (3) The Contractor shall be able to facilitate interleaved two (2) of five (5) Bar Code symbology. The game code, Book number, ticket sequence, first six (6) digits of verification number of the ticket, and a two (2) digit check digit shall be encoded in the Bar Code, for a total of twenty-one (21) digits.

- (4) All variances shall be in accordance with the American National Standard Institute (ANSI). A first pass read rate of ninety-five percent (95%), or more is required. The Contractor shall have the ability to print Bar Code on the front or back of the ticket in the location specified by OLG, at the option of OLG.
- (g) **QR Codes.** The Contractor shall print QR codes on either the front or the back of instant tickets at the request of OLG.
- (h) **Universal Product Code** - A Universal Product Code (UPC) shall be printed on the back of all Instant Tickets. OLG reserves the right to change the placement of the UPC. The UPC shall not be too close to the ticket Bar Code and shall not interfere with Bar Code scanning.
- (i) **Game Play Symbols** - The game play symbols shall be legible and uniformly positioned and aligned on the tickets. Symbols shall be easily readable by the public and meet industry standards for height, depending on the particular game design and ticket layout chosen by OLG. The Contractor shall be able to supply a variety of type styles, sizes, and colors. Application of the game play symbols shall be performed in a random manner.
- (j) **Captions** - To provide redundancy for security reasons and to prevent consumer disputes, each game play symbol shall be accompanied by a caption that spells out the game play symbol in type smaller than the symbol itself.
- (k) **Protective Coating** - The play symbols under the rub-off shall be covered with a transparent protective coating so that the play symbols are protected when the consumer rubs off the opaque covering.
- (l) **Rub-Off Material** - The rub-off coating material shall be opaque and of such quality as to maintain the security of each of the game ticket's game play symbols. The rub-off material shall appear and feel "smooth and regular to the touch" and shall fragment when so removed without causing dusting. The rub-off material shall not be chemically or dermatologically irritating or cause harm to clothing when removed. Game tickets shall remain readable and able to be rubbed easily, but not so easily as to be affected by heat, cold or friction between tickets, for a minimum of one (1) year from delivery date to OLG. The rub-off material shall be completely removable by scraping with a coin or other object. There shall be no visible removal of rub-off material upon one (1) rub using the edge of a penny at twenty-five (25) grams pressure. The rub-off material shall break at no more than seventy-five (75) grams pressure unless otherwise specified by OLG.
- (m) **Overprint** - Up to three (3) overprint colors, not including black or white shall be used. An overprint shall be a regular artistic design in the case of the spots covering game play symbols. The overprint covering game play symbols shall be clear, a color other than black, unblurred and sharp in order to facilitate detection of tampering.
- (n) **Back Display Printing** - The back of the ticket shall be printed in up to two (2) colors. Each ticket shall contain reference to the applicability of OLG rules, procedures and District law.

- (o) **Validation Number (VIRN Number)** - OLG requires a secure traceable ticket. Every ticket shall contain a VIRN number beneath the overprint. The VIRN number shall be a maximum of five (5) digits and shall be unique and non-repeating in the game as a whole. There shall not be a method to go from the validation number on the Contractor's validation tape directly to a book number. The VIRN number, along with the book/ticket number shall algorithmically determine whether a ticket is or is not a low tier winner and, if so, the amount of the prize won.
- (p) **Void Tickets** - There shall not be any "void" or "dead" tickets in a Book.
- (q) **Perforations** - The perforations between tickets shall allow tickets to be separated from each other, after one (1) pre-fold, but shall not break apart in normal transit and handling.
- (r) **Book Size** - The consistency of the correctness of the count of tickets in a Book is of extreme importance to OLG. However, OLG shall have the right to determine Book sizes by game and/or price point.
- (s) **Ticket Numbers** - Each ticket shall bear an individual consecutive number starting with 001 within each book. OLG requires that a check digit be with the ticket number. Each ticket shall bear a book number. Book numbers shall be consecutive (except for omissions) and non-duplicating in the game. The Contractor shall have procedures to assure that the same book number is on all tickets in the book and that book numbers are not duplicated. Each ticket shall also bear a game identifier. All ticket identification numbers and letters shall, at the discretion of OLG, be Bar Coded and OCR-A readable.
- (t) **Omissions** - No more than two percent (2%) of the books or tickets are to be omitted. If a greater number of books are omitted, they shall be made up with the appropriate prize structure within the two percent (2%) maximum. However, all top prizes shall be exact in accordance with the game's prize structure.
- (u) **Book Packaging** - Each book shall be shrink wrapped so that the book number is visible.
- (v) **Transportation**
  - (1) The Contractor shall transport Instant Tickets FOB Destination to the Contractor's OLG warehouse, or other locations designated by OLG, in locked and sealed trucks, unless OLG requests a different method. These trucks shall not contain any item(s) other than OLG tickets or other OLG related items during delivery. Trucks shall be unlocked and opened upon arrival at the Contractor's OLG warehouse only by designated OLG security staff.
  - (2) Tickets shall be delivered within a maximum of twenty-eight (28) working days from the date the Working Papers are fully executed.
- (w) **Shipping Manifest and Omissions List**- At the time of the delivery, the Contractor shall provide OLG with a list of books delivered and omitted from being delivered. Omitted books shall be listed by OLG as ineligible to win any prize and shall not be considered as valid tickets in the game.

- (x) **Instant Ticket/Book Reconstruction** - Upon request by OLG, the Contractor shall reconstruct individual Instant Tickets or entire books of Instant Tickets. The Executive Director will provide the Contractor a written list of employees authorized to request reconstructions. The Contractor shall reconstruct tickets only upon written request by an authorized OLG employee and shall provide to OLG monthly a list of all Instant Tickets/books reconstructed during the prior month. This list shall include, at a minimum, the date of the request for reconstruction, the name of the individual requesting the reconstruction, and the book number and tickets reconstructed. Reconstruction records shall be retained by the Contractor for three (3) years following the announced end of each game.
- (y) **Accountants Review** - The Contractor shall engage an independent Certified Public Accountant experienced in OLG operations and acceptable to OLG to review the procedures and controls employed by the Contractor during the production of each Instant Game. The Certified Public Accountant shall provide a report directly to OLG which shall state the tests performed on the Contractor's production procedures and the related findings. These tests shall include, but are not limited to, a review of the controls on the computer tapes or other methods of seeding used in producing high tier, low-end winners and losers in accordance with the final approved prize structure.
- (z) **Validation Algorithm and Other Computer Information** - The Contractor shall submit via secure file transfer protocol (FTP) a computer file containing all prizes for the game, including grand prize entry tickets and annuity type prizes, if any. Low-tier prizes shall be separate from mid-tier and high-tier prizes or as specified in the Working Papers. The information shall include validation number, play spots and prize code (prize amount) for the tickets actually produced and delivered.
- (aa) **Over/Under Allowance** - OLG shall not accept over/under amounts in excess of plus/minus two (2%) percent of tickets from the amount specified in the Working Papers.
- (bb) **Ticket Compatibility** - All Instant Tickets shall be compatible with all ticket dispensing Systems (e.g. Counter units, ITVMs) utilized by OLG during the term of the Contract.
- (cc) **Required Standard Ticket Features** - The Contractor shall provide the following Standard Ticket Features for all Instant Tickets, which shall be included in its base price.
  - (1) Ten (10) point or heavier virgin card stock white coated on one (1) side, fully recyclable;
  - (2) UV High Gloss Coat;
  - (3) 4-Color Process, or 6-Graphic colors not including black & white;
  - (4) 2-color ticket back;
  - (5) Multiple Scratch-Off areas, when required by design;
  - (6) Multiple Full Bleed, when required by design;

- (7) Unusual Shaped scratch-off areas, when required by design;
- (8) Custom imaging symbols, when required by design;
- (9) Integrated Overprinting, when required by design;
- (10) Different pack sizes (ticket quantities) for each price point; and
- (11) Dispenser Inserts that meet the following specifications:
  - (A) 4 inches x 4 inches, 10 point white cardstock,
  - (B) Front: 4-color process, varnish, full bleed;
  - (C) Back: Black, border to bleed, with game name, game number, price, ticket length as a decimal (2.5, 4.0, 6.0, 8.0, 11.0), and quantity of tickets per Book; and
  - (D) Pack inserts (not matching book number).

**C.6.13 Optional Ticket Features** - The Contractor may include additional ticket features (i.e. premium paper stock, primium inks, etc.). At a minimum, the Contractor shall provide five (5) instant ticket games that include optional ticket features to OLG at no additional cost. Additional games that include optional features shall be priced in accordance with Section B.6.4.b.4.

**C.6.14 Inventory Control** -The Contractor shall maintain logs of game ticket stock inventory between all points of production and the delivery to OLG. Logs of all destroyed game ticket stock and game tickets shall also be maintained. The Contractor shall collect the above data in a timely manner.

#### **C.6.15 Quality Control**

- (a) The Contractor shall employ quality control procedures to ensure that all game tickets delivered meet all specifications and requirements of OLG.
- (b) The purpose of the testing and physical observation of selected ticket production will be to determine if the ticket meets the following three (3) primary quality and security criteria:
  - (1) **Durability.** Is construction of the ticket secure enough for the ticket to endure reasonable environmental rigors and still be readily marketable?
  - (2) **Ability to be compromised.** Is construction of the ticket secure enough for the ticket to withstand attempts to determine if the ticket is a winning or a non-winning ticket without removing a readily noticeable amount of the coatings on the play area of the ticket within a reasonable time frame?
  - (3) **Alterability.** Is construction of the ticket secure enough for the ticket to withstand attempts to alter the play data, prize amounts, or bar code and produce a

redeemable winning ticket from a non-winning ticket, and/or increase the prize amount on the ticket by methods and materials available to the public?

- (c) Failure of any ticket to pass any of the tests shall be cause for additional testing. The objective of the additional testing will be to:
  - (1) Determine the repeatability and practicality of the method and;
  - (2) Determine the range of ticket production pools in which the problem is repeated.
- (d) OLG reserves the right to cancel an instant ticket game order with the Contractor at any time if OLG's tests show any representative sample of production tickets to be practically compromised or vulnerable to compromise.

#### **C.6.16 End of Production Prize Structure**

- (a) After all tickets have been produced, the Contractor shall promptly provide OLG with an "end of production" prize structure which accurately states the total number of tickets delivered and the actual number of winners. Additionally, multiple tiers of the same prize value shall be consolidated on a separate report.
- (b) The only variance between the "end of production" prize structure and the final approved prize structure to be tolerated will be that which occurs in the omitted books. If the number of voided books alters higher tier prizes, OLG may request the reprint of all voided books. All prizes of \$1000 or more shall be exact to the approved prize structure. Prizes of \$999.00 or less shall be within a 2.0% variation.

**C.6.17 Validation Assistance** -The Contractor shall assist OLG in the analysis and validation of questionable tickets in a timely manner.

**C.6.18 Computer Systems Software and Accounting** - The Contractor's accounting methods shall be compatible with OLG's accounting procedures and methods.

#### **C.6.19 Security**

- (a) **Plant Security** - The printing plant or other facility where tickets are manufactured shall be equipped with a plant security System to be reviewed and approved by OLG for compliance with OLG security standards. The System shall ensure that game tickets and materials are protected from theft, alteration and destruction, not only during manufacturing process, but also while in storage on the Contractor premises. Any failure of the Contractor's plant or other facility to be in full compliance with OLG's security standards shall be corrected and brought into full compliance by the Contractor within a reasonable time, as determined by OLG.
- (b) **Security Breach**
  - (1) Upon discovery of any breach of security experienced by the Contractor during the term of the Contract, especially theft or disappearance of any paper stock, tickets, waste, printing plates, imagery tapes, program tapes or the like, the

Contractor shall immediately within one (1) hour notify the OLG Executive Director or designee, and COTR by telephone or in person. The Contractor shall follow up within twenty four (24) hours with written notification to the OLG Executive Director or designee, and COTR detailing the specifics of the occurrence and what steps have been taken to correct the problem. OLG shall be the sole judge of the adequacy of the steps taken and shall have the right to specify other steps to be taken.

- (2) OLG shall have the right to require at any time such further and additional security measures as it deems necessary and/or appropriate to ensure the integrity of the operation of OLG.
- (c) OLG reserves the right, at any time and without prior notice, to expand its background investigation, to inspect and otherwise evaluate all phases of performance specified in the Contract and the premises in which such work is performed.
- (d) **Personnel Security**
- (1) The Contractor shall, upon OLG's request, provide criminal history and other background investigations of any officers, directors, principals, owners, investors, shareholders, partners, subcontractors, employees, or any other associates of the Contractor that OLG deems appropriate. Key personnel who will be performing services under the Contract and as determined by OLG shall be required to undergo a background investigation within thirty (30) calendar days of execution of the Contract. Background investigations shall include fingerprint identification.
  - (2) The Contractor shall cooperate with such investigations and instruct its employees and subcontractors to cooperate. OLG may terminate the Contract based upon adverse results of background checks if OLG determines that its integrity, security or goodwill may be in jeopardy.
  - (3) The ability to request such investigations shall be a continuing right of OLG throughout the Contract.

C.6.20 **Business Recovery Plan** - The Contractor shall have an up to date Business Recovery Plan which shall be documented, maintained and periodically tested to ensure minimal interruption to service provided to OLG in case of an emergency or disaster at the Contractor's facility. This plan shall be reviewed and approved by OLG.

C.6.21 **Problem Tracing** - The Contractor shall build into its System of game construction a means to be able to trace the extent of any problem in printing and other areas of construction which may be discovered while a game is in operation.

C.6.22 **Non-conforming Tickets** – Non-Conforming tickets (any ticket which deviates from any specifications) may be rejected by OLG. If the number of such tickets rejected is more than one percent (1%) of the ordered quantity of tickets, the Contractor shall replace such tickets at no additional costs to OLG, as soon as is reasonably possible, given the availability of material and



production times. If the quantity of tickets rejected is less than the above percent for such game, the Contractor need not replace non-conforming tickets but shall issue a refund or credit for the tickets to OLG. This remedy is in addition to any other remedy provided for in this Contract or any other remedy provided by law.

**C.6.23 Sample Tickets** - The Contractor shall provide to OLG twenty (20) books of actual-sized sample tickets for each game. These samples shall be non-winning tickets and shall bear the words "SAMPLE" on the back. There will be no additional compensation to the Contractor for these sample tickets. The samples shall be delivered along with the initial ticket shipment for each game.

**C.6.24 Working Papers** - Working Papers, at a minimum, shall include the following:

- (a) Detailed ticket description and artwork, including black/white and color version of ticket covered and uncovered (100%) with indication of "press side", and ticket back (100%) including placement of Bar Code and UPC code on ticket;
- (b) Detailed game specifications including prize structure and programming parameters;
- (c) Complete set of game rules;
- (d) Production, packaging, and shipping information;
- (e) Production timeline to include:
  - (1) Working Papers signed date;
  - (2) Approximate printing date;
  - (3) Approximate delivery date to distribution warehouse; and
  - (4) Game launch date.
- (f) All Working Papers shall be approved by OLG prior to ticket production.

**C.6.25 Marketing Support** - The Contractor shall provide ongoing assistance in the marketing of Instant Game products and shall provide the following:

- (a) **Product Plan** – The Contractor shall develop and write an annual, comprehensive Product Plan for the Instant Games. The plan shall include a proposed game schedule for the upcoming year, including, but not limited to, price points, top prizes, prize payout, a detailed explanation of the resulting net sales and specifically Net Income, play styles, game themes, the quantity of tickets for each game, and game features. The Contractor shall participate in ongoing evaluations of the Product Plan.
- (b) **Sales Indexing Report** - The Contractor shall submit to the COTR a monthly Sales Indexing Report.

- (c) **State of the Industry** – At a minimum of once per contract year, the Contractor shall provide a State of the Industry report that covers both online and instant ticket sales.

#### C.6.26 Warehouse/Delivery Services To Retailers

- (a) The Contractor shall be responsible for the warehousing and delivery of all Instant Tickets. The warehouse shall be located within the District of Columbia. At the start of this Contract, any on-hand ticket inventories and scheduled inventories not yet delivered will be transitioned to the Contractor's responsibility for delivery. The Contractor may subcontract with other company(ies) to provide these services, but the Contractor is responsible for any work and services performed by its subcontractor(s).
- (b) The Contractor shall be responsible for the storage of new tickets from the time they are printed until they are distributed to OLG licensed Retailer Sales Agents. The Contractor may be required to receive, warehouse, pick, pack and distribute, at no additional cost to OLG, promotional materials, or other Instant ticket games (up to seven (7) per contract year), purchased by OLG from other vendors. These tickets and promotional items will be distributed along with the Contractor's tickets.
- (c) The Contractor shall be responsible for the filling and packing of ticket orders. Procedures used shall focus on security, integrity, efficiency, and accuracy. The Contractor may be required to include additional promotional or other materials in packages containing tickets to be delivered to Agents, at no additional cost to OLG.
- (d) The Contractor shall be responsible for delivering instant tickets to agents and to OLG's office. Deliveries shall be made as soon as possible, but no later than one (1) business day after the order is placed. Proof of delivery shall be obtained. The Contractor shall ensure that the distribution is secure, effective and efficient, and presents a positive image of OLG to agents and others. OLG will have no responsibility, liability, or risk of loss associated with any Instant tickets distributed.
- (e) The Contractor shall be responsible for the return of undeliverable and unaccepted tickets or in such other cases as OLG determines. Unopened packs of returned tickets from active games may be reissued prior to the end of the game. The Contractor shall provide for the reconciliation and secure disposal of unsold, damaged and returned tickets in a secure and environmentally responsible manner. OLG may also require secure disposal of other similar materials, such as tickets returned for second chance drawings. OLG will have no responsibility, liability, or risk of loss associated with any returned tickets.
- (f) The Contractor shall be responsible for instant ticket games that are closed due to lack of sales.

C.6.27 **Telemarketing Sales** - The Contractor shall establish a telemarketing sales (Tel-Sel) program. The Contractor's telemarketing staff shall contact OLG retailers to check Instant game inventory, help the agent with Instant ticket orders, train the agent about new games and OLG procedures, encourage special promotions, and answer general questions.

## SECTION D

### PACKAGING AND MARKING

#### D.1 PACKAGING

All reports and deliverables that are in “hard copy” and physically transported through the U.S. mail or private courier services are to be securely packaged using the Contractor’s best practices.

#### D.2 MARKING

- D.2.1 Unless otherwise specified herein, all reports and deliverables delivered under this contract must be plainly marked, stating the Contractor’s name, contract number and addressed to the recipient, including the name of the office or floor, and the recipient’s office telephone number as noted in the contract.
- D.2.2 In case of carload lots, the Contractor shall tag the car, stating Contractor’s name and contract number. Any failure to comply with these instructions will place the material at the Contractor’s risk.
- D.2.3 Deliveries by rail, water, truck or otherwise, must be within the working hours and in ample time to allow for unloading and if necessary, the storing of the materials or supplies before closing time. Deliveries at any other time will not be accepted unless specific arrangements have been previously made with the contact person identified in the contract at the delivery point.

## SECTION E

### INSPECTION, ACCEPTANCE AND WARRANTY OF SERVICES

#### E.1 INSPECTION

- E.1.1 All supplies and services provided by the Contractor under this contract shall be subject to inspection by the Contracting Officer's Technical Representative ("COTR") identified in Section G.1 (b).
- E.1.2 Inspection of Supplies
- (a) Definition. "Supplies," as used in this clause, includes, but is not limited to raw materials, components, intermediate assemblies, end products, and lots of supplies.
  - (b) The Contractor shall be responsible for the materials or supplies covered by this contract until they are delivered at the designated point, but the Contractor shall bear all risk on rejected materials or supplies after notification of rejection. Upon the Contractor's failure to cure within ten (10) days after date of notification, the District may return the rejected materials or supplies to the Contractor at the Contractor's risk and expense.
  - (c) The Contractor shall provide and maintain an inspection System acceptable to the District covering supplies under this contract and shall tender to the District for acceptance only supplies that have been inspected in accordance with the inspection System and have been found by the Contractor to be in conformity with contract requirements. As part of the System, the Contractor shall prepare records evidencing all inspections made under the System and the outcome. These records shall be kept complete and made available to the District during contract performance and for as long afterwards as the contract requires. The District may perform reviews and evaluations as reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the Contractor of the obligations under this contract.
  - (d) The District has the right to inspect and test all supplies called for by the contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. The District will perform inspections and tests in a manner that will not unduly delay the work. The District assumes no contractual obligation to perform any inspection and test for the benefit of the Contractor unless specifically set forth elsewhere in the contract.
  - (e) If the District performs inspection or test on the premises of the Contractor or subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, without additional charge, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the contract, the District will bear the expense of District inspections or tests made at other than Contractor's or subcontractor's premises; provided, that in case of rejection, the District will not be liable for any reduction in the value of inspection or test samples.
    - (1) When supplies are not ready at the time specified by the Contractor for inspection or test, the Contracting Officer may charge to the Contractor the

additional cost of inspection or test.

- (2) Contracting Officer may also charge the Contractor for any additional cost of inspection or test when prior rejection makes re-inspection or retest.
- (f) The District has the right either to reject or to require correction of nonconforming supplies. Supplies are nonconforming when they are defective in material or workmanship or otherwise not in conformity with contract requirements. The District may reject nonconforming supplies with or without disposition instructions.
  - (g) The Contractor shall remove supplies rejected or required to be corrected. However, the Contracting Officer may require or permit correction in place, promptly after notice, by and at the expense of the Contractor. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and when required, shall disclose the corrective action taken.
  - (h) If the Contractor fails to remove, replace, or correct rejected supplies that are required to be replaced or corrected within ten (10) days, the District may either (1) by contract or otherwise, remove, replace or correct the supplies and charge the cost to the Contractor or (2) terminate the contract for default. Unless the Contractor corrects or replaces the supplies within the delivery schedule, the Contracting Officer may require their delivery and make an equitable price reduction. Failure to agree to a price reduction shall be a dispute.
  - (i) If this contract provides for the performance of District quality assurance at source, and if requested by the District, the Contractor shall furnish advance notification of the time (i) when Contractor inspection or tests will be performed in accordance with the terms and conditions of the contract, and (ii) when the supplies will be ready for District inspection.
  - (j) The District request shall specify the period and method of the advance notification and the District representative to whom it shall be furnished. Requests shall not require more than 2 business days of advance notification if the District representative is in residence in the Contractor's plant, nor more than 7 business days in other instances.
  - (k) The District will accept or reject supplies as promptly as practicable after delivery, unless otherwise provided in the contract. District failure to inspect and accept or reject the supplies shall not relieve the Contractor from responsibility, nor impose liability upon the District, for non-conforming supplies.
  - (l) Inspections and tests by the District do not relieve the Contractor of responsibility for defects or other failures to meet contract requirements discovered before acceptance. Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or as otherwise provided in the contract.
  - (m) If acceptance is not conclusive for any of the reasons in subparagraph (l) hereof, the District, in addition to any other rights and remedies provided by law, or under provisions of this contract, shall have the right to require the Contractor (1) at no increase in contract price, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; provided, that the Contracting Officer may require a reduction in contract price if the Contractor fails to meet such delivery schedule, or (2) within a reasonable time after receipt by the Contractor of notice of defects or noncompliance, to repay such portion of the contract as is equitable under the circumstances if the Contracting Officer elects not to require correction or

replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation cost from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in (1) or (2) above and does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the District will have the right to return the rejected materials at Contractor's risk and expense or contract or otherwise to replace or correct such supplies and charge to the Contractor the cost occasioned the District thereby.

### E.1.3 Inspection of Services

- (a) Definition. "Services" as used in this clause includes services performed, workmanship, and material furnished or utilized in the performance of services.
- (b) The Contractor shall provide and maintain an inspection System acceptable to the District covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the District during contract performance and for as long afterwards as the contract requires.
- (c) The District has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The District will perform inspections and tests in a manner that will not unduly delay the work.
- (d) If the District performs inspections or tests on the premises of the Contractor or subcontractor, the Contractor shall furnish, without additional charge, all reasonable facilities and assistance for the safety and convenient performance of these duties.
- (e) If any of the services do not conform to the contract requirements, the District may require the Contractor to perform these services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by performance, the District may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and reduce the contract price to reflect value of services performed. If the Contractor fails to promptly perform the services again or take the necessary action to ensure future performance in conformity to contract requirements, the District may (1) by contract or otherwise, perform the services and charge the Contractor any cost incurred by the District that is directly related to the performance of such services, or (2) terminate the contract for default.

## E.2 ACCEPTANCE

Acceptance of all products and services provided under this contract shall be performed by the COTR. Acceptance means approval by the COTR of specific services as partial or complete performance of the contract.

## E.3 WARRANTY OF SERVICES

- E.3.1 The time period for this warranty provision is the life of the contract plus all active options and extensions.

E.3.2 Warranty Provision:

- (a) Notwithstanding inspection and acceptance by the District or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The Contracting Officer shall give written notice of any defect or nonconformance to the Contractor within 30 days from the date of discovery. This notice shall state either:
  - (1) That the Contractor shall correct or re-perform any defective or nonconforming services; or
  - (2) That the District does not require correction or reperformance.
- (b) If the Contractor is required to correct or reperform, it shall be at no cost to the District, and any services corrected or reperfomed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or reperform, the Contracting Officer may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost occasioned to the District thereby, or make an equitable adjustment in the contract price.
- (c) If the District does not require correction or reperformance, the Contracting Officer shall make an equitable adjustment in the contract price.

## SECTION F

### PERIOD OF PERFORMANCE AND DELIVERABLES

#### F.1 TERM OF CONTRACT

The term of the contract shall be for a period of five (5) years from the Contract Effective Date.

#### F.2 OPTION TO EXTEND THE TERM OF THE CONTRACT

F.2.1 The District may extend the term of this contract for a period of one (1), five (5) year option period, or successive fractions thereof, by written notice to the Contractor before the expiration of the contract; provided that the District will give the Contractor preliminary written notice of its intent to extend before the contract expires. The preliminary notice does not commit the District to an extension. The exercise of this option is subject to the availability of funds at the time of the exercise of this option.

F.2.2 If the District exercises this option, the extended contract shall be considered to include this option provision.

F.2.3 The price for the option period shall be as specified in Section B of the contract.

#### F.3 DELIVERABLES

F.3.1 The Contractor shall perform the activities required to successfully complete the District's requirements and submit each deliverable to the COTR identified in Section G in accordance with Section C.

F.3.2 The Contractor shall submit to the District, as a deliverable, the report described in Section I.31 that is required by the 51% District Residents New Hires Requirements and First Source Employment Agreement. If the Contractor does not submit the report as part of the deliverables, final payment to the Contractor shall not be paid pursuant to Section G.6.



## SECTION G

### CONTRACT ADMINISTRATION

#### G.1 CONTRACT ADMINISTRATORS

**(a) Contracting Officer**

- i. The Contracting Officer (or “CO”) for this contract is:

Drakus Wiggins  
Contracting Officer  
Office of the Chief Financial Officer  
1100 4<sup>th</sup> St. SW Suite E620  
Washington, DC 20024  
Telephone: (202) 442-7121  
Fax: 202-442-6454  
E-mail address: drakus.wiggins@dc.gov

- ii. The Contracting Officer is the only official authorized to legally bind the District and make changes to the requirements, terms and conditions of this contract. Only the Contracting Officer can increase, decrease, extend or terminate this contract. All other changes are unauthorized.
- iii. The Contractor shall not comply with any order, directive or request that changes or modifies the requirements of this contract, unless issued in writing and signed by the Contracting Officer.
- iv. In the event the Contractor effects any change at the instruction or request of any person other than the Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any cost increase incurred as a result thereof.

**(b) Contracting Officer Technical Representative (COTR)**

- i. The COTR for this contract is:

Ronnie King  
Office of Lottery & Gaming (OLG)  
2235 Shannon Place S.E. 4th Floor  
Washington, DC 20020  
(202) 645-8061  
Ronnie.King@dc.gov

- ii. The COTR is responsible for general administration of the contract and advising the Contracting Officer as to the Contractor’s compliance or noncompliance with the contract. The COTR has the responsibility of ensuring the work conforms to the

requirements of the contract and such other responsibilities and authorities as may be specified in the contract. These include:

- a. Keeping the Contracting Officer fully informed of any technical or contractual difficulties encountered during the performance period and advising the Contracting Officer of any potential problem areas under the contract;
  - b. Coordinating site entry for Contractor personnel, if applicable;
  - c. Reviewing invoices for completed work and approving invoices if the Contractor's costs are consistent with the negotiated amounts and progress is satisfactory and commensurate with the rate of expenditure;
  - d. Reviewing and approving invoices for deliverables to ensure receipt of goods and services.
  - e. Timely processing of invoices and vouchers in accordance with the District's payment provisions; and
  - f. Maintaining a file that includes all contract correspondence, modifications, records of inspections and invoice or vouchers.
- iii. The COTR does NOT have the authority to:
- a. Award, agree to, or sign any contract, delivery order or task order. Only the Contracting Officer shall make contractual agreements, commitments or modifications;
  - b. Grant deviations from or waive any of the terms and conditions of the contract;
  - c. Increase the dollar limit of the contract or authorize work beyond the dollar limit of the contract,
  - d. Authorize the expenditure of funds by the Contractor;
  - e. Change the period of performance; or
  - f. Authorize the use of District property, except as specified under the contract.
- iv. The Contractor will be fully responsible for any changes not authorized in advance, in writing, by the Contracting Officer; may be denied compensation or other relief for any additional work performed that is not so authorized; and may also be required, at no additional cost to the District, to take all corrective action necessitated by reason of the unauthorized changes.

## **G.2 INVOICE PAYMENT**

- G.2.1 The District will make payments to the Contractor, upon the submission of proper invoices, at the prices stipulated in this contract, for supplies delivered and accepted or services performed and accepted, less any discounts, allowances or adjustments provided for in this contract.
- G.2.2 The District will pay the Contractor on or before the 30<sup>th</sup> day after receiving a proper invoice from the Contractor. The District reserves the right to conduct post payment reviews or audits.

G.2.3 Unless otherwise specified in this contract, and with presentation of a properly executed invoice:

- (a) Payment will be made on completion and acceptance of each item for which the price is stated in the Pricing Schedule in Section B,
- (b) Payment will be made on completion and acceptance of each percentage or milestone of work in accordance with the prices stated in the Pricing Schedule in Section B, or
- (c) Payment may be made on partial deliveries of goods and services accepted by the District if the Contractor requests it and the amount due on the deliveries warrants it as determined by the District.

### **G.3 INVOICE SUBMITTAL**

G.3.1 The Contractor shall create and submit payment requests in an electronic format through the DC Vendor Portal, <https://vendorportal.dc.gov>

G.3.2 The Contractor shall submit proper invoices on a monthly basis or as otherwise specified in Section G.4.

G.3.3 To constitute a proper invoice, the Contractor shall enter all required information into the Portal after selecting the applicable purchase order number which is listed on the Contractor's profile.

### **G.4 THE QUICK PAYMENT ACT**

#### **G.4.1 Interest Penalties to Contractors**

G.4.1.1 The District will pay interest penalties on amounts due to the Contractor under the Quick Payment Act, D.C. Official Code § 2-221.01 *et seq.*, as amended, for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made. Interest shall be calculated at the rate of at least 1% per month. No interest penalty shall be paid if payment for the completed delivery of the item of property or service is made on or before the required payment date. The required payment date shall be:

G.4.1.1.1 The date on which payment is due under the terms of this contract;

G.4.1.1.2 Not later than 7 calendar days, excluding legal holidays, after the date of delivery of meat or meat food products;

G.4.1.1.3 Not later than 10 calendar days, excluding legal holidays, after the date of delivery of a perishable agricultural commodity; or

G.4.1.1.4 30 calendar days, excluding legal holidays, after receipt of a proper invoice for the amount of the payment due.

G.4.1.2 No interest penalty shall be due to the Contractor if payment for the completed delivery of goods or services is made on or before:

G.4.1.2.1 3<sup>rd</sup> day after the required payment date for meat or a meat product;

G.4.1.2.2 5<sup>th</sup> day after the required payment date for an agricultural commodity; or

G.4.1.2.3 15<sup>th</sup> day after any other required payment date.

G.4.1.3 Any amount of an interest penalty which remains unpaid at the end of any 30-day period shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on the added amount.

#### **G.4.2 Payments to Subcontractors**

G.4.2.1 The Contractor shall take one of the following actions within seven (7) days of receipt of any amount paid to the Contractor by the District for work performed by any subcontractor under the contract:

G.4.2.1.1 Pay the subcontractor(s) for the proportionate share of the total payment received from the District that is attributable to the subcontractor(s) for work performed under the contract; or

G.4.2.1.2 Notify the CO and the subcontractor(s), in writing, of the Contractor's intention to withhold all or part of the subcontractor's payment and state the reason for the nonpayment.

G.4.2.2 The Contractor shall pay subcontractors or suppliers interest penalties on amounts due to the subcontractor or supplier beginning on the day after the payment is due and ending on the date on which the payment is made. Interest shall be calculated at the rate of at least 1% per month. No interest penalty shall be paid on the following if payment for the completed delivery of the item of property or service is made on or before the:

G.4.2.2.1 3<sup>rd</sup> day after the required payment date for meat or a meat product;

G.4.2.2.2 5<sup>th</sup> day after the required payment date for an agricultural commodity; or

G.4.2.2.3 15<sup>th</sup> day after any other required payment date.

G.4.2.3 Any amount of an interest penalty which remains unpaid by the Contractor at the end of any 30-day period shall be added to the principal amount of the debt to the subcontractor and thereafter interest penalties shall accrue on the added amount.

G.4.2.4 A dispute between the Contractor and subcontractor relating to the amounts or entitlement of a subcontractor to a payment or a late payment interest penalty under the Quick Payment Act does not constitute a dispute to which the District is a party. The District may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

**G.4.3 Subcontract requirements**

- G.4.3.1 The Contractor shall include in each subcontract under this contract a provision requiring the subcontractor to include in its contract with any lower-tier subcontractor or supplier the payment and interest clauses required under paragraphs (1) and (2) of D.C. Official Code § 2-221.02(d).
- G.4.3.2 The Contractor shall include in each subcontract under this contract a provision that obligates the Contractor, at the election of the subcontractor, to participate in negotiation or mediation as an alternative to administrative or judicial resolution of a dispute between them.

**G.5 ASSIGNMENT OF CONTRACT PAYMENTS**

- G. 5.1 The Contractor may assign funds due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution.
- G.5.2 Any assignment shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party.
- G.5.3 Notwithstanding an assignment of contract payments, the Contractor, not the assignee, is required to prepare invoices. Where such an assignment has been made, the original copy of the invoice must refer to the assignment and must show that payment of the invoice is to be made directly to the assignee as follows:

*“Pursuant to the instrument of assignment dated \_\_\_\_\_, make payment of this invoice to (name and address of assignee).”*

**G.6 FIRST SOURCE AGREEMENT REQUEST FOR FINAL PAYMENT**

- G.6.1 For contracts subject to the 51% District Residents New Hires Requirement and First Source Employment Agreement, final requests for payment shall be accompanied by the report or a waiver of compliance pursuant to Section I.31.
- G.6.2 No final payment shall be made to the Contractor until the CFO has received the Contracting Officer’s final determination or approval of waiver of the Contractor’s compliance with 51% District Residents New Hires Requirement and First Source Employment Agreement requirements.

**G.7 ORDERING CLAUSE**

- G.7.1 Any supplies and services to be furnished under this contract must be ordered by issuance of delivery orders, task orders, or purchase orders by the CO. Such orders may be issued during the term of this contract.
- G.7.2 All orders are subject to the terms and conditions of this contract. In the event of a conflict between an order and this contract, the contract shall control.

G.7.3 If mailed, an order is considered "issued" when the District deposits the order in the mail. Orders may be issued by facsimile or by electronic commerce methods.

**G.8 COST REIMBURSEMENT CEILING**

G.8.1 The cost reimbursement ceiling for the applicable contract component is set forth in Section B.4.5.

G.8.2 The costs for performing this contract component shall not exceed the cost reimbursement ceiling specified in Section B.4.5.

G.8.3 The Contractor agrees to use its best efforts to perform the work specified in this contract and to meet all obligations under this contract within the cost reimbursement ceiling.

G.8.4 The Contractor must notify the CO, in writing, whenever it has reason to believe that the total cost for the performance of this contract will be either greater or substantially less than the cost reimbursement ceiling.

G.8.5 As part of the notification, the Contractor must provide the CO a revised estimate of the total cost of performing this contract.

G.8.6 The District is not obligated to reimburse the Contractor for costs incurred in excess of the cost reimbursement ceiling specified in Section B.4.5, and the Contractor is not obligated to continue performance under this contract (including actions under the Termination clauses of this contract), or otherwise incur costs in excess of the cost reimbursement ceiling specified in Section B.4.5, until the CO notifies the Contractor, in writing, that the estimated cost has been increased and provides revised cost reimbursement ceiling for performing this contract.

G.8.7 No notice, communication, or representation in any form from any person other than the CO shall change the cost reimbursement ceiling. In the absence of the specified notice, the District is not obligated to reimburse the Contractor for any costs in excess of the costs reimbursement ceiling, whether such costs were incurred during the course of contract performance or as a result of termination.

G.8.8 If any cost reimbursement ceiling specified in Section B.4.5 is increased, any costs the Contractor incurs before the increase that are in excess of the previous cost reimbursement ceiling shall be allowable to the same extent as if incurred afterward, unless the CO issues a termination or other notice directing that the increase is solely to cover termination or other specified expenses.

G.8.9 A change order shall not be considered an authorization to exceed the applicable cost reimbursement ceiling specified in Section B.4.5, unless the change order specifically increases the cost reimbursement ceiling.

G.8.10 Only those costs determined by the Contracting Officer to be reasonable, allowable, and allocable in accordance with Chapter 33 (Contract Cost Principles) of Title 27 of the DCMR will be reimbursable.

## SECTION H

### SPECIAL CONTRACT REQUIREMENTS

#### H.1 STAFFING

The Contractor shall not employ or permit the employment of any unfit or unqualified person or persons not skilled in the tasks assigned to them by the contractor. The Contractor shall at all times employ sufficient labor to carry out functions and services in the manner and time prescribed by the Contract. The Contractor shall be responsible to the District for all acts and omissions of the Contractor's employees, agents (including, but not limited to, lobbyists) and subcontractors and the Contractor shall enforce strict discipline among the Contractor's employees, agents (including, but not limited to, lobbyists) and subcontractors performing the services under the Contract. Any person employed by the Contractor shall, at the written request of the District, and within the District's sole discretion, be removed immediately by the Contractor from work relating to the Contract.

#### H.2 SUBCONTRACTS

The Contractor hereunder shall not subcontract any of the Contractor's work or services to any subcontractor without the prior, written consent of the Contracting Officer in consultation with the COTR. Any such subcontract shall specify that the Contractor and the subcontractor shall be subject to every provision of this Contract. Notwithstanding any such subcontract approved by the District, the Contractor shall remain liable to the District for all Contractor's work and services required hereunder, including any work conducted by a subcontractor.

#### H.3 CERTIFIED BUSINESS ENTERPRISE SUBCONTRACTING REQUIREMENTS

- H.3.1 Beneficiaries of all non-construction contracts for government-assisted projects in excess of \$250,000, unless a waiver has been approved by the Director of the Department of Small and Local Business Development in accordance with D.C. Code §2-218.51, are required to:
- (a) Subcontract at least 35% of the dollar volume to small business enterprises, as defined in D.C. Code §2-218.32; or
  - (b) If there are insufficient qualified small business enterprises to completely fulfill the requirement set forth in H.3.1(a), then the subcontracting requirement may be satisfied by subcontracting 35% of the dollar volume to any qualified certified business enterprises, as defined in D.C. Code §§2-218.31-39a; provided, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.
  - (c) For each government-assisted project for which a certified business enterprise is utilized to meet the subcontracting requirements set forth above in H.3.1(a) or H.3.1(b), the certified business enterprise shall perform at least 35% of the contracting effort with its own organization and resources.

- (d) Beneficiaries certified as a small business enterprise, local business enterprise, or disadvantaged business enterprise shall not have to comply with Sections H.3.1(a) or H.3.1(b). Nonetheless, Beneficiaries certified as a small business enterprise, local business enterprise, or disadvantaged business enterprise that does subcontract any portion of the contract work must submit a subcontracting plan to show the Beneficiary is retaining the minimum required amount of work with its own organization and resources and to show the Beneficiary subcontracts with certified business enterprises pursuant to D.C. Code § 2-218.46.

### H.3.2

- (a) For each government-assisted project for which a certified business enterprise is selected as a Beneficiary and is granted points or a price reduction pursuant to D.C. Code §2-218.43 or is selected through a set-aside program, the certified business enterprise shall perform at least 35% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the subcontracted effort shall be with certified business enterprises. A certified business enterprise prime contractor that performs less than 35% of the contracting effort shall be subject to enforcement actions under D.C. Official Code § 2-218.63.
- (b) For each government-assisted project for which a certified joint venture is selected as a Beneficiary and is granted points or a price reduction pursuant to D.C. Code §2-218.43 or is selected through a set-aside program, the certified business enterprise shall perform at least 50% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the subcontracted effort shall be with certified business enterprises. If the certified business enterprise member of the certified joint venture prime contractor performs less than 50% of the contracting effort, the certified joint venture shall be subject to enforcement actions under D.C. Official Code § 2-218.63.
- (c) For each government-assisted project of \$1 million or less for which a certified business enterprise is selected as a Beneficiary and is granted points or a price reduction pursuant to D.C. Code §2-218.43 or is selected through a set-aside program, the certified business enterprise shall perform at least 50% of the on-site work with its own workforce.

H.3.3 Bids or proposals responding to a solicitation, including an open market solicitation, shall be deemed nonresponsive and shall be rejected if a subcontracting plan is required by law and the Beneficiary fails to submit a subcontracting plan as part of its bid or proposal and the Beneficiary fails to submit a plan that meets the criteria set forth in H.3.4. The subcontracting plan required shall be provided before the District accepts the submission of the bid or proposal.

H.3.4 A Beneficiary's subcontracting plan shall specify all of the following:

- (a) The name and address of the subcontractor;
- (b) A certification number of the small or certified business enterprise, current as of the solicitation closing date;
- (c) The scope of work to be performed by the subcontractor; and
- (d) The price to be paid by the Beneficiary to the subcontractor.



- H.3.5 No Beneficiary shall be allowed to amend the subcontracting plan filed as part of its bid or proposal except with the consent of the Director of the Department of Small and Local Business Development. Any reduction in the dollar volume of the subcontracted portion resulting from such amendment of the plan shall inure to the benefit of the District.
- H.3.6 No multiyear contracts or extended contracts, which are not in compliance with D.C. Code §2-218.46 or this Section H.3 at the time of the contemplated exercise of the option or extension, shall be renewed or extended, and any such option or extension shall be void.
- H.3.7 A Beneficiary shall submit to the Contracting Officer, the COTR as the project manager, and the Director of the Department of Small and Local Business Development (at [compliance.enforcement@dc.gov](mailto:compliance.enforcement@dc.gov)) copies of the executed contracts with the subcontracts identified in the subcontracting plan. Failure to submit copies of the executed contracts shall render the underlying contract voidable by the District.
- H.3.8 The Beneficiary shall provide written notice to the Department of Small and Local Business Development upon the initiation and completion of a project.
- H.3.9 Within 30 days after the end of each quarter, the Beneficiary shall provide a quarterly report to the Department of Small and Local Business Development (at [compliance.enforcement@dc.gov](mailto:compliance.enforcement@dc.gov)), the Contracting Officer, and the COTR as the project manager which shall include a list of each subcontractor identified in the subcontracting plan and for each subcontract:
- (a) The price to be paid by the contractor to the subcontractor;
  - (b) A description of the goods procured or the services contracted for;
  - (c) The amount paid by the contractor to the subcontractor under the subcontract; and
  - (d) A copy of the fully executed subcontract, if it was not provided in a prior quarterly report. If not included, the Beneficiary shall not receive credit toward the subcontracting requirements of this section for that subcontract.
- The Beneficiary shall access the DSLBD forms to complete the reporting requirements. The Beneficiary shall contact DSLBD at (202) 727-3900 or at [compliance.enforcement@dc.gov](mailto:compliance.enforcement@dc.gov) for instructions on SBE Forms.
- H.3.10 Beneficiary shall meet on an annual basis with the Department of Small and Local Business Development, the Contracting Officer, and the project manager to provide an update of the subcontracting plan for utilization of small business enterprises and certified business enterprises. The Department of Small and Local Business development shall provide the Beneficiary with a 30-day written notice of the meeting.
- H.3.11 A Beneficiary and/or certified business enterprise subject to this section, that fails to meet the requirements of this section shall be subject to penalties set forth in D.C. Code §2-218.63.
- H.3.12 **Waiver of Subcontracting Requirements**

- (a) The Director of the Department of Small and Local Business Development may waive the subcontracting requirements only if there is insufficient market capacity for the goods and services that comprise the project and such lack of capacity leaves the contractor commercially incapable of achieving the subcontracting requirements.
- (b) Prior to submission of bids or proposals, the Beneficiary may request a waiver of the subcontracting requirements by timely filing a written request with the point of contact on Page 1 of this solicitation, to the attention of the Contracting Officer detailing the reasons justifying a waiver, including the Beneficiary's efforts to secure involvement by Certified Business Enterprises, no later than **Wednesday, February 5, 2025**. The Contracting Officer will, in turn, use the Beneficiary's information to submit a waiver request to the Director of the Department of Small and Local Business Development.
- (c) The Contracting Officer will provide written notice of the waiver determination to the Beneficiary prior to the acceptance of bids or proposals and upon a decision of the waiver by the Director of the Department of Small and Local Business Development.
- (d) The Beneficiary should provide the following information in its waiver request to the Contracting Officer to demonstrate the Beneficiary's good faith efforts to secure involvement by a Certified Business Enterprise:
  - i. Whether the Beneficiary advertised in general circulation, trade association, or other media outlets concerning the subcontracting opportunity;
  - ii. Whether the Beneficiary provided written notice to a reasonable number of certified business enterprises that their interest in the subcontracting opportunity was being solicited;
  - iii. Whether the Beneficiary conducted any pre-solicitation or pre-bid conferences to inform certified business enterprises of the subcontracting opportunity;
  - iv. Whether the Beneficiary provided sufficient time to allow certified business enterprises to participate effectively in its efforts to secure involvement by a certified business enterprise;
  - v. Whether the Beneficiary followed up responses of interest by conducting negotiations with certified business enterprises;
  - vi. Whether rejections by the Beneficiary of certified business enterprises as being unqualified were based on sound reasoning and thorough investigation of their capabilities;
  - vii. Whether the Beneficiary made efforts to assist interested certified business enterprises in obtaining bonding, lines of credit, or insurance required by the Beneficiary;
  - viii. Whether the Beneficiary effectively used the services of the Department of Small and Local Business Development, (202) 727-3900 and <http://dslbd.dc.gov>, in recruiting qualified certified business enterprises; and
  - ix. Whether bids submitted by certified business enterprises were excessive or noncompetitive based upon a review of prevailing market conditions.
- (e) While the information described in (d) above will assist the Director of the Department of Small and Local Business Development in reviewing the waiver request, it does not

guarantee that a waiver will, in fact, be approved. Additional factors may be considered and additional information may be requested from the Beneficiary to support the waiver request.

H.3.13 In addition to the information provided by the Beneficiary, the Contracting Officer will include the following information in its written request for a waiver:

- (a) The number of certified business enterprises, if any, qualified to perform the elements of the work that comprise the project;
- (b) A summary of the market research or outreach conducted to analyze the relevant market; and
- (c) The consideration given to alternate methods for acquiring the work to be subcontracted in order to make the work more amenable to being performed by certified business enterprises.

H.3.14 For purposes of this Section H.3, the term:

- (a) “Beneficiary” means a business enterprise that is the prime contractor or developer on a government-assisted project.
- (b) “Government-assisted project” means:
  - i. A contract executed by an agency on behalf of the District or pursuant to statutory authority that involves District funds or, to the extent not prohibited by federal law, funds that the District administers in accordance with a federal grant or otherwise;
  - ii. A project funded in whole or in part by District funds;
  - iii. A project that receives a loan or grant from a District agency;
  - iv. A project that receives bonds or notes or the proceeds thereof issued by a District agency, including tax increment financing or payment in lieu of tax bonds and notes, or industrial revenue bonds;
  - v. A project that receives District tax exemptions or abatements that are specific to the project and not to the nature of the entity undertaking the project, such as a religious institution or nonprofit corporation; or
  - vi. A development project conducted pursuant to a disposition under section 1 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801).

H.3.15 Notwithstanding the requirements set forth in this Section H.3, a Beneficiary, and any other certified business enterprise subject to this section, shall fully comply with the requirements set forth in D.C. Code §§ 2-218.46, 2-218.51. If there is a conflict between the requirements set forth in this Section H.3 and D.C. Code §§ 2-218.46, 2-218.51, the requirements set forth in D.C. Code §§ 2-218.46, 2-218.51 shall govern.

**H.4 WARRANTIES**

- H.4.1 The Contractor warrants and agrees that it is lawfully organized and constituted under all federal, state and local laws, ordinances and other authorities of its domicile and is otherwise in full compliance with all legal requirements of its domicile.
- H.4.2 The Contractor warrants and agrees that it is of legal authority and capacity to enter into and perform under the Contract, and that it has the financial ability to perform its obligations under such Contract.
- H.4.3 The Contractor warrants and agrees that it has been duly authorized to operate and do business in all places where it will be required to do business under the Contract that it has obtained or will obtain all necessary licenses and permits required in connection with such Contract; and that it will fully comply with all laws, decrees, labor standards and regulations of its domicile and wherever performance occurs during the term of such Contract.
- H.4.4 The Contractor warrants and agrees that it has no present interest and shall not acquire any interest which would conflict in any manner with its duties and obligations under the Contract.
- H.4.5 The Contractor warrants and agrees that all Systems analysis, Systems design and programming pursuant to the Contract or for use in its performance thereunder has been and shall be prepared or done in a high quality, professional and competent manner using only qualified personnel.
- H.4.6 The Contractor further represents and warrants that all programs implemented in its performance under the contract shall meet the performance standards required thereunder and shall correctly and accurately perform their intended functions on the equipment supplied by the District or Contractor.
- H.4.7 The Contractor warrants and agrees that all services provided by it under the Contract shall be performed in a prompt, high quality, professional and competent manner using only qualified personnel.
- H.4.8 The Contractor warrants and agrees that it will not take any action inconsistent with any of the terms, conditions, agreements, or covenants set forth in this Contract without the express written consent of the District.
- H.4.9 The Contractor warrants and agrees that it shall keep all equipment in good condition and repair, and shall not permit anything to be done that may materially impair the value thereof. The Contractor shall use such equipment only in the ordinary course of its performance under the Contract and shall not permit such equipment to be used in violation of any applicable law, regulation or policy of insurance. The Contractor agrees to develop a maintenance and replacement schedule subject to approval by the District and agrees to comply with that schedule.
- H.4.10 The Contractor warrants and agrees that it shall not sell, assign, lease, transfer, pledge, hypothecate, or otherwise dispose of any component of any goods, System proposed in the

Contract or any interest therein, or permit any of it to become a fixture or accession to other goods or property without the prior written consent of the District.

- H.4.11 The Contractor warrants and agrees that its tickets, games, Systems, platforms, goods and services shall in all respects conform to, and function in accordance with, the approved specifications and designs thereof.
- H.4.12 The Contractor warrants and agrees to pay any amount paid by OLG and any amount incurred by OLG as the result of a misprinted game ticket. Altered tickets are not misprinted tickets. If a game ticket appears to be a winner in all respects, but there is no computer record of the ticket, the Contractor warrants and agrees to pay any amount paid by OLG and any amount incurred by OLG as a result of the ticket for which there is no computer record.
- H.4.13 The Contractor warrants and agrees that (except to the extent expressly set forth herein) it shall at all times own the terminals and other components of the Systems furnished by the Contractor, except telecommunications and the buildings to house its facilities, which it is permitted to lease, and shall keep the same free and clear of any and all security interests, liens, charges, levies, assessments or encumbrances. The Contractor shall in all instances protect and defend the Systems from and against all claims, demands or legal proceedings brought or asserted by any party other than OLG. Notwithstanding anything herein to the contrary, the above warranty provisions shall apply not only to the Contractor, but also to its subcontractor(s), joint Contractor(s), or any other party with whom it contracts, and the Contractor warrants and agrees that it will cause these parties to comply with these warranty provisions.
- H.4.14 The Contractor warrants and agrees that the System shall be free from any code which would, or is designed to, disable the System (or any component of the System) automatically after the passage of time or under the control of a person other than the OLG (such as a back door, time bomb, or drop dead device), and free from any code which would permit unauthorized access to the System (or any component of the System) such as a virus or trojan horse. The Contractor's use of remote diagnostic software to disable any portion of the System (other than as necessary for support or maintenance) or to gain unauthorized access to the System will be deemed a breach of this warranty.
- H.4.15 The Contractor warrants and agrees that the System delivered to the OLG under the Contract shall be free from any clock, counter, virus, or other limiting design or routine which will cause the System to be erased, made inoperable, or otherwise become incapable of being used by the OLG after being used a certain number of times, or after the lapse of a certain period of time, or after the occurrence or lapse of any other triggering event.
- H.4.16 The Contractor warrants that the System shall maintain the integrity of the data that is used or displayed by the System.
- H.4.17 The Contractor warrants that the System shall operate in a secure manner and shall be designed and operated so as to prevent intrusions and unauthorized use. The Contractor warrants that it shall immediately report to OLG any intrusions or unauthorized uses of the System.

- H.4.18 The Contractor warrants and represents that it has good and marketable title, and/or the right to license, all of OLG Gaming System, free and clear of all liens, security interests, and other encumbrances.
- H.4.19 The Contractor warrants and agrees that its operations and the System are, and will continuously be, in compliance with all applicable requirements of any applicable law, statute, rule or regulation. Further, in the event of noncompliance, the Contractor agrees to take all reasonable remedial measures at no additional cost to OLG, to become compliant.
- H.4.20 The Contractor warrants and represents that it has no outstanding assignments, grants, licenses, encumbrances, obligations, or agreements which relate to the System (whether written, oral, or implied) and are inconsistent with the Contract, or the rights, duties, and obligations stated in the contract.
- H.4.21 Contractor represents and warrants that all Systems analysis, Systems design, and programming prepared or done, or to be prepared or done, by Contractor, its subcontractors, or its officers, employees or agents has been and shall be prepared or done in a professional manner. Contractor further hereby represents and warrants that all programs implemented in its performance herein shall meet the performance standards required hereunder and shall correctly and accurately perform their intended functions.
- H.4.22 Contractor warrants that all System software is maintainable and reusable. Contractor warrants and represents that all software used by Contractor in performance of any and all Contract requirements in the software shall be written in languages that can be maintained and supported by OLG and/or any third-party contractor. Contractor warrants that all software shall be documented. Contractor warrants that all System software will be delivered in a format including both source code and object code, such that the System software can be readily modified, compiled, and maintained by the OLG and/or any third party contractor.

## **H.5 DISCLOSURE OF LITIGATION**

The Contractor shall provide complete disclosure of any material civil or criminal litigation or indictment either threatened or pending involving the Contractor. The Contractor shall also disclose any material litigation threatened or pending for subcontractors, consultants, and/or lobbyists. For purposes of this section, material refers to any action or pending action that a reasonable person knowledgeable in the industry would consider relevant or any development such a person would want to be aware of in order to stay fully apprised of the total mix of information relevant to the industry and its operations. This is a continuing disclosure requirement; any litigation commencing after submission of a response to a solicitation or execution of a contract shall be disclosed in a written statement within fifteen (15) days of its occurrence. The Contractor shall be required to file with the District comprehensive monthly reports regarding all threatened or pending litigation involving the Contractor's District of Columbia operations and all threatened or pending litigation that may be considered material to the overall operations of the Contractor.

## **H.6 DIVERSION, REASSIGNMENT AND REPLACEMENT OF KEY PERSONNEL**

The key personnel specified in the contract are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified key personnel for any reason, the Contractor shall notify the CO at least thirty (30) calendar days in advance and shall submit justification, including proposed substitutions, in sufficient detail to permit evaluation of the impact upon the contract. The Contractor shall obtain written approval of the CO for any proposed substitution of key personnel.

## **H.7 ADVISORY AND ASSISTANCE SERVICES**

This contract is a “non-personal services contract”. The Contractor and the Contractor’s employees: (1) shall perform the services specified herein as independent contractors, not as employees of the government; (2) shall be responsible for their own management and administration of the work required and bear sole responsibility for complying with any and all technical, schedule, financial requirements or constraints attendant to the performance of this contract; (3) shall be free from supervision or control by any government employee with respect to the manner or method of performance of the service specified; but (4) shall, pursuant to the government’s right and obligation to inspect, accept or reject work, comply with such general direction of the CO, or the duly authorized representative of the CO as is necessary to ensure accomplishment of the contract objectives.

## **H.8 OCFO/OCIO CYBERSECURITY AWARENESS TRAINING**

In the OCFO’s ongoing effort to protect OCFO data, networks and computers against cyber attackers all Contractor personnel, including direct or indirect employees and any employed by a subcontractor, assigned to the Contract shall take and must pass the OCFO/OCIO Cybersecurity Awareness Training at the District’s direction. The training is web-based, designed to heighten cybersecurity awareness so that the OCFO is less likely to become a victim of cybercrimes. The training is typically completed in one to two hours. The training shall be taken and must be passed annually by all Contractor personnel, during the term of the Contract.

## **H.9 END OF CONTRACT CONVERSION**

- H.9.1 OLG shall be responsible for the identification of and time for conversions (transfers) of Retailer terminals, and Contractor shall cooperate fully and in good faith in said conversion (transfer). Cooperation may include, but not be limited to, sharing of liability files and cross-validation of winning tickets.
- H.9.2 Contractor shall remove all equipment and materials relating to Contractor’s System from each Retail Sales Agent location within fourteen (14) calendar days after conversion (transfer) of the location to the new System.
- H.9.3 Contractor shall cooperate fully with OLG throughout the period in which the administration of responsibilities under the Contract is transitioned or turned over to OLG or third party. Contractor shall continue the Contract services at a consistently high level without interruption during the turnover period. Contractor shall support the successor, including the

sharing of files, until the successor can maintain contract services at a consistently high level without interruption. Contractor shall provide promptly and without delay, at no cost, copies of all current software specifications, data files, programs, job control language, program designs, procedures and all other elements required to install and operate the games in machine readable form and/or perform the other services required of the successor. Source coding along with all required technical, user and programmer documentation as OLG may require shall also be provided promptly and without delay. OLG will determine when Contractor transition services are not necessary.

H.9.4 Contractor shall cooperate fully, and in good faith, assist to the extent reasonable and practical in the conversion to any new System. For example, Contractor shall cooperate in the conversion (transfer) process providing terminal hardware, software specifications and access to the telecommunications network as required. Through the conversion period, Contractor shall provide sufficient experienced personnel, resources and facilities to assure that the System and services called for by Contract are maintained at a high level of proficiency.

## **H.10 OLG BACKGROUND INVESTIGATIONS**

H.10.1 OLG may initiate investigations into the backgrounds of any of Contractor's officers, principals, investors, owners, employees, subcontractors, or subcontractors' officers, principals, owners or employees, or any other associates of Contractor(s) it deems appropriate. Such background investigations may include fingerprint identification by the Metropolitan Police Department and the Federal Bureau of Investigation.

H.10.2 In order to facilitate the background investigations, Contractor, including the parent or subsidiary of Contractor, shall complete OLG's Security Background Packet. OLG reserves the right to require additional background information from any Contractor.

H.10.3 Contractor agrees that, during the term of the Contract and any renewal thereof, it shall be obligated to provide such information about its officers, directors, employees and owners, as well as all information about its subcontractors' officers, directors, employees and owners, as OLG may prescribe. Contractor also agrees that the OLG may conduct background investigations of such persons.

H.10.4 Contractor shall (1) fully cooperate with official inquiries by responding to questions truthfully and under oath when required, whether orally or in writing, (2) provide documents and other information of official interest, and (3) attend integrity training.

H.10.5 To advise Contractor personnel of the high expectation of integrity, in addition to Attachment J.2, Doing Business with Integrity, all Contractor personnel, including direct or indirect employees and any employed by a subcontractor, assigned to the Contract shall be subject to annually attend the OCFO/OIO Integrity and Ethics Training at the District's direction. The training may be in-person and last up to four hours or may be web-based and last up to two hours.



### **H.11 NO PURCHASE OF LOTTERY TICKETS**

During the term of the Contract and any extensions thereof, Contractor's personnel (including, but not limited to, partners, temporary employees, subcontractors and consultants) who are performing services directly under or related to the awarded contract, including members of their households, are prohibited from purchasing any the DC Lottery tickets, playing any DC Lottery games, claiming any DC Lottery prize, and engaging in any DC Lottery promotions. Contractor shall ensure that this requirement is made known to all personnel involved with the performance of this Contract.

### **H.12 EFFECT OF CONTRACT TERMINATION**

H.12.1 Upon any termination or expiration of the Contract, the following terms shall apply:

- (a) The licenses related to the operation of the gaming System, such as software or other intellectual property licenses, granted under the Contract shall remain in full force and effect.
- (b) OLG may, at its option, purchase the gaming System equipment at its depreciated value as determined by the lower of the GAAP (Generally Accepted Accounting Principles) basis or the Federal tax basis.
- (c) In the event that the contracts and assets related to the communications network have not been assigned by Contractor to OLG, Contractor shall immediately assign all such contracts and assets to OLG. Upon such assignment, Contractor shall provide a detailed inventory and network diagrams of the communications network, which shall include all components necessary for the operation of the communications network. Contractor's obligation to assign third party contracts is subject to the terms and conditions of those third party contracts.
- (d) Contractor shall immediately surrender to OLG all memoranda, notes, records, drawings, manuals, computer software and other documents or materials pertaining to the works, reports and other data or materials generated or developed by Contractor for OLG pursuant to this Contract, or furnished by OLG to Contractor, including all materials embodying any OLG confidential information, regardless of whether the works or material are complete or incomplete. This section shall apply to all materials made or compiled by Contractor, as well as to all materials furnished to Contractor by OLG or by anyone else that pertain to the works. For clarification purposes, nothing contained in this provision or Contract is intended to require, or otherwise result in, the transfer of ownership of anything owned by OLG, Contractor or any third party prior to the date of this Contract.
- (e) If the Contract is terminated for default by OLG, OLG shall be entitled to receive delivery of the source code for the System software from the source code escrow established pursuant to the requirements contained in the Contract.

### **H.13 CONTRACTOR SITE VISITS/INSPECTION**

OLG, shall have the free and unrestricted right, acting by itself or through its authorized representatives, to enter the premises of Contractor or any subcontractor, and to enter any other sites involved in operation or support of OLG, at all times to examine the System and to inspect and copy the records of Contractor pertaining to the operation thereof. Contractor agrees that it and its subcontractors shall implement all reasonable quality control and security procedures requested by the OLG or representatives as designated by OLG. The site visits and inspections will be subject to Contractor's reasonable safety and security procedures.

### **H.14 PROGRAMS**

- H.14.1 Programming languages, tools, and methodologies used by Contractor shall be approved as supportable by OLG prior to their use by Contractor. Contractor shall support all software for the term of the Contract and any extension thereof. If the programming support software is not available in the open normal data processing market, other than the gaming industry, then Contractor shall be required to supply compilers and all normal programming support software, which is available to Contractor's software staff and training to persons designated by the OLG.
- H.14.2 Contractor shall enter into a source code escrow agreement with OLG and an escrow agent acceptable to OLG for the source code and System and/or technical documentation for the System software (the "Source Code Escrow Agreement"). Contractor shall be responsible for all charges associated with the escrow of the source code. Contractor shall continuously maintain and perform all of its respective obligations in the Source Code Escrow Agreement in accordance with the terms of the Source Code Escrow Agreement. At a minimum, the Source Code Escrow Agreement shall provide for release of the source code to OLG in the event of termination for cause and from any bankruptcy, insolvency, arrangement with creditors, failure to do business in the ordinary course, default on debt, of other indication of financial instability. The Source Code Escrow shall not permit Contractor to give contrary instructions to the escrow agent in the event that OLG sends the agent a certified letter indicating that a release condition has occurred. OLG shall have full rights of inspection during the term of the Source Code Escrow Agreement. Contractor grants OLG, a non-exclusive perpetual license to use, have used, modify, have modified, compile, have compiled, execute, have executed, display, have displayed, and operate and have operated the source code for the System software as necessary to operate the OLG gaming activities. OLG may allow access to the source code to third party contractors, but only if OLG enters into a non-disclosure agreement with such third party requiring the third party to maintain the source code in confidence, not to use the source code for any purpose other than to support OLG and naming Contractor as a third party beneficiary of such non-disclosure agreement. OLG's right to license any source code is expressly conditioned upon a release event under the Escrow Agreement. The Parties intend that the OLG shall have all rights afforded to licensees under section 365(n) of the U.S. Bankruptcy Code (and any successor thereto) in connection with any bankruptcy of Contractor.

## **H.15 INTELLECTUAL PROPERTY**

**H.15.1 Ownership of Materials and Intellectual Property.** All deliverables, written materials, designs, tangible or intangible materials, intellectual or other property or other work product of any kind or nature produced, revised, created, modified or prepared by Contractor and any of its subcontractors exclusively and specifically for OLG in connection with the Contract (collectively, the "Work Product") shall be deemed, to the greatest extent possible, "work made for hire" under Section 101 of the United States Copyright Act, 17 U.S.C. Section 101 to be exclusively owned by OLG. Consistent with the foregoing, nothing contained herein shall limit or be deemed to limit Contractor's intellectual property ownership rights and interests with respect to any and all property, programs, Systems, data, documentation, information, materials, modifications, adaptations and intellectual property which was in its respective possession and/or in which Contractor or its subcontractors held an interest prior to the Contract, as well as that which will be developed by Contractor or its subcontractors independent of the Contract and not exclusively for the benefit of OLG whether or not it constitutes basic, unmodified proprietary software Systems that are generally provided to their respective customers. To the extent that any Work Product does not qualify as a "work made for hire," Contractor and each of the subcontractors hereby irrevocably transfer, assign and convey to OLG all right, title and interest in the Work Product, together with all copyrights, patents, trade secrets, confidential information, trademarks and service marks (and the goodwill associated therewith) (all of the foregoing being collectively defined as the "Intellectual Property Rights"), free and clear of any liens, security interests, hypothecations, pledges, claims or other encumbrances of any kind or nature, to the fullest extent permitted by law. At OLG's request, Contractor and its subcontractors shall execute, and shall cause its or their personnel to execute, all assignments, applications, writings, instruments or other documentation of any kind or nature deemed necessary or beneficial by OLG so that OLG may perfect or protect its rights as provided herein. Contractor and its subcontractors shall require its and their employees, and permitted agents, independent contractors and consultants to execute agreements assigning all of their rights in the Work Products, and all Intellectual Property Rights therein, to OLG, directly or indirectly, and shall provide OLG with documentation evidencing its compliance with this requirement upon OLG's request. The intent of this provision is that OLG is the sole owner of, and is able to continue to use any or all of, the Work Product that it chooses in the conduct of its lottery games and other activities.

### **H.15.2 Title to, and Use of, Third-Party and Contractor Intellectual Property Rights**

- (a) To the extent that Contractor utilizes or relies upon the Intellectual Property Rights of a third party in fulfilling its obligations under the Contract, Contractor must provide OLG with assurance that OLG deems necessary that the use of such third party's Intellectual Property Rights is permissible.
- (b) While OLG and Contractor agree that all Intellectual Property Rights associated with any product or service provided by (or developed by) Contractor under the Contract are and may remain the property of Contractor, Contractor shall grant a license to OLG to make use of any such Intellectual Property Rights on an indefinite basis with respect to OLG business activities. Compensation for the use of such licensed works, if any, must be clearly defined in the Price Proposal.

### H.15.3 Patents, Copyrights, Trademarks, and Trade Secrets

- (a) Contractor shall take all possible measures to avoid any patent, copyright, trademark, and/or trade secret infringements during any phase developing, designing, or operating the System.
- (b) Contractor shall ensure that no violations or infringement of copyrights, patents, trademarks, and/or trade secrets are to be committed by its own employees, by any subcontractor, any of the subcontractor's employees, or generally any person acting under the control or acting by toleration of the Contractor.
- (c) Contractor shall ensure that all materials integrated in the System – among others, software, databases, photographs, works of painting, audio and video works, music, and generally all works falling under the scope of the law protecting copyright, patents, trademarks, and/or trade secrets – are only used with the express consent of the author of the works. Lawful and correct use includes, if requested, the payment of usage or reproduction rights, the integration of the author's or producer's name, as requested for by law, and generally the respect of all the author's moral rights on the work.
- (d) Contractor shall assume all liability and will hold OLG harmless from any liability resulting from any infringement that occurs as the result of the Contractor's or subcontractor's actions.
- (e) The Contractor shall hold and save the District, its officers, agents, servants and employees harmless from liability of any nature or kind, including costs, expenses, for or on account of any patented or unpatented invention, article, process, or appliance, manufactured or use in the performance of this contract, including their use by the District, unless otherwise specifically stipulated in this contract.

**H.15.4 Intellectual Property Search.** Contractor, at its expense, shall conduct all appropriate intellectual property searches (e.g., full trademark and service mark searches) for all proposed Works. Contractor shall be responsible for all the fees and expenses incurred in connection with the registration of any Works. Ownership of such marks would be jointly owned between OLG and Contractor.

### H.15.5 Intellectual Property Indemnification

- (a) Contractor agrees to indemnify and save harmless and to defend all legal or equitable actions brought against OLG, the its Executive Director, directors and officers, the District of Columbia and its agencies, and their respective agents, officers and employees, for and from all claims of liability which may result from OLG's use of any Intellectual Property Rights under licenses granted by the Contractor, and for any claims resulting from the Contractor's use of third-party Intellectual Property Rights. OLG agrees to give the Contractor prompt notice of all such claims of liability.
- (b) If OLG promptly notifies the Contractor in writing of a third-party claim against OLG that any deliverable infringes upon the Intellectual Property Rights of any third party, the Contractor will defend such claim at its expense and will pay any costs or damages

that may be finally awarded against OLG. If any deliverable is, or in OLG's opinion is likely to be, held to be infringing, the Contractor must at its expense and option either: (a) procure the right for OLG to continue using it, (b) replace it with a non-infringing equivalent, or (c) modify it to make it non-infringing.

- (c) If the actions in clauses (a), (b), and (c) are not commercially practicable, the infringing deliverable may be returned and OLG will be refunded the fees paid for such deliverable, as well as any applicable liquidated damages. Contractor shall make every reasonable effort to explore options (a), (b), and (c) prior to returning the fees paid, paying the applicable damages, and receiving the deliverable from OLG.

## **H.16 USUFRUCT**

If, for any reason other than breach of Contract by OLG, Contractor shall lose its ability to provide service against the Contract, OLG shall acquire a usufruct in all contractual items owned by Contractor in conjunction with the Contract and which are necessary to provide such services. Said usufruct shall be limited to the right of OLG to possess and make use of such contractual items solely for the use and benefit of OLG in operating, maintaining, altering, replacing and improving the programs and Systems being used by OLG under the Contract. Such usufruct shall be limited in time to the duration of the Contract and any extension thereof, and in scope for programs, Systems, and other items being used by OLG under the Contract. In the event that OLG determines that assumption of operations by the OLG may be pending, Contractor shall not unreasonably withhold access to the System and shall reasonably comply with any OLG request for training in the operations of the System.

## **H.17 LIQUIDATED DAMAGES PROVISIONS**

H.17.1 OLG requires the Systems and services provided by the Contractor be extremely reliable. Whenever the Systems and services are not available, OLG incurs lost revenues and/or lost good will with the public. Because the potential of unforeseeable and/or unexpected issues exists, it is in the best interest of OLG and Contractor to have these issues resolved as quickly as possible. Therefore, the purpose of liquidated damages is to make the Contractor responsive to resolving any issues involving Systems and services. Additionally, liquidated damages will be assessed whenever timely deliverables are late and/or modifications are not authorized or provided. Both Contractor and the OLG agree that it is difficult to determine actual damages the OLG would sustain, including those that negatively affect the image and reputation of the OLG. Therefore, the parties agree that the amounts set forth herein are reasonable. Assessment of liquidated damages shall be in addition to, and not in lieu of, such other remedies as may be available to OLG. Except, and to the extent expressly provided herein, the OLG shall be entitled to recover liquidated damages under each section applicable to any given incident. Liquidated damages will not be assessed by OLG under multiple provisions relating to a single incident.

H.17.2 **Notification of Liquidated Damages.** Upon determination that liquidated damages are to or may be assessed, OLG shall notify Contractor of the assessment in writing. The availability of any period of cure will depend on the situation and will be in the sole discretion of the OLG.

### H.17.3 **Conditions for Termination of Liquidated Damages.**

H.17.4 Contractor may obtain relief from the continued assessment of liquidated damages that have been imposed.

- (a) Except as waived in writing by OLG, no liquidated damages imposed shall be terminated or suspended until Contractor issues a written notice verifying the correction of the condition(s) for which liquidated damages were imposed, and all corrections have been subjected to System testing or other verification at the discretion of OLG.
- (b) As appropriate, Contractor shall conduct System testing of any correction, as OLG deems necessary. Such testing shall be developed jointly by OLG and Contractor and shall be approved by the OLG, including the test script, test environment, and test results. A notice of correction shall not be accepted until verification by the OLG.

H.17.5 **Severability of Individual Liquidated Damages.** If any portion of the liquidated damages provisions is determined to be unenforceable in one or more applications, that portion remains in effect in all applications not determined to be invalid and is severable from the invalid applications. If any portion of the liquidated damages provisions is determined to be unenforceable, the other provision or provisions shall remain in full force and effect.

H.17.6 **Waivers of Liquidated Damages.** The waiver of any liquidated damages due to OLG shall constitute a waiver only as to such liquidated damages and not a waiver of any future liquidated damages. Failure to assess liquidated damages or to demand payment of liquidated damages within any period of time shall not constitute a waiver of such claim by OLG.

H.17.7 **Payment of Liquidated Damages.** All assessed liquidated damages for which a timely Notice of Dispute has not been received will be deducted from any moneys owed Contractor by OLG and, in the event the amount due Contractor is not sufficient to satisfy the amount of the liquidated damages, Contractor shall pay the balance to the OLG within thirty (30) calendar days of written notification. If the amount due is not paid in full, the balance will be deducted from subsequent payments to Contractor. At OLG's, option, OLG may obtain payment of assessed liquidated damages through one (1) or more claims upon the Performance Bond. Notwithstanding the forgoing, OLG may only draw upon the bond for payment of liquidated damages if Contractor fails to pay liquidated damages within the required 30-day period, subject to any dispute resolution process provided for in this Contract.

H.17.8 **Applicability of Liquidated Damages and Pro Rata Liquidated Damages.** Contractor shall not be required to pay liquidated damages for delays solely due to matters as enumerated in the section entitled "Force Majeure," or for time delays specifically due to, or approved by, OLG. OLG may waive liquidated damages if the Contracting Officer determines that events leading to the breach were caused by OLG, its Retail Sales Agents, or third parties not under the reasonable control of Contractor. In all of the following liquidated damages sections, the damages shall be pro-rated for partial periods. For example, if liquidated damages are six hundred dollars (\$600) per minute, and the period is eight (8) seconds, the liquidated damages shall be six hundred dollars (\$600) times  $8/60 = \$80$ .

#### H.17.9 Conversion at Startup

- (a) **Condition.** Offeror shall complete, except as otherwise approved by OLG in writing, all agreed upon implementation tasks and deliverables required pursuant to the Contract.
- (b) **Damages.** OLG may impose liquidated damages for each calendar day of delay as follows:
  - (1) Unresolved errors or failures preventing the successful completion of User Acceptance Testing (UAT) as specified in the conversion plan, up to ten thousand dollars (\$10,000) per day.
  - (2) Startup delays beginning with the Contract-agreed production conversion date, up to one hundred thousand dollars (\$100,000) per day.

#### H.17.10 Timely and Accurate Deliverables.

- (a) **Condition.** Each and every deliverable must be accurate, available and on schedule as agreed upon by the parties. Deliverables include, but are not limited to, reports, files, data and equipment.
- (b) **Damages.** Up to one thousand dollars (\$1,000) per day per deliverable.

#### H.17.11 Systems Down

- (a) **Condition.** A System shall be defined to be "down" if there is a total Network outage, terminal application failure, or any other condition that prevents the following:
  - (1) The execution of critical gaming functions such as those related to a game drawing or iLottery play; or
  - (2) The occurrence of key transactions, such as activations, sales, cancels or validations by a retailer terminal or any other device provided by the Offeror and supported by the Systems. The Offeror has a cumulative grace period of three (3) minutes per day to resolve any and all issues causing the Systems "down" condition. The cumulative time during which the Systems are down during the day shall be the sum of all time during such daily operational sales period when a System is "down." To address chronic problems, in the event that two (2) downtime events of any length, for any reason, have already occurred in any seven (7) calendar day period, the grace period of three (3) minutes shall be rescinded.

H.17.12 **Damages** Up to two thousand five hundred dollars (\$2,500) for each one (1) minute of System downtime, or fraction thereof.

#### H.17.13 System Degraded Performance

- (a) **Condition.** A System shall evidence "degraded performance", for any reason, no more than one (1) hour during the operational sales period on any day. The total cumulative

time during which the System performance is degraded during a day shall be the sum of all time during such daily operational sales period when the System performance is degraded. To address chronic problems, in the event that two (2) degraded time events of any length have already occurred in a seven-calendar day (7) period, the grace period of one (1) hour shall be rescinded. The System shall be considered as having degraded performance under the following conditions:

- (1) Retailer terminals fail to meet the response time as stated in Offeror's Proposal or as agreed to by the Parties, or the System is incapable of meeting the throughput specifications provided in the Contract;
- (2) The System processes transactions from less than 95% of the installed and operational retailer terminals;
- (3) The System processes transactions from all terminals, but not for all gaming products, gaming functions (e.g., pay, cancel, etc.), or retailer-related activities;
- (4) Transactions are not logged to the System as required in the Contract or to the OLG's ICS units;
- (5) Critical functions of System management or administration cannot be conducted by the management workstations. These include but are not limited to file transfers to the OLG, and billing statements to retailers;
- (6) The Instant ticket inventory management is compromised, including the ability to receive, order, pack, ship, activate and/or settle instant tickets, etc. in a manner concordant with production schedules; or
- (7) During a defined promotion period the System cannot issue tickets or conduct transactions to support the promotion.

(b) **System Damages**

- (1) For conditions identified in 2, 3, 6 and 7 above, up to thirty thousand dollars (\$30,000) per hour may be assessed for each hour of degraded performance, or fraction thereof.
- (2) For conditions identified in 1, 4, 5 and 8 above, up to five thousand dollars (\$5,000) per hour may be assessed for each hour of degraded performance, or fraction thereof.

H.17.14 **Failure to Pay Winners**

- (a) **Condition:** Failure to Pay Winner(s) - Contractor shall pay liquidated damages for the Systems failure to pay winners the next day after the System has confirmed the win. Immediate payment to winners shall only be applicable to certain levels of winnings as specified by the OLG. Higher tiered prize winnings shall require the System to notify the winner to appear at one of the OLG offices for claim.



- (b) **Damages:** Fifty dollars (\$50) per winner to the OLG for the System's failure to pay winner(s) the next day after the System has confirmed the win or notify the winner(s) of a win that requires a claim at the OLG office.

#### H.17.15 Terminal Field Service

- (a) **Condition**

- (1) Offeror shall ensure the timely repair or replacement of inoperable terminals. Terminals will be considered inoperable upon the occurrence of any of the following conditions:
  - (A) There is no ticket stock available at the retailer location;
  - (B) The terminal cannot sell tickets, validate tickets, cancel and process claims (including instant ticket validations); or
  - (C) The terminal cannot print tickets that are legible to the machine and to the human eye.
- (2) For purposes of this section, the following definitions shall apply:
  - (A) **"Hard Down"** means a terminal is not able to produce a draw ticket or validate draw tickets or instant tickets upon request as a direct result of Offeror error.
  - (B) **"Critical Up"** means a terminal is able to produce draw tickets and validate draw or instant tickets; however, one or more other functions of the terminal do not work or do not work properly;
  - (C) **"Signage Down"** means a customer-oriented LED or monitor does not work properly.
  - (D) **"Hours of Operation"** means the business day of the OLG during which time the Contractor is required to receive and process wagers, validations and other transactions on behalf of the OLG, exclusive of time that the specific retailer requesting service is closed, or such time that the OLG data network is shut down for daily processing, if any such time exists.
  - (E) **"Terminal Classes"** For purposes of calculating liquidated damages for this section, each retail location shall be assigned to one of three classes based upon its average weekly draw game. The Offeror will provide to the Executive Director, upon request, an updated report of all retailers and their classes.
    - (i) **Class A.** Top selling terminals which account in aggregate for 50 percent of gross sales based on the preceding two weekly billing periods and terminals located in OLG Prize Centers.

- (ii) **Class B.** Terminals not in Class A with average gross sales greater than \$500 per week based on the preceding two weekly billing periods.
  - (iii) **Class C.** All terminals not included in Class A or B.
- (F) **"Back in Service" or "Returned to Service"** means that after replacement or repair of a hard down terminal has been performed, the terminal remaining at the retail location following replacement or repair is capable of performing all terminal functions
- (G) **"Promotional Event Locations"** means any event at which the OLG conducts any onsite promotions not including retailer locations.
- (3) **Hard Down Response and Repair Requirements**
- (A) **Two-Hour Response Requirement.** Any retail location with a Class A terminal or the OLG Prize Center shall have a two (2) hour response time by Contractor field service personnel to all "Hard Down" terminal repair requests. Contractor shall have a total of one-half (1/2) hour to repair or replace any hard down terminal from the time the service personnel arrives on scene to the time that the terminal is placed back in service. The total repair time, including travel time, shall not exceed two and one-half (2 1/2) retailer business hours to any "Hard Down" repair request from the time that the retailer or OLG notifies the Contractor until the terminal is returned to service.
  - (B) **Three-Hour Response Requirement.** Any retail location with a Class B terminal, shall have a three (3) hour response time by Contractor field service personnel to all "Hard Down" terminal repair requests. Contractor shall have a total of one-half (1/2) hour to repair or replace any hard down terminal from the time the service personnel arrives on scene to the time that the terminal is placed back in service. The total repair time, including travel time, shall not exceed three and one-half (3 1/2) retailer business hours to any "Hard Down" repair request from the time that the retailer or OLG notifies the Contractor until the terminal is returned to service.
  - (C) **Four-Hour Response Requirement.** Any retailer with a Class C terminal shall have a four (4) hour response time by Contractor field service personnel to all "Hard Down" terminal repair requests. Contractor shall have a total of one-half (1/2) hour to repair or replace any hard down terminal from the time the service personnel arrives on scene to the time that the terminal is placed back in service. The total repair time, including travel time, shall not exceed four and one-half (4 1/2) retailer business hours to any "Hard Down" repair request from the time that the retailer or OLG notifies the Contractor until the terminal is returned to service.

(4) **Critical Up Response and Repair Requirements**

- (A) **Four-Hour Response Requirement.** Terminals that are in a Class A or Class B status when a Critical Up problem is reported by the retailer or OLG to Contractor shall be repaired and returned to service within four (4) hours.
- (B) **Six-Hour Response Requirement.** Terminals that are in a Class C status when a Critical Up problem is reported by the retailer or OLG to Contractor shall be repaired and returned to service within six (6) hours.

(5) **Defective Signage Response and Repair Requirements**

- (A) **Six-Hour Response Requirement.** Terminals that are in a Class A or Class B status when a signage problem is reported by the retailer or OLG to Contractor and must be responded to and repaired within six (6) hours from the time the retailer or OLG notifies Contractor.
- (B) **Eight-Hour Response Requirement.** Terminals that are in a Class A or Class B status when a signage problem is reported by the retailer or OLG to Contractor and must be responded to and repaired within eight (8) hours from the time the retailer or OLG notifies Contractor .

(b) **Damages.** Liquidated damages may be assessed for the failure to respond to a service call within the time frames set forth in this section. “Damage down time” means the number of minutes in excess of the maximum number of minutes allowed for resolution of any event, as set forth above. Liquidated damages shall be assessed based on the average weekly previous 52 week’s sales, divided by 8,400 (the weekly total minutes of operation), multiplied by the number of minutes of damage down time.

- (1) Liquidated damages for any retailer with less than a 52-week sales history will be calculated using the average of the total number of sales weeks available.
- (2) **Escalation of Damages for High Sales Volume Events.** On the day of any failure where the jackpot for any draw game exceeds the amounts listed below, damages assessed for failure to repair will be increased by the factors in the table below. In cases where this section applies to more than one lottery draw game, the higher percentage factor shall be used to determine escalation charges.

| <b>Lottery Multi-State Games Jackpot</b> | <b>Increase Factor</b> |
|--|------------------------|
| \$500 Million up to \$750 Million        | 150%                   |
| Over \$750 Million                       | 200%                   |

**H.17.16 Terminal Preventive Maintenance**

- (a) **Condition.** Contractor shall complete preventive maintenance cycle for retailer terminals.
- (b) **Damages.** If there is delay for any retailer terminal scheduled preventive maintenance that exceeds the planned maintenance day by thirty (30) days or more, then the OLG may impose liquidated damages of up to one hundred (\$100) dollars per day until the condition is rectified.

**H.17.17 Terminal Installation and Moves**

- (a) **Condition.** Contractor shall install or move all retailer terminals within five (5) working days of notification from OLG.
- (b) **Damages.** If Contractor fails to install or move retailer terminals within the prescribed time limit, OLG may impose liquidated damages of up to \$150 per day per each effected terminal.

**H.17.18 Failure to Modify Existing Games or to Install Additional Games**

- (a) **Condition.** Contractor shall accurately modify and convert existing games or accurately install additional games (and their supporting controls) in accordance with the agreed upon release schedule.
- (b) **Damages.** OLG may assess liquidated damages in amount of up to five thousand dollars (\$5,000) per day that the upgrades, modifications or installations are not completed. Contractor is not subject to liquidated damages under this provision if OLG opts to release the change at a later time than the agreed-upon schedule

**H.17.19 Failure to Produce an Administrative Software Change**

- (a) **Condition.** Contractor shall modify or add software to produce reports, screen displays, inquiries, and other administrative applications in accordance with an agreed upon release schedule. Contractor's change must complete UAT and receive the OLG's written approval, within the time frame specified therein.
- (b) **Damages.** OLG may assess liquidated damages in an amount of up to five hundred dollars (\$500) per day that the modified or additional software is not installed.

**H.17.20 Failure to Support an Instant Ticket Game**

- (a) **Condition.** Contractor must ensure that instant ticket games are properly converted and supported. The System must handle instant ticket transactions and produce reports for all games ordered by the OLG from its instant ticket supplier(s).
- (b) **Damages.** OLG may assess liquidated damages in an amount of up to ten thousand dollars (\$10,000) per day per game for any instant game(s) for which Contractor does not provide timely and/or correct instant ticket transaction handling and reporting.

**H.17.21 Unauthorized Software/Hardware Modifications**

- (a) **Condition.** The Offeror shall not modify any software or hardware without the prior, authorized written consent of the OLG.
- (b) **Damages.** OLG may assess liquidated damages in an amount of up to fifty thousand dollars (\$50,000) per violation in addition to any other damages that may occur as a result of such unauthorized modification.

**H.17.22 Unauthorized Access or Compromise**

- (a) **Condition.** Contractor shall preclude any persons, not authorized by OLG, from accessing, modifying, or otherwise interfering with any System, Test System, and any data or software. Each person and every act that permits access, modification, or interference by an unauthorized person is an incident.
- (b) **Damages.** OLG may assess liquidated damages in an amount of up to one hundred thousand dollars (\$100,000) per person, for each incident.

**H.17.23 Supply Shortage**

- (a) **Condition.** Contractor shall furnish the retailers, or cause the same to be done, any essential supplies, and Consumables for all games and wagers for which Contractor is responsible for supplying (not including instant tickets or point-of-sale advertising materials).
- (b) **Damages.** OLG may assess liquidated damages in an amount of up to three hundred dollars (\$300) per retailer per day or on a prorated basis for any portion of a day for failure to deliver supplies and Consumables.

**H.17.24 Failure to Report Incidents**

- (a) **Condition.** Contractor shall immediately report all significant incidents related to the operation of the System in accordance with Section C.6.19(b), Security Breach. At a minimum, each of the following types of events shall require a written report:
  - (1) System takeovers/failovers;
  - (2) Major communications failures;
  - (3) Significant operator errors;
  - (4) Out-of-balance conditions;
  - (5) Emergency software or hardware changes;
  - (6) Security violations;
  - (7) Other conditions as defined by a Memorandum of Understanding, if any; or

(8) Any situation which Contractor believes may cause the general public to become alarmed or which may damage the integrity or public image of OLG.

(b) **Damages.** OLG may assess liquidated damages in an amount of up to ten thousand dollars (\$10,000) per day or prorated fraction thereof, until an incident is correctly reported from the time of the incident.

#### H.17.25 **Failure to Provide Software Testing and Quality Software Turnovers**

(a) **Condition.** Contractor shall provide a quality assurance test plan, a report on the quality assurance test, and quality-tested software in accordance with the agreed upon release schedule.

(b) **Damages.** OLG may assess liquidated damages in an amount of up to five thousand dollars (\$5,000) for each violation (return or retraction of the software).

#### H.17.26 **UAT Environment**

(a) **Condition.** All integral parts of the UAT environment must be made available by Contractor for the use of OLG at the beginning of UAT testing and throughout the UAT process during normal business hours. This includes the UAT server(s), all communication types, terminals, and requested data as agreed by Contractor and the OLG.

(b) **Damages.** OLG may assess liquidated damages in an amount of up to two thousand dollars (\$2,000) per day that any element of the UAT environment is unavailable.

#### H.17.27 **Audit Recommendation Compliance**

(a) **Condition.** Contractor shall comply with any audit recommendations, according to the schedule established by OLG. Contractor and OLG may discuss audit recommendations and OLG may, after evaluating the associated risks and costs, elect to waive some or all recommendations.

(b) **Damages.** OLG may assess liquidated damages in an amount of up to two thousand five-hundred dollars (\$2500) per week for each recommendation with which Contractor fails to timely comply with an audit recommendation.

#### H.17.28 **Unapproved Claimed Tickets**

(a) **Condition.** The gaming System shall neither produce nor validate a ticket that OLG does not determine to be a valid winning game according to its rules and prize claim procedures.

(b) **Damages.** OLG may assess liquidated damages in an amount up to the amount of the ticket as well as any associated damages OLG incurs in investigating or curing the situation (including prize or wager payment).

**H.17.29 Defective or Non-Conforming Ticket**

- (a) **Condition.** The gaming System shall not produce defective or non-conforming tickets due to any terminal equipment or printer malfunction or failure that causes loss of revenue or the inability to pay appropriate prizes.
- (b) **Damages.** OLG may assess liquidated damages in an amount of up to twenty-five thousand dollars (\$25,000) per incident.

**H.17.30 Non-represented tickets**

- (a) **Condition.** Contractor shall be liable for all non-altered winning tickets printed or issued by the gaming System and presented for redemption which are not identified as valid, winning, saleable tickets on the transaction master log files and validation files furnished to the OLG by Contractor.
- (b) **Damages.** Contractor shall pay all prize costs for any such ticket and shall pay any additional costs incurred by OLG.

**H.17.31 Failure to Comply with Security Requirements**

- (a) **Condition.** Contractor shall provide, install and maintain all security requirements as set forth in the Contract and as approved by the OLG Director of Regulation and Oversight and the OLG Executive Director. Upon receipt of written notification from the OLG Director of Regulation and Oversight of new security requirements or modifications to existing security requirements, Contractor shall have a maximum of 30 (thirty) calendar days to come into full compliance with the new or modified security requirements.
- (b) **Damages.** OLG may assess liquidated damages in an amount of up to one thousand dollars (\$1,000) per day per violation.

**H.17.32 Compliance with MUSL Minimum Security Standards**

- (a) **Condition.** All Contractor services, products, Systems, and shall comply with MUSL Minimum Game Security Standards current at the time of Contract performance and as may be changed during the term of the Contract.
- (b) **Damages.** OLG may assess liquidated damages in an amount of up to two thousand dollars (\$2,000) per day, per violation.

**H.17.33 Instant Ticket Validation System**

- (a) **Condition.** The terminal network is unable to accept or transmit instant ticket transactions during normal draw game operation sales hours, as specified by OLG, and the malfunction is due to Contractor failure.
- (b) **Damages.** OLG may assess liquidated damages in an amount of up to up to one thousand dollars (\$1,000) per hour of cumulative network down where the network is

unable to accept or transmit instant ticket transactions. Cumulative network down time shall mean the sum of all network down time (whether or not consecutive) during the day's operational sales period in excess of 15 (fifteen) minutes per day.

## **H.18 AUDIT REQUIREMENTS**

H.18.1 Contractor shall, at a minimum, meet specific auditing and accounting obligations as specified below:

- (a) Contractor shall have a complete corporate financial audit conducted annually, at its own expense. The audit must follow generally accepted auditing standards (GAAS), or the appropriate non-U.S. equivalent. A copy of Contractor's certified financial statements shall be provided within one quarter after the close of Contractor's fiscal year.
- (b) Contractor shall provide OLG with Securities and Exchange Commission (SEC) 10-K reports (or the appropriate non-U.S. equivalent) as they are issued, together with any other reports required pursuant to Section 13 of the Securities and Exchange Act of 1934, as amended.
- (c) Contractor shall have a complete internal control audit conducted annually of Contractor's Districts operations by an independent certified public accounting firm (CPA), at its own expense. Contractor shall suggest, for OLG's approval, the firm(s) to perform work, and the controls included for evaluation of operation effectiveness. This audit shall be conducted pursuant to Statement on Standards for Attestation Engagements (SSAE) No. 21 (SOC 1: SSAE 21 Type 2 Examination, and SOC 2: SSAE 21 Type 2 Examination) or its successor document, as issued by the American Institute of Certified Public Accountants. The audit shall cover a one (1) year time period. OLG reserves the right to require the first internal control audit to be conducted prior to Conversion to the new System (an SSAE 21 SOC 1 Type 2 and SOC 2 Type 2 Examination), at no cost to OLG. Contractor must provide OLG with copies of the SOC I Type 2, and SOC 2 type 2 (or its successor document) immediately after the reports have been finalized by the contracted CPA firm.
- (d) Contractor and its authorized Subcontractors shall maintain its books, records and all other evidence pertaining to the Contract in accordance with generally accepted accounting principles (GAAP) (or the appropriate non-U.S. equivalent) and such other procedures specified by OLG. These records shall be available to OLG, its internal auditors or external auditors, the Office of the Inspector General (and other designees) at all times during the Contract period and for five (5) years from the Contract expiration date or final payment on the Contract, whichever is later.
- (e) OLG may contract with an independent firm to perform an OLG security audit every two (2) years. Contractor's site and System(s) shall be included in the scope of this audit. The audit will be conducted at OLG's expense. Contractor shall cooperate with any such audits and to correct all audit findings on the date specified by OLG, at no expense to OLG.



**H.19 PERFORMANCE BOND**

H.19.1 The Contractor shall provide a performance bond in the amount of ten million dollars (\$10,000,000).

H.19.2 The bond shall be maintained in full force and effect for the initial term and any and all renewal terms of the Contract. The bond may be renewable on an annual basis provided that Contractor provides OLG with a renewed bond that is immediately effective upon expiration of the prior bond. Such renewed bond shall be provided to OLG prior to the expiration of the previous bond. The bond shall be forfeited to OLG if Contractor fails to perform as required by the Contract. Neither non-renewal by the surety, nor failure or inability of the Principal to file a replacement bond in the event the surety exercises its right to not renew this Bond, shall itself constitute a loss to the Obligee recoverable under this bond or any extension. If Contractor defaults in the performance of its contractual obligations or if OLG incurs damages due to the Contractor's breach of its duties, the surety shall have the option to cure the default or tender funds sufficient to pay the cost of completion, up to an amount not to exceed the penal sum of the bond. With the concurrence of OLG, the surety may assume the remainder of the contract to perform or sublet.

H.19.3 The Contractor shall provide evidence of all required coverage under the performance bond within fourteen (14) days of contract award.

H.19.4 OLG may in its discretion accept a Non-Revocable Letter of Credit in lieu of a performance bond if it is issued by a financial institution that is acceptable to the OLG and the Contracting Officer agrees, in writing, to the terms of the Non-Revocable Letter of Credit.

H.19.5 All required bonds shall be issued by companies or financial institutions which are financially rated A-VIII or better as rated by A.M. Best Company and duly licensed, admitted, and authorized to do business in the District of Columbia. The Government of the District of Columbia shall be named as the Obligee in each required bond. Contractor shall submit required bonds when and as provided in herein.

## SECTION I

### CONTRACT CLAUSES

#### **I.1 LAWS AND REGULATIONS INCORPORATED BY REFERENCE**

To the extent applicable, the provisions of the following acts, together with the provisions of applicable regulations made pursuant to said acts are hereby incorporated by reference into this contract; together with the laws and regulations of the District of Columbia:

- A. Contract Work Standards Act of August 13, 1962, also known as the Contract Work Hours and Safety Standards Act of 1962, 76 Stat. 357-360.
- B. Buy American Act, Act of March 3, 1983, c.212, Title III, 47 Stat. 1520, as amended.
- C. Walsh-Healy Public Contracts Act, Act of June 30, 1936, c.881, 49 Stat. 2036, as amended. (Applies only when contract is \$10,000 or more).
- D. Mayor's Order 85-85, dated June 10, 1985, as amended, entitled: "Compliance with Equal Opportunity Obligations in Contracts."
- E. Public Law 93-112, Rehabilitation Act of 1973, Section 504, as amended.
- F. Mayor's Order 83-265, dated November 9, 1983 entitled: Employment Agreement Goals and Objectives for all District of Columbia Projects."
- G. D.C. Law 5-93, dated May 9, 1984, the First Source Employment Agreement Act of 1984.
- H. Protecting Pregnant Workers Fairness Act of 2016, D.C. Official Code § 32-1231.01 et seq. (PPWF Act)
- I. Unemployed Anti-Discrimination Act of 2012, D.C. Official Code § 32-1361 et seq.
- J. Fair Criminal Record Screening Amendment Act of 2014, effective December 17, 2014 (D.C. Law 20-152)
- K. Title I of the Way to Work Amendment Act of 2006, effective June 8, 2006 (D.C. Law 16-118, D.C. Official Code §2-220.01 et seq.), as amended, ("Living Wage Act of 2006") which applies to all contracts for services in the amount \$100,000 or more in a 12-month period. The current living wage rate, the Living Wage Act Fact Sheet which includes exemption information, and the Living Wage Act Poster may be found at <https://does.dc.gov/service/office-wage-hour-compliance-0> or contact the Department of Employment Services at (202) 724-7000.

**I.2 WAIVER**

The waiver of any breach of the contract will not constitute a waiver of any subsequent breach thereof, or a waiver of the contract.

**I.3 INDEMNIFICATION**

I.3.1 The Contractor agrees to defend, indemnify and hold harmless the District, its officers, agencies, departments, agents, and employees (collectively the “District”) from and against any and all claims, losses, liabilities, penalties, fines, forfeitures, demands, causes of action, suits, costs and expenses incidental thereto (including cost of defense and attorneys’ fees), resulting from, arising out of, or in any way connected to activities or work performed by the Contractor, Contractor’s officers, employees, agents, servants, subcontractors, or any other person acting for or by permission of the Contractor in performance of this Contract. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed in performance of this Contract. The Contractor shall also repair or replace any District property that is damaged by the Contractor, Contractor’s officers, employees, agents, servants, subcontractors, or any other person acting for or by permission of the Contractor while performing work hereunder.

I.3.2 The indemnification obligation under this section shall not be limited by the existence of any insurance policy or by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor, and shall survive the termination of this Contract. The District agrees to give Contractor written notice of any claim of indemnity under this section. Additionally, Contractor shall have the right and sole authority to control the defense or settlement of such claim, provided that no contribution or action by the District is required in connection with the settlement. Monies due or to become due the Contractor under the contract may be retained by the District as necessary to satisfy any outstanding claim which the District may have against the Contractor.

**I.4 TRANSFER**

No contract or any interest therein shall be transferred by the parties to whom the award is made; such transfer will be null and void and will be cause to annul the contract.

**I.5 TAXES**

- (a) The Government of the District of Columbia is exempt from and will not pay Federal Excise Tax, Transportation Tax, and the District of Columbia Sales and Use Taxes.
- (b) Tax exemption certificates are no longer issued by the District for Federal Excise Tax. The following statement may be used by the supplier when claiming tax deductions for Federal Excise Tax exempt items sold to the District.

“The District of Columbia Government is Exempt from Federal Excise Tax –  
Registration No. 52-73-0206-K, Internal Revenue Service, Baltimore, Maryland.”

Exempt from Maryland Sales Tax, Registered with The Comptroller of The Treasury –  
Exemption No. 09339

“The District of Columbia Government is Exempt from Sales and Use Tax –  
Registration No. 53-600, The District of Columbia Office of Tax and Revenue.”

## **I.6 OFFICIALS NOT TO BENEFIT**

- I.6.1 Unless a determination is made as provided herein, no officer or employee of the District will be admitted to any share or part of this contract or to any benefit that may arise therefrom, and any contract made by the Contracting Officer or any District employee authorized to execute contracts in which they or an employee of the District will be personally interested shall be void, and no payment shall be made thereon by the District or any officer thereof, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit. A District employee shall not be a party to a contract with the District and will not knowingly cause or allow a business concern or other organization owned or substantially owned or controlled by the employee to be a party to such a contract, unless a written determination has been made by the head of the procuring agency that there is a compelling reason for contracting with the employee, such as when the District’s needs cannot reasonably otherwise be met. (Procurement Practices Reform Act of 2010, D.C. Law 18-0371, D.C. Official Code, section 2-359.10, and Chapter 18 of the DC Personnel Regulations)
- I.6.2 The Contractor represents and covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants not to employ any person having such known interests in the performance of the contract.

## **I.7 DISPUTES**

All disputes arising under or relating to this contract shall be resolved as provided herein.

- (a) **Claims by a Contractor against the District:** Claim, as used in paragraph (a) of this clause, means a written assertion by the Contractor seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.
- (1) All claims by a Contractor against the District arising under or relating to a contract shall be in writing and shall be submitted to the Contracting Officer for a decision. The Contractor’s claim shall contain at least the following:
- (i) A description of the claim and the amount in dispute;
  - (ii) Data or other information in support of the claim;
  - (iii) A brief description of the Contractor’s efforts to resolve the dispute prior to filing the claim; and

- (iv) The Contractor's request for relief or other action by the Contracting Officer.
- (2) The Contracting Officer may meet with the Contractor in a further attempt to resolve the claim by agreement.
- (3) The Contracting Officer shall issue a decision on any claim within 120 calendar days after receipt of the claim. Whenever possible, the CO shall take into account factors such as the size and complexity of the claim and the adequacy of the information in support of the claim provided by the Contractor.
- (4) The Contracting Officer's written decision shall do the following:
  - (i) Provide a description of the claim or dispute;
  - (ii) Refer to the pertinent contract terms;
  - (iii) State the factual areas of agreement and disagreement;
  - (iv) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
  - (v) If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;
  - (vi) Indicate that the written document is the contracting officer's final decision; and
  - (vii) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.
- (5) Failure by the Contracting Officer to issue a decision on a contract claim within 120 days of receipt of the claim will be deemed to be a denial of the claim and will authorize the commencement of an appeal to the Contract Appeals Board as authorized by D.C. Official Code § 2-360.04.
- (6) If a Contractor is unable to support any part of his or her claim and it is determined that the inability is attributable to a material misrepresentation of fact or fraud on the part of the Contractor, the Contractor shall be liable to the District for an amount equal to the unsupported part of the claim in addition to all costs to the District attributable to the cost of reviewing that part of the Contractor's claim. Liability this paragraph (a)(6) shall be determined within six (6) years of the commission of the misrepresentation of fact or fraud.
- (7) Pending final decision of an appeal, action, or final settlement, a Contractor shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.
- (b) **Claims by the District against a Contractor:** Claim as used in paragraph (b) of this clause, means a written demand or written assertion by the District seeking, as a matter of right, the payment of money in a sum certain, the adjustment of contract terms, or

other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.

- (1) The Contracting Officer shall decide all claims by the District against a Contractor arising under or relating to a contract.
  - (2) The Contracting Officer shall send written notice of the claim to the Contractor. The Contracting Officer's written decision shall do the following:
    - (i) Provide a description of the claim or dispute;
    - (ii) Refer to the pertinent contract terms;
    - (iii) State the factual areas of agreement and disagreement;
    - (iv) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
    - (v) If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;
    - (vi) Indicate that the written document is the Contracting Officer's final decision; and
    - (vii) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.
  - (3) The Contracting Officer shall support the decision by reasons and shall inform the Contractor of its rights as provided herein.
  - (4) Before or after issuing the decision, the CO may meet with the Contractor to attempt to resolve the claim by agreement.
  - (5) The authority contained in this paragraph (b) shall not apply to a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another District agency is specifically authorized to administer, settle, or determine.
  - (6) This paragraph shall not authorize the Contracting Officer to settle, compromise, pay, or otherwise adjust any claim involving fraud.
- (c) Decisions of the Contracting Officer shall be final and not subject to review unless an administrative appeal or action for judicial review is timely commenced by the Contractor as authorized by D.C. Official Code §2-360.04.
  - (d) Pending final decision of an appeal, action, or final settlement, the Contractor shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.

## **I.8 CHANGES**

- (a) The CO may, at any time, by written order, and without notice to the surety, if any, make changes in the contract within the general scope hereof. If such change causes an increase or decrease in the cost of performance of the contract, or in the time required for performance, an equitable adjustment shall be made. Any claim for adjustment for a change within the general scope must be asserted within ten (10) days from the date the change is ordered; provided, however, that the CO, if he or she determines that the facts justify such action, may receive, consider, and adjust any such claim asserted at any time prior to the date of final settlement of the contract. If the parties fail to agree upon the adjustment to be made, the dispute shall be determined as provided in **Section I.7 Disputes**.
- (b) The District shall not require the Contractor, and the Contractor shall not require a subcontractor, to undertake any work that is beyond the original scope of the contract or subcontract, including work under a District-issued change order, when the additional work increases the contract price beyond the not-to-exceed price or negotiated maximum price of the contract, unless the CO:
  - (a) Agrees with the Contractor, and if applicable the subcontractor, on a price for the additional work;
  - (b) Obtains a certification of funding to pay for the additional work;
  - (c) Makes a written, binding commitment with the Contractor to pay for the additional work within thirty (30) days after the Contractor submits a proper invoice; and
  - (d) Provides the Contractor with written notice of the funding certification.
- (c) The Contractor shall include in its subcontracts a clause that requires the Contractor to:
  - (a) Within five (5) business days of its receipt of notice of the approved additional funding, provide the subcontractor with notice of the amount to be paid to the subcontractor for the additional work to be performed by the subcontractor;
  - (b) Pay the subcontractor any undisputed amount to which the subcontractor is entitled for the additional work within ten (10) days of receipt of payment from the District; and
  - (c) Notify the subcontractor and CO in writing of the reason(s) the Contractor withholds any payment from a subcontractor for the additional work.
- (d) Neither the District, Contractor, nor any subcontractor may declare another party to be in default, or assess, claim, or pursue damages for delays until the parties agree on a price for the additional work.

## **I.9 TERMINATION FOR DEFAULT**

- A. The District may, subject to the provisions of paragraph C., below, by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances: (i) If the Contractor fails to make delivery of the supplies or to perform the services within the time specified within the project work plan or any extension thereof; or (ii) If the Contractor fails to perform any of the other provisions of this contract, or

so fails to make progress as to endanger performance of this contract in accordance with its terms and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.

- B. In the event the District terminates this contract in whole or part as provided in paragraph A. above, the District may procure, upon such terms and in such manner as the Contracting Officer may deem appropriate, supplies or service similar to those so terminated; and the Contractor shall be liable to the District for any excess costs for similar supplies or services. Provided, that the Contractor shall continue the performance of this contract to the extent not terminated under provisions of this clause. The Contractor shall work with any subsequent contractor to ensure a smooth transfer of information for a period of sixty (60) days.
- C. Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the contractor. Such causes may include, but are not restricted to, acts of God or of public enemy, acts of the District or Federal Government in either their sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of the subcontractor, and if such default arises out of causes beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess cost for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.
- D. If this contract is terminated as provided in paragraph A., above, the District in addition to any other rights provided in this clause, may require the Contractor to transfer title and deliver to the District, in the manner and to the extent directed by the Contracting Officer, (i) completed supplies, (ii) such partially completed supplies and materials, information, and contract rights (herein after called "manufacturing materials") as the Contractor has specifically produced or specifically produced or specifically acquired for the performance being terminated; and the Contractor, shall, upon direction of the Contracting Officer, protect and preserve property in possession of the Contractor in which the District has an interest. Payment for completed supplies delivered to and accepted by the District shall be at the contract price. Payment for manufacturing materials delivered to and agreed upon by the Contractor and Contracting Officer; failure to agree to such amount shall be a dispute concerning a question of fact. The District may withhold from amounts otherwise due the Contractor for such completed supplies or manufacturing materials such sums as the Contracting Office determines to be necessary to protect the District against loss because of outstanding liens or claims of former lien holders.
- E. If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provision of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for a termination



for convenience be the same as if the notice of termination had been issued pursuant to such clause. Section I.10 “Termination for Convenience.”

- F. The rights and remedies of the District provided in this clause shall not be exclusive and are in addition to any rights and remedies provided by law or under this contract.
- G. As used in paragraph C., above, the terms “subcontractor” and “subcontractors” means subcontractor(s) at any tier.

**I.10 TERMINATION FOR CONVENIENCE**

(a) The District may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the District’s interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and effective date.

(b) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

- (1) Stop work as specified in the notice.
- (2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.
- (3) Terminate all contracts to the extent they relate to the work terminated.
- (4) Assign to the District, as directed by the Contracting Officer, all rights, title and interest of the Contractor under the subcontracts terminated, in which case the District will have the right to settle or pay any termination settlement proposal arising out of those terminations.
- (5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts. The approval or ratification will be final for purposes of this clause.
- (6) As directed by the Contracting Officer, transfer title and deliver to the District (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other materials produced or acquired for the work terminated, and (ii) the completed or partially completed plans, drawings, information, and other property that, if the contract has been completed, would be required to be furnished to the District.
- (7) Complete performance of the work not terminated.

(8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the District has or may acquire an interest.

(9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (6) above; provided, however, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the District under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

(c) After the expiration of ninety (90) days (or such longer period as may be agreed to) after receipt by the Contracting Officer of acceptable inventory schedules, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality of termination inventory not previously disposed of excluding items authorized for disposition by the Contracting Officer. The Contractor may request the District to remove those items or enter into an agreement for their storage. Within fifteen (15) days, the District will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within forty-five (45) days from submission of the list, and shall correct the list, as necessary, before final settlement.

(d) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than one year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this one-year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after one year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due to the Contractor because of the termination and shall pay the amount determined.

(e) Subject to paragraph (d) above, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (e) or paragraph (f) below, exclusive of costs shown in subparagraph (f)(3) below, may not exceed the total contract price as reduced by (1) the amount of payment previously made and (2) the contract price of work not terminated. The contract shall be amended, and the Contractor paid the agreed amount. Paragraph (f) below shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.

(f) If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid because of the termination work, the Contracting Officer shall pay the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph (e) above:

(1) The contract price for completed supplies or services accepted by the District (or sold or acquired under subparagraph (b)(9) above) not previously paid for, adjusted for any saving of freight and other charges.

(2) The total of :

(i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under subparagraph (f)(1) above;

(ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subparagraph (f)(1) above; and

(iii) A sum, as profit on subparagraph f(1) above, determined by the Contracting Officer to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subparagraph (iii) and shall reduce the settlement to reflect the indicated rate of loss.

(3) The reasonable cost of settlement of the work terminated, including-

(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(ii) The termination and settlement of subcontractors (excluding the amounts of such settlements); and

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

(g) Except for normal spoilage, and except to the extent that the District expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (f) above, the fair value as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the District or to a buyer.

(h) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraphs (d), (f) or (j), except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (d) or (j), and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraph (d), (f) or (j), the District will pay the Contractor (1) the amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken, or (2) the amount finally determined on an appeal.

(i) In arriving at the amount due the Contractor under this clause, there shall be deducted:

- (1) All unliquidated advances or other payments to the Contractor under the termination portion of the contract;
- (2) Any claim which the District has against the Contractor under this contract; and
- (3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the District.

(j) If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within ninety (90) days from the effective date of termination unless extended in writing by the Contracting Officer.

(k) (1) The District may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor shall be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the District upon demand together with interest computed at the rate of 10 percent (10%) per year. Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess payment is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

(l) Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these records and documents available to the District, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, micrographs, or other authentic reproductions may be maintained instead of original records and documents.

#### **I.11 TERMINATION OF CONTRACTS FOR CERTAIN CRIMES AND VIOLATIONS**

A. The District may terminate without liability any contract and may deduct from the contract price or otherwise recover the full amount of any fee, commission, percentage, gift, or consideration paid in violation of this title if:

(1) the Contractor has been convicted of a crime arising out of or in connection with the procurement of any work to be done or any payment made under this contract.

(2) There has been any breach or violation of:

(A) Any provision of the District of Columbia Procurement Practices Reform Act of 2010, (D.C. Law 18-371; D.C. Official Code §§ 2-351.01, et seq., or

(B) The contract provision against contingent fees.

- B. If a contract is terminated pursuant to this section, the Contractor: (i) May be paid only the actual costs of the work performed to the date of termination, plus termination costs, if any; and (ii) shall refund all profits or fixed fees realized under the contract.
- C. The rights and remedies contained in this Clause are in addition to any other rights or remedies provided by law, and the exercise of any of them is not a waiver of any other right or remedy provided by law.

## **I.12 EXAMINATION OF THE BOOKS**

I.12.1 The Contractor shall establish and maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting principles and practices which sufficiently and properly reflect all revenues and expenditures of funds provided by the District under the contract that results from this solicitation. The Contractor shall retain all records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to the contract for a period of three (3) years after termination of the contract, or if an audit has been initiated and audit findings have not been resolved at the end of three (3) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of the contract. The Contractor shall assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, District, or other personnel duly authorized by the Contracting Officer.

I.12.2 The Contracting Officer, the DC Inspector General, OCFO, and the District of Columbia Auditor, and/or any of their duly authorized representatives shall, until three years after final payment, have the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to the contract.

## **I.13 NON-DISCRIMINATION CLAUSE**

- (a) The Contractor shall not discriminate in any manner against any employee or applicant for employment that would constitute a violation of the District of Columbia Human Rights Act, approved December 13, 1977, as amended (D.C. Law 2-38; D.C. Official Code §2-1402.11) (2001 Ed.) (“Act” as used in this Section). The Contractor shall include a similar clause in all subcontracts, except subcontracts for standard commercial supplies or raw materials. In addition, Contractor agrees and any subcontractor shall agree to post in conspicuous places, available to employees and applicants for

employment, notice setting forth the provisions of this non-discrimination clause as provided in Section 251 of the Act.

- (b) Pursuant to rules of the Office of Human Rights, published on August 15, 1986 in the D.C. Register, Mayor's Order 2002-175 (10/23/02), 49 DCR 9883 and Mayor's Order 2006-151 (11/17/06), 52 DCR 9351, the following clauses apply to this contract:
- (1) The Contractor shall not discriminate against any employee or applicant for employment because of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, disability, matriculation, political affiliation, genetic information, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act.
  - (2) The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, disability, matriculation, political affiliation, genetic information, source of income, or place of residence or business.  
  
The affirmative action shall include, but not be limited to the following:
    - (a) employment, upgrading or transfer;
    - (b) recruitment or recruitment advertising;
    - (c) demotion, layoff, or termination;
    - (d) rates of pay, or other forms of compensation; and
    - (e) selection for training and apprenticeship.
  - (3) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Agency, setting forth the provisions in subsections (b)(1) and (b)(2) concerning non-discrimination and affirmative action.
  - (4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment pursuant to the non-discrimination requirements set forth in subsection (b)(2).

- (5) The Contractor agrees to send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the contracting agency, advising the said labor union or workers' representative of that contractor's commitments under this nondiscrimination clause and the Act, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (6) The Contractor agrees to permit access to his books, records and accounts pertaining to its employment practices, by the Chief Procurement Officer or designee, or the Director of Human Rights or designee, for purposes of investigation to ascertain compliance with this chapter, and to require under the terms of any subcontractor agreement each subcontractor to permit access of such subcontractor's books, records, and accounts for such purposes.
- (7) The Contractor agrees to comply with the provisions of this chapter and with all guidelines for equal employment opportunity applicable in the District of Columbia adopted by the Director of the Office of Human Rights, or any authorized official.
- (8) The Contractor shall include in every subcontract the equal opportunity clauses, subsections (b)(1) through (b)(9) of this section, so that such provisions shall be binding upon each subcontractor or vendor.
- (9) The Contractor shall take such action with respect to any subcontract as the Contracting Officer may direct as a means of enforcing these provisions, including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or Contractor as a result of such direction by the Contracting Officer, the Contractor may request the District to enter into such litigation to protect the interest of the District.

#### **I.14 SERVICE CONTRACT ACT OF 1965**

##### Definitions:

“Act”, as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. 351- 358). “Contractor” as used in this clause, means the prime Contractor or any subcontractor at any tier. “Service employee” as used in this clause, means any person (other than a person employed in a bona fide executive, administrative, or professional capacity as defined in 29 CFR 541) engaged in performing a Government contract nor exempted under 41 U.S.C. 356, the principal purpose of which is to furnish services in the United States as defined in section 22.1001 of the Federal Acquisition Regulation. It includes all such persons regardless of the actual or alleged contractual relationship between them and a contractor.

- (1) **Applicability.** To the extent that the Act applies, this contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of

the Secretary of Labor (29CFR 4). All interpretations of the Act in Subpart C of 29 CFR 4 are incorporated in this contract by reference. This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C, 29 CFR 4.

- (2) **Compensation:** (i) The Contractor shall pay not less than the minimum wage and shall furnish fringe benefits to each service employee under this contract in accordance with wages and benefits determined by the Secretary of Labor or the Secretary's authorized representative, as specified in any attachments to this contract; (ii) If there is an attachment, the Contractor shall classify any class of service employees not listed in it, but to be employed under this contract. The classification shall provide a reasonable relationship to those listed in the attachment. The Contractor shall pay that class wages and fringe benefits determined by agreement of the interested parties: The contracting agency, the Contractor, and the employees who will perform the contract or their representatives. If the interested parties do not agree, the Contracting Officer shall submit the question, with a recommendation for final determination to the Office of Government Contract Wage Standards, Wage and Hour Division Employment Standards Administration (ESA), and the Department of Labor. Failure to pay such employees the compensation agreed upon by the interested parties or finally determined by ESA is a contract violation. (iii) If the term of this contract is more than one (1) year, the minimum wages and fringe benefits required for service employees under this contract shall be subject to adjustment after 1 year and not less often than once every two (2) years under wage determinations issued by ESA.
- (3) **Minimum Wage.** In the absence of a minimum wage attachment for this contract, the Contractor shall not pay any service or other employees performing this contract less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206). Nothing in this clause shall relieve the Contractor of any other legal or contractual obligations to pay a higher wage to any employee.
- D. **Successor Contracts.** If this contract succeeds a contract subject to the Act under which substantially the same services were furnished and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, then, in the absence of a minimum wage attachment to this contract, the Contractor may not pay any service employee performing this contract less than the wages and benefits, including those accrued and any prospective increases, provided for under that agreement. No Contractor may be relieved of this obligation unless the limitations of 29 CFR 4.1c (b) apply or unless the Secretary of Labor or the Secretary's authorized representative - (i) Determines that the agreement under the predecessor was not the result of arms-length negotiations, or (ii) Finds, after a hearing under 29 CFR 4.10, that the wages and benefits provided for by that agreement vary substantially from those prevailing for similar services in the locality.
- (1) **Notification to Employees.** The Contractor shall notify each service employee commencing work on this contract of the minimum wage and any fringe benefits required to be paid, or shall post a notice of these wages and benefits in a prominent and



accessible place at the work site, using such poster as may be provided by the Department of Labor.

- (2) **Safe and sanitary working conditions.** The Contractor shall not permit services called for by this contract to be performed in building or surroundings or under working conditions provided by or under the control or supervision of the Contractor that are unsanitary, hazardous, or dangerous to the health or safety of service employees. The Contractor shall comply with the health standards applied under 29 CFR Part 1925.
- (d) **Records.** The Contractor shall maintain for three (3) years from the completion of the work, and make available for inspection and transcription by authorized ESA representatives, a record of the following:
- (i) For each employee subject to the Act –
    - (a) Name and address;
    - (b) Work classification or classifications, rate or rates of wages and fringe benefits provided;
    - (c) Rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;
    - (d) Daily and weekly hours worked; and
    - (e) Any deductions, rebates, or refunds from total daily and weekly compensation.
  - (ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by ESA under the terms of paragraph (B)(iii) of this clause. A copy of the report required by paragraph (D) of this clause will fulfill this requirement.
- H. **Withholding of Payments and Termination of Contract:** The Contracting Officer shall withhold from the prime contractor under this or any other government contract with the prime contractor any sums the Contracting Officer, or an appropriate officer of the Labor Department, decides may be necessary to pay underpaid employees. Additionally, any failure to comply with the requirements of this clause may be grounds for termination for default.
- I. **Contractor's Report:** (i) If there is a wage determination attachment to this contract and any classes of service employees not listed on it are to be employed under the contract, the Contractor shall report promptly to the Contracting Officer the wages to be paid and the fringe benefits to be provided each of these classes, when determined under paragraph C. of this clause. (ii) If wages to be paid or fringe benefits to be furnished any service employee(s) under the contract are covered in collective

bargaining agreement effective at any time when the contract is being performed, the prime Contractor shall provide to the Contracting Officer a copy of the agreement and full information on the application and accrual of wages and benefits (including any prospective increases) to service employees working on the contract. The prime Contractor shall report when contract performance begins, in the case of agreements then in effect, and shall report subsequently effective agreements, provisions, or amendments promptly after they are negotiated.

- B. **Variations, tolerances, and exemptions involving employment:** Notwithstanding any of the provisions in this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions authorized by the Secretary of Labor: (i) In accordance with regulations issued under Section 14, of the Fair Labor Standards Act of 1938 by the Administrator of the Wage and Hour Division, ESA(29 CFR 520, 521, 524 and 525), apprentices, student learners, and workers whose earning capacity is impaired by age or by physical or mental deficiency or injury, may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Service Contract Act, without diminishing any fringe benefits or payments in lieu of these benefits required under section 2(a)(2) of the Act. (ii) The Administrator will issue certificates under the Act for employing apprentices, and student learners, disabled persons, or disabled clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of minimum wages, but without changing requirements concerning fringe benefits for supplementary cash payments in lieu of these benefits; (iii) The Administrator may also withdraw, annul, or cancel such certificates under 29 CFR 525 and 528; and (iv) an employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips credited by the employer against the minimum wage required by section 2(a)(1) of the Act or section 2(b)(1) of the Act, in accordance with regulations in 29 CFR 531. However, the amount of credit shall not exceed 40 percent of the minimum rate specified in section 6(a) (1) of the Fair Labor Standards Act of 1938, as amended.

#### **I.15 RECOVERY OF DEBTS OWED THE DISTRICT**

The Contractor hereby agrees that the District may use all or any portion of any consideration or refund due the Contractor under the present contract to satisfy in whole or part, any debt due the District.

#### **I.16 NON-DISCLOSURE AGREEMENT**

- A. The Contractor shall maintain as confidential, and shall not disclose to third parties without the District's prior written consent, any District information including, but not limited to, the District's business activities, practices, Systems, conditions, products, services, public information and education plans and related materials, and game and marketing plans.
- B. The Contractor shall at all times obtain the prior written approval from the Contracting Officer before it, any of its officers, agents, employees or subcontractors, either during or after expiration or termination of the contract, make any statement, or issue any material,

for publication through any medium of communication, bearing on the work performed or data collected under this contract.

- C. No information regarding the Contractor's performance of the contract shall be disclosed by the Contractor to anyone other than District Government officials unless written approval is obtained in advance from the Contracting Officer.
- D. The District shall ensure that its personnel do not disclose to any non-District person or organization information concerning the process the Contractor uses to provide services under the awarded contract.
- E. Contractor's nondisclosure requirements under this subsection shall not apply to any District materials that are (through no fault of Contractor) already in the public domain at the time of Contractor's receipt of such materials and/or where such disclosure is required by applicable law or regulation.

**I.17 RESERVED**

**I.18 RIGHTS IN DATA**

**7. Definitions**

1. "Products" - A deliverable under any contract that may include commodities, services and/or technology furnished by or through Contractor, including existing and custom Products, such as, but not limited to: a) recorded information, regardless of form or the media on which it may be recorded; b) document research; c) experimental, developmental, or engineering work; d) licensed software; e) components of the hardware environment; f) printed materials (including but not limited to training manuals, System and user documentation, reports, drawings); g) third party software; h) modifications, customizations, custom programs, program listings, programming tools, data, modules, components; and i) any intellectual property embodied therein, whether in tangible or intangible form, including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, source code, and object code.

2. "Existing Products" - Tangible Products and intangible licensed Products that exist prior to the commencement of work under the contract. Existing Products must be identified on the Product prior to commencement of work or else will be presumed to be Custom Products.

3. "Custom Products" - Products, preliminary, final or otherwise, which are created or developed by Contractor, its subcontractors, partners, employees, resellers or agents for the District under the contract.

4. "District" - The District of Columbia and its agencies.

## **8. Title to Project Deliverables**

The Contractor acknowledges that it is commissioned by the District to perform services detailed in the contract. The District shall have ownership and rights for the duration set forth in the contract to use, copy, modify, distribute, or adapt Products as follows:

1. Existing Products: Title to all Existing Licensed Product(s), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall: (1) remain with Contractor or third party proprietary owner, who retains all rights, title and interest (including patent, trademark or copyrights). Effective upon payment, the District is granted an irrevocable, non-exclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, adapt (unless Contractor advises the District as part of Contractor's proposal that adaptation will violate existing agreements or statutes and Contractor demonstrates such to the District's satisfaction) and distribute Existing Product to District users up to the license capacity stated in the contract with all license rights necessary to fully effect the general business purpose(s) of the project or work plan or contract; and (2) be licensed in the name of the District. The District agrees to reproduce the copyright notice and any other legend of ownership on any copies authorized under this paragraph.

2. Custom Products: Effective upon Product creation, Contractor hereby conveys, assigns, and transfers to the District the sole and exclusive rights, title and interest in Custom Product(s), whether preliminary, final or otherwise, including all patent, trademark and copyrights. Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction and marketing by or through Contractor.

## **9. Transfers or Assignments of Existing or Custom Products by the District**

The District may transfer or assign Existing or Custom Products and the licenses thereunder to another District agency. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under a project or work plan in the course of Contractor's business.

## **10. Subcontractor Rights**

Whenever any data, including computer software, are to be obtained from a subcontractor under the contract, the Contractor shall use this clause, **Rights in Data**, in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the District's or the Contractor's rights in that subcontractor data or computer software which is required for the District.

**11. Source Code Escrow**

1. For all computer software furnished to the District with the rights specified in section B.2, the Contractor shall furnish to the District, a copy of the source code with such rights of the scope as specified in section B.2 of this clause. For all computer software furnished to the District with the restricted rights specified in section B.1 of this clause, the District, if the Contractor either directly or through a successor or affiliate shall cease to provide the maintenance or warranty services provided the District under the contract or any paid-up maintenance agreement, or if the Contractor should be declared insolvent by a court of competent jurisdiction, shall have the right to obtain, for its own and sole use only, a single copy of the current version of the source code supplied under the contract, and a single copy of the documentation associated therewith, upon payment to the person in control of the source code the reasonable cost of making each copy.

2. If the Contractor or Product manufacturer/developer of software furnished to the District with the rights specified in section B.1 of this clause offers the source code or source code escrow to any other commercial customers, the Contractor shall either: (1) provide the District with the source code for the Product; (2) place the source code in a third party escrow arrangement with a designated escrow agent who shall be named and identified to the District, and who shall be directed to release the deposited source code in accordance with a standard escrow arrangement acceptable to the District; or (3) will certify to the District that the Product manufacturer/ developer has named the District as a named beneficiary of an established escrow arrangement with its designated escrow agent who shall be named and identified to the District, and who shall be directed to release the deposited source code in accordance with the terms of escrow.

3. The Contractor shall update the source code, as well as any corrections or enhancements to the source code, for each new release of the Product in the same manner as provided above, and certify such updating of escrow to the District in writing.

**12. Indemnification and Limitation of Liability**

The Contractor shall indemnify and save and hold harmless the District, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this contract, or (ii) based upon any data furnished under this contract, or based upon libelous or other unlawful matter contained in such data.

**I.19 RESERVED**

**I.20 RESERVED**

**I.21 APPROPRIATION OF FUNDS**

The District's liability under this contract is contingent upon the future availability of appropriated monies with which to make payment for the contract purposes. The legal liability on the part of the District for payment of any money shall not arise unless and until such monies shall have been provided. The District's obligation to pay under this contract is subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§1341, 1342, 1349, 1351; (ii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 – 355.08 (2001); (iii) D.C. Official Code § 47-105 (2001); and (iv) D.C. Official Code § 1-204.46 (2001), as the foregoing statutes may be amended from time to time. Any expenditures under the contract in excess of the encumbered budget authority are subject to appropriation or additional budget authority.

**I.22 MULTIYEAR CONTRACT**

If funds are not appropriated or otherwise made available for the continued performance in a subsequent year of a multiyear contract, the contract for the subsequent year shall be terminated, either automatically or in accordance with the termination clause of this contract. Unless otherwise provided for in this contract, the effect of termination is to discharge both the District and the Contractor from future performance of the Contract, but not from their existing obligations. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred, but not amortized in the price of the supplies or services delivered under the Contract.

**I.23 RESERVED**

**I.24 CONTRACTS IN EXCESS OF \$1 MILLION DOLLARS**

Any contract in excess of one million dollars (\$1,000,000) within a 12-month period shall not be binding or give rise to any claim or demand against the District unless first approved by the Council of the District of Columbia and signed by the Contracting Officer.

**I.25 CONTRACTS THAT CROSS FISCAL YEARS**

Continuation of this contract beyond the current fiscal year is contingent upon future fiscal appropriations.

**I.26 RESERVED**

**I.27 AMERICANS WITH DISABILITIES ACT OF 1990 (“ADA”)**

During the performance of the contract, the Contractor and any of its subcontractors shall comply with the ADA. The ADA makes it unlawful to discriminate in employment against a qualified individual with a disability. See 42 U.S.C. § 12101 et seq.

**I.28 FREEDOM OF INFORMATION ACT (“FOIA”)**

The District of Columbia’s Freedom of Information Act, at D.C. Official Code § 2-532 (a)(3), requires the District to make available for inspection and copying any record produced or collected pursuant to a District contract with a private contractor to perform a public function, to the same extent as if the record were maintained by the agency on whose behalf the contract is made. If the Contractor receives a request for such information, the Contractor shall immediately send the request to the COTR designated in subsection G.1 who will provide the request to the FOIA Officer for the agency with programmatic responsibility in accordance with the D.C. Freedom of Information Act. If the agency with programmatic responsibility receives a request for a record maintained by the Contractor pursuant to the contract, the COTR will forward a copy to the Contractor. In either event, the Contractor is required by law to provide all responsive records to the COTR within the timeframe designated by the COTR. The FOIA Officer for the agency with programmatic responsibility will determine the releasability of the records. The District will reimburse the Contractor for the costs of searching and copying the records in accordance with D.C. Official Code § 2-532 and Chapter 4 of Title 1 of the *D.C. Municipal Regulations*.

**I.29 RESERVED**

**I.30 INSURANCE**

**A. GENERAL REQUIREMENTS.**

- i. The Contractor at its sole expense shall procure and maintain, during the entire period of performance under this contract, the types of insurance specified below. The Contractor shall have its insurance broker or insurance company submit a Certificate of Insurance to the CO giving evidence of the required coverage prior to commencing performance under this contract. In no event shall any work be performed until the required Certificates of Insurance signed by an authorized representative of the insurer(s) have been provided to, and accepted by, the CO. All insurance shall be written with financially responsible companies authorized to do business in the District of Columbia or in the jurisdiction where the work is to be performed and have an A.M. Best Company rating of A- / VII or higher. The Contractor shall require all of its subcontractors to carry the same insurance required herein.
- ii. All required policies shall contain a waiver of subrogation provision in favor of the Government of the District of Columbia.
- iii. The Government of the District of Columbia shall be included in all policies required hereunder to be maintained by the Contractor and its subcontractors (except for workers’ compensation, professional liability and crime) as an additional insureds for claims against The Government of the District of Columbia relating to this contract, with the understanding that any affirmative obligation imposed upon the insured Contractor or its subcontractors (including without limitation the liability to pay premiums) shall be the sole obligation of the Contractor or its subcontractors, and not the additional insured. The additional insured status under the Contractor’s and its subcontractors’ Commercial General Liability insurance policies shall be effected using the ISO Additional Insured Endorsement

form CG 20 10 11 85 (or CG 20 10 07 04 **and** CG 20 37 07 04) or such other endorsement or combination of endorsements providing coverage at least as broad and approved by the CO in writing. The Contractor and its subcontractors' liability policies (except for workers' compensation, professional liability, and crime) shall be endorsed using ISO form CG 20 01 04 13 or its equivalent so as to indicate that such policies provide primary coverage (without any right of contribution by any other insurance, reinsurance or self-insurance, including any deductible or retention, maintained by an Additional Insured) for all claims against the additional insured arising out of the performance of this Statement of Work by the Contractor or its subcontractors, or anyone for whom the Contractor or its subcontractors may be liable. These policies shall include a separation of insureds clause applicable to the additional insured.

- iv. If the Contractor and/or its subcontractors maintain broader coverage and/or higher limits than the minimums shown below, the District requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Grantee and subcontractors.
  - v. The Contractor may not elect to provide entirely or in part for the insurance/bond protections described in the contract through self-insurance. A deductible provision contained in an insurance policy that meets the requirements of the contract is not considered as self-insurance unless the deductible amount exceeds one percent (1%) of the face amount of the insurance policy
1. Commercial General Liability Insurance ("CGL") - The Contractor shall provide evidence satisfactory to the CO with respect to the services performed that it carries a CGL policy, written on an occurrence (not claims-made) basis, on Insurance Services Office, Inc. ("ISO") form CG 00 01 04 13 (or another occurrence-based form with coverage at least as broad and approved by the CO in writing), covering liability for all ongoing and completed operations of the Contractor, including ongoing and completed operations under all subcontracts, and covering claims for bodily injury, including without limitation sickness, disease or death of any persons, injury to or destruction of property, including loss of use resulting therefrom, personal and advertising injury, and including coverage for liability arising out of an Insured Contract (including the tort liability of another assumed in a contract) and acts of terrorism (whether caused by a foreign or domestic source). Such coverage shall have limits of liability of not less than \$1,000,000 each occurrence, a \$2,000,000 general aggregate (including a per location or per project aggregate limit endorsement, if applicable) limit, a \$1,000,000 personal and advertising injury limit, and a \$2,000,000 products-completed operations aggregate limit.
  2. Automobile Liability Insurance - The Contractor shall provide evidence satisfactory to the CO of commercial (business) automobile liability insurance written on ISO form CA 00 01 10 13 (or another form with coverage at least as broad and approved by the CO in writing) including coverage for all owned, hired, borrowed and non-owned vehicles and equipment used by the Contractor, with minimum per accident limits equal to the greater of (i) the limits set forth in the Contractor's commercial automobile liability policy or (ii) \$1,000,000 per occurrence combined single limit for bodily injury and property damage.



3. i) Workers' Compensation Insurance - The Contractor shall provide evidence satisfactory to the CO of Workers' Compensation insurance in accordance with the statutory mandates of the District of Columbia or the jurisdiction in which the contract is performed.  
  
ii) Employer's Liability Insurance - The Contractor shall provide evidence satisfactory to the CO of employer's liability insurance as follows: \$500,000 per accident for injury; \$500,000 per employee for disease; and \$500,000 for policy disease limit.  
  
iii) All insurance required by this paragraph 3 shall include a waiver of subrogation endorsement for the benefit of Government of the District of Columbia.
4. Crime Insurance (3rd Party Indemnity) - The Contractor shall provide a Crime policy including 3<sup>rd</sup> party fidelity to cover the dishonest acts of Contractor, its employees and/or volunteers which result in a loss to the District. The policy shall provide a limit of \$100,000 per occurrence.
5. Cyber Liability Insurance - The Contractor shall provide evidence satisfactory to the Contracting Officer of Cyber Liability Insurance, with limits not less than \$10,000,000 per occurrence or claim, \$20,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement and shall include, but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. This insurance requirement will be considered met if the general liability insurance includes an affirmative cyber endorsement for the required amounts and coverages. Shared limits with the Professional Liability coverage will be acceptable.
6. Employment Practices Liability - The Contractor shall provide evidence satisfactory to the Contracting Officer with respect to the operations performed to cover the defense of claims arising from employment related wrongful acts including but not limited to: Discrimination, Sexual Harassment, Wrongful Termination, or Workplace Torts, whether between employees of contractor or against third parties. Employment Practices Liability coverage must specifically state Third Party Liability coverage is included. Contractor will indemnify and defend the District of Columbia should it be named co-defendant or be subject to or party of any claim. Coverage shall also extend to Temporary Help Firms and Independent Contractors hired by Contractor. The policy shall provide limits of not less than \$1,000,000 for each wrongful act and \$2,000,000 annual aggregate for each wrongful act.
7. Installation Floater Insurance - For projects involving District property being installed, fabricated or erected by a contractor, the contractor shall provide an installation floater policy with a limit equal to the full contract value. The policy shall cover property while located at the project site, at temporary locations, or in transit; deductibles will be the sole responsibility of the contractor.

8. Professional Liability Insurance (Errors & Omissions) - The Contractor shall provide Professional Liability Insurance (Errors and Omissions) to cover liability resulting from any error or omission in the performance of professional services under this Contract. The policy shall provide limits of \$10,000,000 per claim or per occurrence for each wrongful act and \$10,000,000 annual aggregate. The Contractor warrants that any applicable retroactive date precedes the date the Contractor first performed any professional services for the Government of the District of Columbia and that continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least ten years after the completion of the professional services. Shared limits with the Cyber Liability coverage will be acceptable.
  9. Commercial Umbrella or Excess Liability - The Contractor shall provide evidence satisfactory to the CO of commercial umbrella or excess liability insurance with minimum limits equal to the greater of (i) the limits set forth in the Contractor's umbrella or excess liability policy or (ii) \$20,000,000 per occurrence and \$20,000,000 in the annual aggregate, following the form and in excess of all liability policies. **All** liability coverages must be scheduled under the umbrella and/or excess policy. The insurance required under this paragraph shall be written in a form that annually reinstates all required limits. Coverage shall be primary to any insurance, self-insurance or reinsurance maintained by the District and the "other insurance" provision must be amended in accordance with this requirement and principles of vertical exhaustion.
- B. PRIMARY AND NONCONTRIBUTORY INSURANCE. The insurance required herein shall be primary to and will not seek contribution from any other insurance, reinsurance or self-insurance including any deductible or retention, maintained by the Government of the District of Columbia.
- C. DURATION. The Contractor shall carry all required insurance until all contract work is accepted by the District of Columbia and shall carry listed coverages for ten years for construction projects following final acceptance of the work performed under this contract and two years for non-construction related contracts.
- D. LIABILITY. These are the required minimum insurance requirements established by the District of Columbia. **HOWEVER, THE REQUIRED MINIMUM INSURANCE REQUIREMENTS PROVIDED ABOVE WILL NOT IN ANY WAY LIMIT THE CONTRACTOR'S LIABILITY UNDER THIS CONTRACT.**
- E. CONTRACTOR'S PROPERTY. Contractor and subcontractors are solely responsible for any loss or damage to their personal property, including but not limited to tools and equipment, scaffolding and temporary structures, rented machinery, or owned and leased equipment. A waiver of subrogation shall apply in favor of the District of Columbia.
- F. MEASURE OF PAYMENT. The District shall not make any separate measure or payment for the cost of insurance and bonds. The Contractor shall include all of the costs of insurance and bonds in the contract price.

- G. NOTIFICATION. The Contractor shall ensure that all policies provide that the CO shall be given thirty (30) days prior written notice in the event of coverage and / or limit changes or if the policy is canceled prior to the expiration date shown on the certificate. The Contractor shall provide the CO with ten (10) days prior written notice in the event of non-payment of premium. The Contractor will also provide the CO with an updated Certificate of Insurance should its insurance coverages renew during the contract.
- H. CERTIFICATES OF INSURANCE. The Contractor shall submit certificates of insurance giving evidence of the required coverage as specified in this section prior to commencing work. Certificates of insurance must reference the corresponding contract number. Evidence of insurance shall be submitted as directed in the District's notification of award to the Contractor. The CO may request and the Contractor shall promptly deliver updated certificates of insurance, endorsements indicating the required coverages, and/or other evidence of the insurance policies. If the insurance initially obtained by the Contractor expires prior to completion of the contract, renewal certificates of insurance and additional insured and other endorsements shall be furnished to the CO prior to the date of expiration of all such initial insurance. For all coverage required to be maintained after completion, an additional certificate of insurance evidencing such coverage shall be submitted to the CO on an annual basis as the coverage is renewed (or replaced).
- I. DISCLOSURE OF INFORMATION. The Contractor agrees that the District may disclose the name and contact information of its insurers to any third party which presents a claim against the District for any damages or claims resulting from or arising out of work performed by the Contractor, its agents, employees, servants or subcontractors in the performance of this contract.
- J. CARRIER RATINGS. All Contractor's and its subcontractors' insurance required in connection with this contract shall be written by insurance companies with an A.M. Best Insurance Guide rating of at least A- VII (or the equivalent by any other rating agency) and licensed in the in the District.

**I.31 51% DISTRICT RESIDENTS NEW HIRES REQUIREMENTS AND FIRST SOURCE EMPLOYMENT AGREEMENT**

- I.31.1 For contracts for services in the amount of \$300,000 or more, the Contractor shall comply with the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code § 2-219.01 et seq. (First Source Act).
- I.31.2 The Contractor shall enter into and maintain during the term of the contract, a First Source Employment Agreement (Employment Agreement) with the District of Columbia Department of Employment Service's (DOES), in which the Contractor shall agree that:
- (a) The first source for finding employees to fill all jobs created in order to perform the contract shall be the First Source Register; and
  - (b) The first source for finding employees to fill any vacancy occurring in all jobs covered by the Employment Agreement shall be the First Source Register.

- I.31.3 The Contractor shall not begin performance of the contract until its Employment Agreement has been accepted by DOES. Once approved, the Employment Agreement shall not be amended except with the approval of DOES.
- I.31.4 The Contractor agrees that at least 51% of the new employees hired to perform the contract shall be District residents.
- I.31.5 The Contractor's hiring and reporting requirements under the First Source Act and any rules promulgated thereunder shall continue for the term of the contract.
- I.31.6 The CO may impose penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract, for a willful breach of the Employment Agreement, failure to submit the required hiring compliance reports, or deliberate submission of falsified data.
- I.31.7 If the Contractor does not receive a good faith waiver, the CO may also impose an additional penalty equal to 1/8 of 1% of the total amount of the direct and indirect labor costs of the contract for each percentage by which the Contractor fails to meet its hiring requirements.
- I.31.8 Any contractor which violates, more than once within a 10-year timeframe, the hiring or reporting requirements of the First Source Act shall be referred for debarment for not more than five (5) years.
- I.31.9 The contractor may appeal any decision of the CO pursuant to this clause to the D.C. Contract Appeals Board as provided in Section I.7.
- I.31.10 The provisions of the First Source Act do not apply to nonprofit organizations which employ 50 employees or less.
- I.31.11 The provisions of the First Source Act do not apply to nonprofit organizations which employ 50 employees or less.

**I.32 COVENANT AGAINST CONTINGENT FEES**

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the District will have the right to terminate the contract without liability or in its discretion to deduct from the contract price or consideration or otherwise recover, the full amount of the commission, percentage, brokerage, or contingent fee.

**I.33 HEALTH AND SAFETY STANDARDS**

Items delivered under this contract shall conform to all requirements of the Occupational Safety and Health Act of 1970, as amended ("OSHA"), and Department of Labor Regulations under OSHA, and all Federal requirements in effect at time of bid opening/proposal submission.

**I.34 FORCE MAJEURE**

Neither the Contractor nor the District shall be deemed in default or otherwise liable hereunder due to either party's inability to perform by reason of any fire, earthquake, flood, epidemic, accident, explosion, casualty, strike, lockout, labor controversy, riot, civil disturbance, act of public enemy, embargo, war, act of God, or any municipal, county, state or national ordinance or law, or any executive, administrative or judicial orders (which judicial orders are not the result of any act or omission to act which would constitute a default hereunder), or any failure or delay of any transportation, power or other essential thing required, or similar causes beyond the parties control.

**I.35 GOVERNING LAW**

This contract shall be governed by, and construed in accordance with, the laws of the District of Columbia, including, but not limited to, the District of Columbia Procurement Practices Reform Act of 2010, (D.C. Law 18-371; D.C. Official Code §§ 2-351.01, et seq. and D.C. MUN. REGS. tit. 27.

**I.36 ORDER OF PRECEDENCE**

A conflict in language shall be resolved by giving precedence to the document in the highest order of priority that contains language addressing the issue in question. The following documents are incorporated into the contract by reference and made a part of the contract in the following order of precedence:

- (1) Contract
- (2) Contract Attachments
- (3) BAFO (in order of the most recent to earliest)
- (4) Contractor Proposal dated

**SECTION J**

**ATTACHMENTS**

The following Attachments are hereby incorporated:

- Attachment J.1 U.S. Department of Labor Wage Determination No. 2015-4281, Revision 30, Dated 07/22/2024
- Attachment J.2 Doing Business with Integrity
- Attachment J.3 Bidder/Offeror Certifications
- Attachment J.4 Past Performance Evaluation Form
- Attachment J.5 Subcontracting Plan Form (The District will reject any bid or proposal that fails to include a subcontracting plan that is required by law, pursuant to Section H.3.)
- Attachment J.6 Office of Local Business Development Equal Employment Opportunity Information Report and Mayor's Order 85-85
- Attachment J.7 Department of Employment Services First Source Employment Agreement and Plan

**SECTION K**

**REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS**

**K.1 AUTHORIZED OFFICERS**

The Contractor shall list the names of persons authorized to negotiate on the Contractor's behalf in connection with this solicitation (list names, titles, and telephone numbers of the authorized negotiators):

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**K.2 PENDING LEGAL CLAIMS AGAINST THE DISTRICT**

The Offeror must disclose any pending legal claims against the District. Pending legal claims includes, but is not limited to, Federal and District court litigation, administrative actions such as contract appeals or protests, claims for money damages from the District, and any other type of action (court or administrative) against the District. Offerors with pending legal claims against the District are not automatically precluded from contract award. If Offerors does not have any pending legal claims against the District, please indicate this below.

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The Contractor hereby certifies that the information provided above is true, correct and complete.

|           |       |       |
|-----------|-------|-------|
| _____     | _____ | _____ |
| Signature | Date  | Title |

**K.3 TERMS AND CONDITIONS CERTIFICATION**

The Contractor hereby certifies that it has read, understands, acknowledges and agrees to comply with the terms and conditions as set forth in this solicitation/contract/resultant contract, *without exception*.

|           |       |       |
|-----------|-------|-------|
| _____     | _____ | _____ |
| Signature | Date  | Title |

## SECTION L

### INSTRUCTIONS, CONDITIONS AND NOTICES TO CONTRACTORS

#### L.1 SOLICITATION CONDITIONS

- L.1.1 The District reserves the right to accept/reject any/all bids or proposals resulting from this solicitation.
- L.1.2 The District may reject as non-responsive any bid or proposal that fails to conform in any material respect to this solicitation.
- L.1.3 The Contracting Officer may waive a minor informality or irregularity in bids received or provide limited exchanges to clarify or resolve ambiguities, apparent minor mistakes or irregularities in proposals received whenever it is determined that such action is in the best interest of the District.
- L.1.4 All bid, or proposal documents will be retained by the District, and therefore will not be returned to the offeror.
- L.1.5 Offerors are expected to examine the Scope of Work and all instructions and attachments in this Solicitation. Failure to do so shall be at the sole risk of the Offeror.
- L.1.6 The District shall not be liable for any costs incurred by any Offeror associated with the preparation of a bid or proposal submitted in response to this Solicitation.
- L.1.7 The District will reject any bid or proposal that fails to include a subcontracting plan that is required by law, pursuant to Section H.3.

#### L.2 EXPLANATION TO PROSPECTIVE OFFERORS

- L.2.1 If a prospective offeror has any questions, exceptions/alternatives it wishes to present to the District, or assumptions (referred to collectively herein as “inquiries”) relative to this solicitation, the prospective offeror shall email inquiries to the point of contact on Page 1 of this solicitation no later than **Friday, December 13, 2024 at 2pm**. The District may not consider any inquiries received after the date specified. Amendments to the solicitation will be posted online on the Solicitation Gateway at <https://bit.ly/2GXc2r5> if that information is necessary in responding to the solicitation, or if the lack of its dissemination would be prejudicial to other prospective offerors. Oral explanations or instructions given before the award of the contract will not be binding on the District.
- L.2.2 Upon the release of this Solicitation and during the selection process, there shall be no communication concerning this Solicitation between any prospective Offeror and/or its representatives, and employees of the Government of the District of Columbia, consultants or advisors to the Government of the District of Columbia; and elected or appointed officials of the Government of the District of Columbia or their staff, except as provided for in this Solicitation.



Any violation of this provision by any prospective Offeror and/or its representatives may be grounds for immediate disqualification.

### **L.3 PREPARATION AND SUBMISSION OF PROPOSALS AND ATTACHMENTS**

**L.3.1** An Offeror shall submit its proposal in four (4) parts: (1) a technical proposal, (2) a price proposal, (3) a redacted copy of the technical and price proposal, and (4) all attachments described in L.3.5. The Offeror shall label each part respectively, i.e., “Technical Proposal,” “Price Proposal,” “Redacted Proposal,” and “Attachments.” See Section L.12 for delivery details.

#### **L.3.2 Technical Proposal**

- 1) For the Technical Proposal, Offerors are directed to the specific proposal evaluation criteria found in Section M, Evaluation of this solicitation. The Offeror shall respond to the requested information of the technical evaluation criteria in a way that will allow the District to evaluate the Offeror’s response against the criteria. The Offeror shall submit information in a clear, concise, factual and logical manner providing a comprehensive description of program supplies and services and delivery thereof. The information requested for the technical proposal shall facilitate evaluation for all proposals. The technical proposal must contain sufficient detail to provide a clear and concise response fully reflecting the manner in which the Offeror proposes to fully meet the requirements in Section C.
- 2) Representations, Certifications and Acknowledgements: The Offeror shall submit the following forms and information:
  - A. Section K, Representations, Certifications and Other Statements of Offerors
  - B. Solicitation, Offer and Award form (cover page) of this solicitation
  - C. Acknowledgement of Amendments – signed cover page of any amendments to this solicitation, if any
- 3) The Offeror’s Technical Proposal shall be organized and presented in the following clearly marked separate sections:

#### **I. Section: Technical Approach and Expertise**

- (A) Traditional and iLottery Central Gaming Systems. Describe in detail the Offeror’s approach, expertise and capabilities in designing, manufacturing, and operating lottery gaming Systems, and iLottery gaming Systems. Provide technical specifications for the proposed lottery gaming System and iLottery gaming System. Provide technical specifications for the proposed iLottery System’s player account management (PAM) functionality and player interface. Provide technical specifications for the communications networks that will be deployed and used in the operation of the lottery gaming System and iLottery gaming System. Provide examples of where the proposed lottery gaming System and iLottery gaming System and communications network have been deployed and are in use by North American lotteries. Provide the names and résumés of persons who will be primarily responsible for managing the traditional and iLottery gaming Systems on the OLG account. Provide the Source Code Escrow Agreement, any

license agreements, or other third-party agreements that the District would be required to execute in association with the Offeror's proposal.

- (B) Terminals (including self-service terminals) and Peripherals. Describe in detail the Offeror's approach, expertise and capabilities in designing, manufacturing, and operating lottery retailer terminals and self-service terminals. Provide technical specifications for the retail terminals and self-service terminals being proposed. Provide technical specifications for all terminal peripherals being proposed. Provide examples of where the proposed terminals and peripherals have been deployed and are in use by North American lotteries. Provide the names and résumés of persons who will be primarily responsible for managing terminal manufacture, delivery and installation on the OLG account.
- (C) Software Applications and Data Management. Describe in detail the Offeror's expertise and capabilities in lottery and iLottery software development and data management. Describe in detail the software that will be deployed to operate the proposed lottery gaming System, and iLottery gaming System. Provide examples of where the proposed software solutions have been deployed and are in use by North American lotteries. Provide the names and résumés of persons who will be primarily responsible for managing System applications and data management on the OLG account.
- (D) IT Support and Local Services Capabilities. Describe in detail Offeror's IT support and local services approach, expertise and capabilities. Describe how the Offeror intends to service equipment, software and communications networks deployed at retail locations and at OLG. Provide the names and résumés of persons who will be primarily responsible for managing IT support and local services on the OLG account.
- (E) Overall IT Security Systems and Processes. Describe in detail Offeror's approach, expertise and capabilities in overall IT security Systems and processes. Provide a detailed proposed security plan for the OLG account including physical security of the Offeror's data centers, and instant ticket manufacturing facilities and warehouse. Provide the names and résumés of persons who will be primarily responsible for managing IT security Systems and processes on the OLG account.
- (F) Instant Ticket Productions and Supply Capabilities. Describe in detail the Offeror's instant ticket manufacturing and warehousing capabilities. Describe in detail the Offeror's proposed instant ticket manufacturing facilities and presses. Provide the names and résumés of persons who will be primarily responsible for managing instant ticket production on the OLG account.
- (G) Game Availability and Marketing Support. Describe in detail the Offeror's lottery, iLottery (including eInstants) and instant ticket games), and instant ticket game design and development capabilities. Provide a library of available lottery, iLottery (including eInstants) and instant ticket games that the Offeror has developed and that will be available for use by OLG. Provide a detailed description of the Offeror's marketing support expertise and capabilities. Provide the names and résumés of persons who will be primarily responsible for managing game design and marketing support on the OLG account.

## II. Section: Experience and Past Performance

- (A) Provide a description of the Offeror's general experience in operating a lottery gaming System, iLottery gaming System and the design, production and distribution and management of instant tickets, including risk management in the United States.
- (B) Provide a description of the Offeror's past experiences of working with or representing the District (if any).
- (C) The Offeror shall provide a reference list of contracts or subcontracts the Offeror has satisfactorily performed within the past five (5) years that are similar in size and scope as the required services described in Section C. "Similar in size and scope" is in relation to municipalities with the same size and complexity of the District. The Offeror's list shall include the following information for each contract or subcontract:
  - (i) Contract Title;
  - (ii) Contract number;
  - (iii) Contact Person name, phone, and email address.
  - (iv) Contract duration (or Period);
  - (v) Total contract value;
  - (vi) Whether the Offeror was the prime contractor or a subcontractor; and
  - (vii) Description of work performed, to include the municipality's size and complexity in relation to the District

The District may contact the listed references.
- (D) Provide at least three (3) client completed, Attachment J.4 Past Performance Evaluation Forms from the list of references identified in response to Item C above.

### L.3.3 Price Proposal

L.3.3.1 For the Price Proposal, Offerors are directed to the specific price proposal evaluation found in Section M, Evaluation of this solicitation. The Offeror shall submit its Price Proposal in a way that will allow the District to evaluate the Offeror's response. The Offeror shall submit information in a clear, concise, factual and logical manner. The Price Proposal must contain sufficient detail to provide a clear and concise response fully reflecting the prices the Offeror proposes for fully performing the resultant contract.

L.3.3.2 The Offeror's Price Proposal shall be submitted as follows and shall be valid for, at minimum, twelve (12) months from the Proposal submission date:

- 1) A Price Proposal narrative that:
  - a. Describes the Offeror's budget methodology,

- b. Provides appropriate data on the prices at which the same or similar items and services have been sold previously,
  - c. Explains any specified contingency, allowed only on the Optional Equipment and Services pricing, and
  - d. Provides cost or pricing data as defined in the Federal Acquisition Regulation (FAR) Section 2.101.
- 2) A Pricing Schedule that includes:
- a. The Offeror's unit price (which shall be a percentage and may be carried out to no more than three (3) decimal points) for Traditional Lottery Games, eInstant Games, Draw iLottery Games, and Instant Tickets and Related Services, as stipulated in Sections B.6.1 – B.6.3, and
  - b. The Offeror's Optional Equipment and Services pricing as follows (any deviations from the Districts price schedule must still conform in a material respect to L.3.3.1 for the purpose of being evaluated by the District):
    - i. OLG Specified Options. The Offeror shall submit specifications, equipment information, and firm, fixed pricing for the OLG Specified Options in Section B.6.4(b). Unless otherwise specified by the Offeror, the "unit cost" shall be a one-time fee that is for the use of the item or service from the time of order throughout the term of the contract and any extensions thereof. To Be Determined (TBD) pricing shall not be used.
      1. For the Additional Wireless Ticket Checkers, the Offeror shall provide pricing for each model Self-Service terminal proposed.
      2. For Instant Ticket optional ticket features, the Offeror may propose pricing as an additional cost per square inch or as a percentage, up to four (4) decimal places, of the base ticket order quantity. The price indicated will be an incremental price to be added to the price for the ticket order with the optional feature. Pricing should be indicated as No Cost ("N/C") for any optional feature offered at no additional cost.
    - ii. Lottery-Invited Option. The Offeror should submit specifications and firm, fixed pricing for the Invited Option in Section B.6.4(c). Unless otherwise specified by the Offeror, the "unit cost" shall be a one-time fee that is for the use of the item or service from the time of order throughout the term of the contract and any extensions thereof. To Be Determined (TBD) pricing shall not be used.
    - iii. Offered Options. The Offeror may submit Offered Options that are optional items and services offered by the Offeror that are not described in or required by Section C that may be of interest to OLG. Offered Options shall be provided with the following information:
      1. A description and approach to perform each Offered Option;
      2. A price schedule that addresses the price of the Offered Option, whether the Offered Option is purchased in the base period or any option period, if exercised; and
      3. A description of how the Offered Option will assist OLG in achieving best value and furthering OLG's mission.

### **L.3.4 Redacted Proposal Copy**

In accordance with the Freedom of Information Act (D.C. Code § 2-531 et seq.) and D.C. Code § 2-354.17, the District's policy is to release proposal documents upon request following award of the contract, subject to any applicable exemptions under §2-534. To ensure protection of confidential or proprietary information in proposals, the Offeror must submit a second copy of its technical proposal and price proposal, redacted in accordance with Tit. 27 DCMR § 3111 and any applicable exemptions from disclosure in D.C. Official Code §2-534. **If no redactions are necessary for release, the Offeror must provide an affirmative statement, as the third (3<sup>rd</sup>) part of its proposal, acknowledging Section L.3.4 and stating that no redactions are necessary.**

### **L.3.5 Attachments**

The Offeror shall submit Attachments as follows:

1. The Offeror's Dun & Bradstreet (D&B) D-U-N-S Number, recent financial statement prepared in accordance with Generally Accepted Auditing Standards (GAAS) by a certified public accountant, or a copy of the Offeror's most recently submitted IRS tax filing.
2. Attachment J.3, Bidder/Offeror Certifications
3. Attachment J.5, Subcontracting Plan Form (The District will reject any bid or proposal that fails to include a subcontracting plan that is required by law, pursuant to Section H.3.)
4. Attachment J.6, Office of Local Business Development Equal Employment Opportunity Information Report and Mayor's Order 85-85
5. Attachment J.7, Department of Employment Services First Source Employment Agreement and Plan

### **L.4 SIGNING BIDS, PROPOSALS, AND CERTIFICATIONS**

Each bid or proposal must show a full business address and telephone number and email address of the Offeror and be **SIGNED BY A PERSON OR PERSONS LEGALLY AUTHORIZED TO BIND THE ENTITY TO THE TERMS AND CONDITIONS OF THE CONTRACT**. All correspondence concerning the bid or proposal or resulting contract will be mailed to the address shown on the bid or proposal in the absence of written instructions from the Offeror or contractor to the contrary. Any bid or proposal submitted by a partnership must be signed with the partnership name by a general partner with authority to bind the partnership. Any bid or proposal submitted by a corporation must be signed with the name of the corporation, followed by the signature and title of the person having authority to sign for the corporation. Upon request, an Offeror shall provide to the District satisfactory evidence of authority of the person signing on behalf of the corporation. If an agent signs a bid or proposal, the Offeror shall submit to the Contracting Officer evidence satisfactory to the Contracting Officer of the agent's authority to bind the Offeror. The Offeror shall complete and sign all Representations, Certifications and Acknowledgements in this solicitation. Failure to do so may result in a bid or proposal being rejected.

**L.5 ERRORS IN BIDS OR PROPOSALS**

Offerors shall thoroughly familiarize themselves with the terms and conditions of this Solicitation, acquainting themselves with all available information regarding difficulties that may be encountered and the conditions under which the work is to be accomplished. Offerors will not be relieved from assuming all responsibility for properly estimating the difficulties and the cost of performing the services required herein due to their failure to investigate the conditions or to become acquainted with all information, schedules and liability concerning the services to be performed. In the event of a discrepancy between a unit price and a total price, the unit price shall govern.

**L.6 BIDS OR PROPOSALS FOR ALL OR PART**

Unless otherwise specified in the solicitation, the Contracting Officer may make award either on all items or on any of the items according to the best interests of the District. Unless prohibited by the solicitation, an Offeror may specify that the Offeror will accept award based on all of the items required.

**L.7 WITHDRAWAL OR MODIFICATION OF BIDS OR PROPOSALS**

An Offeror may modify or withdraw its bid or proposal upon written notice or facsimile transmission, or via email if received in the location designated in the solicitation for submission of bids or proposals, but not later than the exact time set for opening of bids or due date for proposals.

**L.8 LATE BIDS OR PROPOSALS, LATE MODIFICATIONS, AND LATE WITHDRAWALS**

- L.8.1 Any bid or proposal or modification to any bid or proposal received at the location designated in the solicitation after the time and date set for receipt of bids or proposals shall be considered "late" unless it was received prior to the contract award and any of the following applies:
- (a) It was sent by registered or certified mail not later than five (5) calendar days before the date and time specified for receipt of offers;
  - (b) It was sent by mail and the contracting officer determines that the late receipt was due solely to mishandling by the District after receipt at the location specified in the solicitation;
  - (c) Section L.12 requires electronic delivery and it was sent electronically as prescribed by Section L.12 by the offeror prior to the time and date specified and there is objective evidence in electronic form confirming that the offer was received prior to the date and time specified for receipt; or
  - (d) It was the only proposal received.
- L.8.2 Any request for withdrawal or request for modification of an offer received after the time and date set for receipt of bids or proposals is late.

- L.8.3 A late bid or proposal, late request for modification, or late request for withdrawal shall not be considered, except as provided in this section.
- L.8.4 A late modification of a successful bid or proposal which makes its terms more favorable to the District shall be considered at any time it is received and may be accepted.
- L.8.5 A late bid or proposal, late modification of offer, or late withdrawal of offer that is not considered shall be held unopened, unless opened for identification, until after award and then retained with unsuccessful offers.
- L.8.6 If any information received electronically is unreadable, the contracting officer immediately shall notify the offeror and permit the offeror to resubmit the unreadable portion of the information. The method and time for resubmission shall be prescribed by the contracting officer after consultation with the offeror, and documented in the contract file. The resubmission shall be considered as if it were received at the date and time of the original unreadable submission for the purpose of determining timeliness, provided the offeror complies with the time and format requirements for resubmission prescribed by the contracting officer.

**L.9 CONTRACT AWARD**

If the District awards a contract as a result of this solicitation, the District will send to the successful offeror one copy of the contract electronically and notice to unsuccessful offeror.

**L.10 ACKNOWLEDGEMENT OF AMENDMENTS**

The Offeror shall acknowledge receipt of any amendments to this solicitation (a) by signing and returning the amendment; or (b) by identifying the amendment number and date in the space for amendment(s) on the Offeror's submitted Solicitation, Offer and Award Form, page 1 of the solicitation. The District must receive the acknowledgement by the date and time specified for receipt of bids or proposals. The Offeror's failure to acknowledge an amendment may result in rejection of bid or proposal.

**L.11 ACCEPTANCE PERIOD**

The Offerors agrees that its bid or proposal remains valid for the period specified in Box #12 of the Solicitation, Offer and Award Form (page 1 of this solicitation).

**L.12 GATEWAY UPLOAD OF PROPOSALS**

- L.12.1 The Offeror shall submit its proposal in Zip folders or individual files uploaded to the Gateway portal in parts as:
- B. the Technical Proposal Zip folder or file with content per Section L.3.2,
  - G. the Price Proposal Zip folder or file with content per Section L.3.3,
  - H. a Redacted Proposal Copy Zip folder or file pursuant to Section L.3.4, and
  - I. the Attachments Zip folder or file pursuant to Section L.3.5.

- L.12.2 The Offeror shall not include pricing information in its technical proposal, nor must technical information be in the pricing proposal.
- L.12.3 All documents should be in a .pdf file. The District will not be responsible for corruption of any file submitted. All Zip folders or files should be conspicuously named with the company name, solicitation number, and content description. See the format below:  
“ABCCo.CFOPD-20-R-000Technical Proposal”  
“ABCCo.CFOPD-20-R-000Price Proposal”  
“ABCCo.CFOPD-20-R-000Redacted Proposal”  
“ABCCo.CFOPD-20-R-000Attachments”
- L.12.4 To upload to the Gateway portal:
1. Login,
  2. Click “View” on the Public Solicitation
  3. Click “Register as a Respondent”
  4. Click “Solicitations” tab, “My Solicitations”
  5. Click “View” on the solicitation
  6. Under the Response Status section, complete “Indicate your organization's response status”, then click “Submit”
  7. Upload solicitation response in the My File section – **Note: Uploads cannot be deleted or replaced, and each file size should not be larger than 1GB**
- L.12.5 If your company does not already have a Gateway Login Account, at <https://dc.cobblestoneSystems.com/gateway/>, navigate to the Document Library tab and download the “CobbleStone Vendor Self-Registration Guide” for credentials to Login to the Gateway. **The response due date will not be changed while an offeror receives Gateway Login credentials.**

### **L.13 PROCUREMENT PROTESTS**

Any actual or prospective Offeror or contractor, who is aggrieved in connection with the solicitation or award of a contract, must file a protest with the Contract Appeals Board no later than 10 business days after the basis of protest is known or should have been known, whichever is earlier. A protest based on alleged improprieties in a solicitation which are apparent prior to bid opening or the time set for receipt of initial proposals shall be filed with the Board prior to bid opening or the time set for receipt of initial proposals. In procurements in which proposals are requested, alleged improprieties which do not exist in the initial solicitation, but which are subsequently incorporated into this solicitation, must be protested no later than the next closing time for receipt of proposals following the incorporation. The aggrieved person shall also mail a copy of the protest to the Contracting Officer.

### **L.14 STANDARDS OF RESPONSIBILITY**

- L.14.1 The prospective contractor must demonstrate to the satisfaction of the District the capability in all respects to perform fully the contract requirements, therefore, the prospective contractor must submit evidence, upon request by the District, of the following:



- a) Financial resources adequate to perform the contract or the ability to obtain them;
- b) Ability to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments;
- c) A satisfactory performance record;
- d) A satisfactory record of integrity and business ethics;
- e) The necessary organization, experience, accounting and operational controls, and technical skills or the ability to obtain them;
- f) Compliance with the applicable District licensing and tax laws and regulations;
- g) The necessary production, construction, and technical equipment and facilities or the ability to obtain them;
- h) not exhibited a pattern of overcharging the District;
- i) the prospective contractor does not have an outstanding debt with the District or Federal government in delinquent status of more than the greater of \$1,000 or 1% of the contract value, up to \$25,000; and
- j) the prospective contractor is otherwise qualified and is eligible to receive an award under applicable laws and rules.

L.14.2 If the prospective contractor fails to supply the information requested, the Contracting Officer shall make the determination of responsibility or non-responsibility based upon available information. If the available information is insufficient to make a determination of responsibility, the Contracting Officer shall determine the prospective contractor to be non-responsible.

**L.15 RESTRICTION ON DISCLOSURE AND USE OF DATA**

**L.15.1** Offerors who include in their bid or proposal data that they do not want disclosed to the public or used by the District except for use in the procurement process shall mark the title page with the following legend:

**"This bid or proposal includes data that shall not be disclosed outside the District and shall not be duplicated, used or disclosed in whole or in part for any purpose except for use in the procurement process.**

**If, however, a contract is awarded to this offeror as a result of or in connection with the submission of this data, the District will have the right to duplicate, use, or disclose the data to the extent consistent with the District's needs in the procurement process. This restriction does not limit the District's rights to use, without restriction, information contained in this proposal if it is obtained from another source. The data subject to this restriction are contained in sheets (insert page numbers or other identification of sheets)."**

**L.15.2** Mark each sheet of data it wishes to restrict with the following legend:

**"Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this bid or proposal."**

**L.16 INITIAL OFFERS**

The CO reserves the right to reject any or all bids or proposals determined to be inadequate or unacceptable. The District may award contracts on the basis of initial offers received, without discussion. Therefore, each initial offer should contain the Offeror's best terms from a standpoint of price, technical and any other factors of award.

**L.17 PRE-PROPOSAL CONFERENCE**

**L.17.1 A pre-proposal conference will be held from 10:am to 11:00am (local time) on Monday, December 9, 2024, on Microsoft Teams. To join the conference, register at <https://events.gcc.teams.microsoft.com/event/e4a14771-ea22-4093-b40c-e71075793e97@8fe449f1-8b94-4fb7-9906-6f939da82d73>**

L.17.2 The District will request the names of the attending offerors at the conference so that their attendance can be properly recorded. Prospective offerors will be given an opportunity to ask questions regarding this solicitation at the conference. The purpose of the conference is to provide a structured and formal opportunity for the District to accept questions from offerors on the solicitation document as well as to clarify the contents of the solicitation.

L.17.3 Impromptu questions will be permitted and spontaneous answers will be provided at the District's discretion. Verbal answers given at the conference are only intended for general discussion and do not represent the District's final position. All oral questions must be submitted in writing following the close of the conference pursuant to the deadline established in Section L.2 of the solicitation in order to generate an official answer. Official answers will be provided in accordance with Section L.2 in the solicitation.

**SECTION M**

**EVALUATION OF PROPOSALS**

**M.1 EVALUATION FOR AWARD**

M.1.1 The District intends to award a single contract to the responsive, responsible Offeror whose offer is most advantageous to the District, based upon the evaluation factors specified below. Thus, while the points in the evaluation factors indicate their relative importance, the total scores will not necessarily be determinative of the award. Rather, the total scores will guide the District in making an intelligent award decision based upon the evaluation factors that consists of a combination of experience and qualifications, pricing, and ability to meet the needs of the District.

M.1.2 The District may award a contract on the basis of initial offers received, without further discussion. Therefore, each initial offer must contain the Contractor’s best terms from a standpoint of price, technical standards, and other factors.

M.1.3 The District reserves the right to request discussions/oral presentations from Offerors and will use the information derived from these discussions/oral presentations, if any, in its evaluation.

**M.1.4 Selection of Negotiation Process**

In accordance with 27 DCMR § 1632, after evaluation of the proposals using only the factors stated in the RFP and in accordance with weightings provided in the RFP, the CO may elect to proceed with any method of negotiations, discussions or award of the contract without negotiations, which is set forth in subsections (a), (b), (c), or (d) of 27 DCMR § 1632.1.

**M.2 TECHNICAL RATING**

M.2.1 The technical rating scale and guidelines for each technical evaluation factor identified in the solicitation is as follows:

| <b>Rating</b> | <b>Score as a Percentage of Total Available Points for Factors</b> | <b>Guidelines</b>  |
|---------------|--|--|
| Excellent     | 90-100%  | The response to the factor is complete and well defined, providing relevant supporting details and examples. The response to this factor indicates a high prospect for outstanding performance on the resulting contract. The expectations for this factor are clearly met or exceeded.  |
| Good          | 70-89%   | The response to the factor is generally complete and well defined, providing reasonably well-developed responses with a good amount of relevant supporting details and examples. The response to this factor indicates a moderate to high prospect for good performance on the resulting contract. Most of the expectations are met for this factor. |

| <b>Rating</b> | <b>Score as a Percentage of Total Available Points for Factors</b> | <b>Guidelines</b>  |
|---------------|--|--|
| Fair          | 50-69%   | The response to the factor is fairly complete, but lacking some definition or clarity. The response is not well developed to address the factor and provides limited supporting details and examples. The response to this factor indicates a prospect of achieving satisfactory performance on the resulting contract, but there may also be some risk. Few of the expectations are demonstrated to be met for this factor. |
| Poor          | 49% or below   | The response to the factor is not complete or provides minimal information, lacking sufficient details and examples. The response to this factor indicates a moderate to high risk of not achieving satisfactory performance on the resulting contract. Does not demonstrate ability to meet expectations for this factor.   |

M.2.2 The technical rating is a guideline that will be applied to the point value for each technical evaluation factor or sub-factor to determine the offeror’s score for each factor. For example, if an evaluation factor has a maximum point value of 40, using the technical rating guidelines above, if the District evaluates the offeror’s response as “Good,” then the score for that evaluation factor would fall between 28 to 35 (70% to 89% x 40). The offeror’s total technical score will be determined by adding the offeror’s score in each technical evaluation factor or sub-factor.

**M.3 EVALUATION FACTORS**

Proposals will be evaluated based on the following evaluation factors. The Technical Proposal shall be worth **80** points and the Price Proposal shall be worth **20** points, for a total of 100. If preference points are applicable, the maximum attainable total shall be 112.

**M.3.1 Technical Evaluation Factors (80 Points Maximum)**

The technical evaluation will be subjective. The technical proposal will be scored up to the maximum possible points based on the rating guidelines. The technical proposal will be evaluated based on the following subfactors:

**1. Technical Approach and Expertise Factors (70 Points Maximum)**

**(a) Traditional and iLottery Central Gaming Systems (15 points Maximum)**

This factor evaluates Offeror’s proposed traditional lottery, and iLottery gaming Systems that meet the requirements of Section C based on Offeror’s information provided in response to Section L.3.2.3.I(A).

**(b) Terminals (including self-service terminals) and Peripherals (10 Points Maximum)**

This factor evaluates Offeror's proposed terminals (including self-service terminals) that meet the requirements of Section C based on Offeror's information provided in response to Section L.3.2.3.I(B).

(c) **Software Applications and Data Management (10 Points Maximum)**

This factor evaluates Offer's software application and data management capabilities that meet the requirements of Section C based on Offeror's information provided in response to Section L.3.2.3.I(C).

(d) **IT Support and Local Services Capabilities (10 Points Maximum)**

This factor evaluates Offer's IT support and local services capabilities that meet the requirements of Section C based on Offeror's information provided in response to Section L.3.2.3.I(D).

(e) **Overall IT Security Systems and Processes (5 Points Maximum)**

This factor evaluates Offer's overall IT security Systems and processes that meet the requirements of Section C based on Offeror's information provided in response to Section L.3.2.3.I(E).

(f) **Instant Ticket Productions and Supply Capabilities (10 Points Maximum)**

This factor evaluates Offeror's overall instant ticket production, warehousing capabilities, and supply capabilities that meet the requirements of Section C based on Offeror's information provided in response to Section L.3.2.3.I(F).

(g) **Game Availability and Marketing Support (10 Points Maximum)**

This factor evaluates Offeror's portfolio of lottery, iLottery (including eInstants) and instant ticket games and Offeror's marketing support capabilities that meet the requirements of Section C based on Offeror's information provided in response to Section L.3.2.3.I(G).

**2. Experience and Past Performance Factor (10 Points Maximum)**

This factor evaluates Offeror's experience, organization, and past performance based on Offeror's information provided in response to Section L.3.2.3.II.

**M.3.2 Price Evaluation Factor (20 Points Maximum)**

The price proposal will be evaluated based on the following subfactors:

**1. Estimated Price Proposal Total (15 Points Maximum)**

The price for Traditional Lottery Games, eInstant Games, Draw iLottery Games, and Instant Tickets and Related Services will be evaluated objectively and in the aggregate. The Offeror's unit prices (percentages) for Traditional Lottery Games and Instant Tickets and Related Services

will be multiplied against the District’s projections of sales, and the Offeror’s unit prices (percentages) for eInstant Games and Draw iLottery Games will be multiplied against the District’s projections of net revenue, then the results totaled to arrive at the Offeror’s estimated price proposal total. The District’s projections are provided in Section C.2.8. Price evaluation will include the base period and the option period. Evaluation of the option period shall not obligate the District to exercise the option period. The Offeror with the lowest estimated price proposal will receive the maximum price points. All other proposals will receive a proportionately lower total score. The following formula will be used to determine each Offeror's evaluated price score:

$$\frac{\text{Lowest estimated price proposal}}{\text{Estimated price of proposal being evaluated}} \times \text{weight} = \text{Evaluated price score}$$

**2. Optional Equipment and Services Pricing (5 Points Maximum)**

The pricing for the Optional Equipment and Services will be evaluated subjectively. The District will evaluate all of the prices for the various Optional Equipment and Services items together, as a whole consideration, and will score up to the maximum possible points based on the following rating guidelines.

| Points    | 0                           | 1   | 2  | 3  | 4   | 5                                       |
|-----------|-----------------------------|---|--|--|---|---|
| Rating    | Unacceptable                | Unreasonable  | Unfair   | Moderate   | Fair  | Reasonable                              |
| Guideline | The pricing is prohibitive. | Unbalanced pricing exists, as the price of some items is significantly overstated or understated. | The pricing structure does not clearly and evidently disclose the total price. | The pricing is neither the best value nor misstated. | The same pricing is similarly charged to all customers. | This pricing represents the best value. |

This factor evaluates the reasonableness of the Optional Equipment and Services pricing in relation to the optional items and services, based on Offeror’s information provided in response to Section L.3.3 and other data such as competing pricing and data related to the pricing (e.g., established catalog or market prices, sales to non-governmental and governmental entities).

**M.4 PREFERENCES FOR CERTIFIED BUSINESS ENTERPRISES**

Under the provisions of the “Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005”, as amended, D.C. Official Code §2-218.01 *et seq.* (the Act), the District shall apply preferences in evaluating bids or proposals from businesses that are small, local, disadvantaged, resident-owned, longtime resident, veteran-owned, local manufacturing or local with a principal office located in an enterprise zone of the District of Columbia.

#### **M.4.1 Application of Preferences**

For evaluation purposes, the allowable preferences for Certified Business Enterprises under the Act for are as follows:

- M.4.1.1 Three percent reduction in the bid price in the case of an Invitation for Bids (IFB) or the addition of three points on a 100-point scale in the case of a Request for Proposals (RFP) for a small business enterprise (SBE) certified by the Department of Small and Local Business Development (DSLBD), as applicable;
- M.4.1.2 Five percent reduction in the bid price in the case of an IFB or the addition of five points on a 100-point scale in the case of an RFP for a resident-owned business enterprise (ROB) certified by the DSLBD, as applicable;
- M.4.1.3 Ten percent reduction in the bid price in the case of an IFB or the addition of five points on a 100-point scale in the case of an RFP for a longtime resident business (LRB) certified by the DSLBD, as applicable;
- M.4.1.4 Two percent reduction in the bid price in the case of an IFB or the addition of two points on a 100-point scale in the case of an RFP for a local business enterprise (LBE) certified by the DSLBD, as applicable;
- M.4.1.5 Two percent reduction in the bid price in the case of an IFB or the addition of two points on a 100-point scale in the case of an RFP for a local business enterprise with its principal office located in an enterprise zone (DZE) and certified by the DSLBD, as applicable;
- M.4.1.6 Two percent reduction in the bid price in the case of an IFB or the addition of two points on a 100-point scale in the case of an RFP for a disadvantaged business enterprise (DBE) certified by the DSLBD, as applicable;
- M.4.1.7 Two percent reduction in the bid price in the case of an IFB or the addition of two points on a 100-point scale in the case of an RFP for veteran-owned business enterprise (VOB) certified by the DSLBD, as applicable; and
- M.4.1.8 Two percent reduction in the bid price in the case of an IFB or the addition of two points on a 100-point scale in the case of an RFP for local manufacturing business enterprise (LME) certified by the DSLBD, as applicable.

#### **M.4.2 Maximum Preference Awarded**

Notwithstanding the availability of the preceding preferences, the maximum total preference to which a certified business enterprise is entitled under the Act is twelve percent (12%) for bids submitted in response to an IFB or the equivalent of twelve (12) points on a 100-point scale for proposals submitted in response to an RFP. There will be no preference awarded for subcontracting by the prime contractor with certified business enterprises.

### **M.4.3 Preferences For Certified Joint Ventures**

When the DSLBD, as applicable, certifies a joint venture, the certified joint venture will receive preferences for categories in which the joint venture and the joint venture partner are certified, subject to the maximum preference limitation set forth in the preceding paragraph.

### **M.4.4 Offeror's Submission for Preferences**

- M.4.4.1 Any Offeror seeking to receive preferences on this solicitation must submit at the time of, and as part of its bid or proposal, the following documentation, as applicable to the preference being sought:
- M.4.4.1.1 Evidence of the contractor's or joint venture's certification by the DSLBD as a CBE, to include a copy of the certification from the DSLBD.
- M.4.4.2 Any contractor seeking certification in order to receive preferences under this solicitation must contact the:
- DC Department of Small and Local Business Development  
ATTN: CBE Certification Program  
441 Fourth Street, N.W., Suite 850N  
Washington, DC 20001
- M.4.4.3 All contractors are encouraged to contact the DSLBD at (202) 727-3900 if additional information is required on certification procedures and requirements.