

**PROJECT NUMBER 42227**  
**MASTER CO-LOCATION DATA CENTER SERVICES AGREEMENT**  
**BETWEEN**  
**C SPIRE GOVERNMENTAL DATA SOLUTIONS, LLC**  
**AND**  
**MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES**  
**AS CONTRACTING AGENT FOR THE**  
**AGENCIES AND INSTITUTIONS OF THE STATE OF MISSISSIPPI**

This Master Co-Location Data Center Services Agreement (hereinafter referred to as "Master Agreement") is entered into by and between C Spire Governmental Data Solutions, LLC a Mississippi limited liability company having its principal offices at 1018 Highland Colony Parkway, Suite 330, Ridgeland, Mississippi 39157 (hereinafter referred to as "Contractor") and the Mississippi Department of Information Technology Services, having its principal place of business at 3771 Eastwood Drive, Jackson, Mississippi 39211 (hereinafter referred to as "ITS"), as contracting agent for the governmental agencies and educational institutions of the State of Mississippi (hereinafter referred to as "Customer"). ITS and Customer are sometimes collectively referred to herein as "State."

**WHEREAS**, ITS, pursuant to Request for Proposals ("RFP") Number 3847 requested proposals for the acquisition of a master contract containing the terms and conditions which will govern any orders placed by Customer during the term of this Master Agreement for business continuity and disaster recovery services used by Customer ("Services"); and

**WHEREAS**, the Contractor was the successful respondent in an open, fair and competitive procurement process to provide the above mentioned Services;

**NOW THEREFORE**, in consideration of the mutual understandings, promises, consideration and agreements set forth, the parties hereto agree as follows:

**ARTICLE 1 TERM OF AGREEMENT**

Unless terminated as prescribed elsewhere herein, this Master Agreement will become effective on the date it is signed by all parties (the "Effective Date") and will continue in effect for five (5) years thereafter (hereinafter referred to as "Initial Term"). At the end of the Initial Term, the Master Agreement may, upon the written agreement of ITS and Contractor, be renewed for an additional term, the length of which will be agreed upon by the parties. Contractor will notify ITS sixty (60) days in advance prior to the expiration of the initial or any renewal term and ITS shall have thirty (30) days in which to notify Contractor of its intention to either renew or cancel this Master Agreement.

**ARTICLE 2 DEFINITIONS**

The following terms as used herein shall have the following meanings:

**2.1 "Contractor"** means C Spire Governmental Data Solutions, LLC and its successors and assigns.

**2.2 "Customer"** means, in each instance, the governmental agency, educational institution or other governing authority of the state of Mississippi who engages Contractor to perform the Services pursuant to this Master Agreement, and who shall be bound by the terms and conditions of this Master Agreement.

**2.3 “Supplement”** means the document pursuant to which, among other things, Customer orders the Services from Contractor.

**2.4 “Services”** means the co-location services, business continuity and disaster recovery services, and other supplemental services specified in RFP No. 3847 and Contractor’s Proposal, as accepted by ITS, in response thereto, as well as the Statement of Work for each individual project.

**2.5 “Statement of Work”** means the document prepared by the Contractor and submitted to the Customer that includes but is not limited to, the objectives, requirements, deliverables, timetable, and costs for the particular project.

### **ARTICLE 3 MODIFICATION OR RENEGOTIATION**

This Master Agreement and any Supplement thereto may be modified only by written agreement signed by the parties hereto, and any attempt at oral modification shall be void and of no effect. The parties agree to renegotiate the Master Agreement in the event that federal and/or state revisions of any applicable laws or regulations make changes in this Master Agreement necessary.

### **ARTICLE 4 INCLUDED PARTIES AND PRICING**

Contractor will accept orders from and furnish the Services under this Master Agreement to Customers based on Contractor’s pricing submitted in its Proposal in response to RFP No. 3847 and attached hereto as Exhibit A and distributed to the various Customers. At the end of the Initial Term of this Master Agreement, ITS and Contractor may mutually agree in writing to modify, amend or replace the pricing specified in Exhibit A.

### **ARTICLE 5 ORDERS**

**5.1** The State does not guarantee that it will purchase any certain amount of Services under this Master Agreement.

**5.2** When a Customer decides to procure any Services from Contractor, the Customer shall notify ITS who shall execute a Supplement to be signed by Contractor, ITS, and if necessary, an authorized representative of Customer. The Supplement shall reference this Master Agreement and shall set forth the Services to be procured; the prices for same; the specific details of the transaction, the Customer’s designated contact, and any additional terms and conditions that apply to the specific Supplement as agreed to in writing by the parties. All Supplements and Contractor’s Statements of Work or other terms and conditions shall be governed by, and incorporate by reference, the terms and conditions of this Master Agreement. Excluding better pricing and/or discounts which may be specified in a Supplement or Statement of Work, in the event of a conflict between the other terms and conditions in a Supplement or Statement of Work and this Master Agreement, the terms and conditions of this Master Agreement shall prevail. The parties agree that the Customer has the right to adjust the quantities of purchases based upon the availability of funding or as determined necessary by the Customer.

**5.3** Contractor guarantees the pricing stated in the attached Exhibit A for the Initial Term of this Master Agreement. In the event Contractor announces or implements a national price decrease for the Services during that time, Contractor agrees to extend the new, lower pricing to Customer.

## **ARTICLE 6 METHOD AND TIME OF PAYMENT**

**6.1** As consideration for the performance of any Supplement, Customer shall pay Contractor at prices not to exceed the pricing specified in the attached Exhibit A for the actual Services rendered as specified in the applicable Supplement. Contractor shall submit invoices and supporting documentation electronically to Customer monthly for any month in which Services are rendered, using the processes and procedures identified by the State. Contractor shall certify that the billing is true and correct. Customer agrees to pay Contractor in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies," Sections 31-7-301, et seq. of the 1972 Mississippi Code Annotated, as amended, which generally provides for payment of undisputed amounts by the State within forty-five (45) days of receipt of the invoice. All payments shall be in United States currency. Contractor understands and agrees that Customer is exempt from the payment of taxes. Payments by state agencies using Mississippi's Accountability System for Government Information and Collaboration (MAGIC) shall be made and remittance information provided electronically as directed by the State. The payments by these agencies shall be deposited into the bank account of the Contractor's choice. No payment, including final payment, shall be construed as acceptance of incomplete work, and Contractor shall remain responsible and liable for full performance in strict compliance with the contract documents specified in the Article herein titled "Entire Agreement."

**6.2** If payment of undisputed amounts is not made to Contractor within forty-five (45) days of Customer's receipt of the invoice, Customer shall be liable to Contractor for interest at a rate of one and one-half percent (1 ½%) per month (or such lesser rate as may be the maximum permissible rate under the law) on the unpaid balance from the expiration of such forty-five (45) day period until such time as payment is made.

## **ARTICLE 7 SCOPE OF SERVICES**

Contractor agrees to provide, at the pricing specified in the attached Exhibit A, the Services as specified in RFP No. 3847 and Contractor's Proposal, as accepted by ITS, in response thereto, which are both incorporated herein by reference.

## **ARTICLE 8 WARRANTIES**

**8.1** Contractor represents and warrants that the Services provided by Contractor to Customer shall meet or exceed the minimum specifications set forth in RFP No. 3847 and Contractor's Proposal in response thereto.

**8.2** Contractor represents and warrants that its Services shall be performed by competent personnel and shall be of professional quality consistent with generally accepted industry standards for the performance of such Services and shall comply in all respects with the requirements of this Master Agreement. For any breach of this warranty, the Contractor shall perform the Services again, at no cost to Customer, or if Contractor is unable to perform the Services as warranted, Contractor shall reimburse Customer the fees paid to Contractor for the unsatisfactory Services.

**8.3** If applicable under the given circumstances, Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act, Section 71-11-1, et seq. of the Mississippi Code Annotated (Supp2008), and will register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-

Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance and, upon request of the State and approval of the Social Security Administration or Department of Homeland Security, where required, to provide a copy of each such verification to the State. Contractor further represents and warrants that any person assigned to perform Services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Contractor understands and agrees that any breach of these warranties may subject Contractor to the following: (a) termination of the Supplement and this Master Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such termination/cancellation, Contractor would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.

**8.4** Contractor represents and warrants that no official or employee of Customer or of ITS, and no other public official of the State of Mississippi who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of any project shall, prior to the completion of said project, voluntarily acquire any personal interest, direct or indirect, in the Supplement or this Master Agreement.

**8.5** The Contractor represents and warrants that no elected or appointed officer or other employee of the State of Mississippi, nor any member of or delegate to Congress has or shall benefit financially or materially from this Master Agreement. No individual employed by the State of Mississippi shall be admitted to any share or part of the Master Agreement or to any benefit that may arise therefrom. The State of Mississippi may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this Master Agreement if it is found, after notice and hearing by the ITS Executive Director or his/her designee, that gratuities in the form of entertainment, gifts, jobs, or otherwise were offered or given by the Contractor to any officer or employee of the State of Mississippi with a view toward securing this Master Agreement or securing favorable treatment with respect to the award, or amending or making of any determinations with respect to the performing of such contract, provided that the existence of the facts upon which the ITS Executive Director makes such findings shall be in issue and may be reviewed in any competent court. In the event this Master Agreement is terminated under this article, the State of Mississippi shall be entitled to pursue the same remedies against the Contractor as it would pursue in the event of a breach of contract by the Contractor, including punitive damages, in addition to any other damages to which it may be entitled at law or in equity.

## **ARTICLE 9 EMPLOYMENT STATUS**

**9.1** Contractor shall, during the entire term of this Master Agreement, be construed to be an independent contractor. Nothing in this Master Agreement is intended to nor shall it be construed to create an employer-employee relationship, partnership, agency, or joint venture relationship.

**9.2** Contractor represents that it has, or will secure, if needed, at its own expense, applicable personnel who shall be qualified to perform the required duties identified in a Supplement. Such personnel shall not be deemed in any way directly or indirectly, expressly or by implication, to be employees of Customer. Contractor shall pay when due, all salaries and wages of its employees and it accepts exclusive responsibility for the payment of federal income tax, state income tax, social security, unemployment compensation and any other withholdings that may be required. Neither

Contractor nor employees of Contractor are entitled to state retirement or leave benefits.

**9.3** Any person assigned by Contractor to perform the Services hereunder shall be the employee of Contractor, who shall have the sole right to hire and discharge its employee.

#### **ARTICLE 10 BEHAVIOR OF EMPLOYEES/SUBCONTRACTORS**

Contractor will be responsible for the behavior of all its employees and subcontractors while on the premises of any Customer location. Any Contractor employee or subcontractor acting in a manner determined by the administration of that location to be detrimental, abusive or offensive to any of Customer's staff and/or student body, will be asked to leave the premises and may be suspended from further work on the premises. All Contractor employees and subcontractors who will be working at such locations to provide Services shall be covered by Contractor's comprehensive general liability insurance policy.

#### **ARTICLE 11 AUTHORITY, ASSIGNMENT AND SUBCONTRACTS**

**11.1** In matters of proposals, negotiations, contracts, and resolution of issues and/or disputes, the parties agree that Contractor represents all contractors, third parties, and/or subcontractors Contractor has assembled for any given Customer project. The Customer is required to negotiate only with Contractor, as Contractor's commitments are binding on all proposed contractors, third parties, and subcontractors.

**11.2** Neither Customer nor Contractor may assign or otherwise transfer the Supplement and this Master Agreement or its obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld. Any attempted assignment or transfer of its obligations without such consent shall be null and void. Notwithstanding the foregoing, Contractor may assign this Master Agreement and any Supplements executed pursuant thereto to an affiliate or to a purchaser of all or substantially all of the assets or membership interests of Contractor without consent. The Supplement and this Master Agreement shall be binding upon the parties' respective successors and permitted assigns.

**11.3** Contractor must obtain the written approval of Customer before subcontracting any portion of the Supplement and this Master Agreement. No such approval by Customer of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of Customer in addition to the total price agreed upon in the Supplement. All subcontracts shall incorporate the terms of the applicable Supplement and this Master Agreement and shall be subject to the terms and conditions of same and to any conditions of approval that Customer may deem necessary.

**11.4** Contractor represents and warrants that any subcontract agreement Contractor enters into shall contain a provision advising the subcontractor that the subcontractor shall have no lien and no legal right to assert control over any funds held by the Customer, and that the subcontractor acknowledges that no privity of contract exists between the Customer and the subcontractor and that Contractor is solely liable for any and all payments which may be due to the subcontractor pursuant to its subcontract agreement with Contractor. Contractor shall indemnify and hold harmless the State from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses of every kind and nature whatsoever arising as a result of Contractor's failure to pay any and all amounts due by Contractor to any subcontractor, materialman, laborer or the like.

**11.5** All subcontractors shall be bound by any negotiation, arbitration, appeal, adjudication or

settlement of any dispute between Contractor and the Customer, where such dispute affects the subcontract.

## **ARTICLE 12 AVAILABILITY OF FUNDS**

It is expressly understood and agreed that the obligation of Customer to proceed under this Master Agreement and the Supplement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds for the performances required under this Master Agreement. If the funds anticipated for the fulfillment of this Master Agreement and the Supplement are, at any time, not forthcoming, or are insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds, or if there is a discontinuance or material alteration of the program under which funds were available to Customer for the payments or performance due under this Master Agreement, Customer shall have the right to immediately terminate the Supplement and this Master Agreement as to itself only, without damage, penalty, cost or expense to Customer of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination. Customer shall have the sole right to determine whether funds are available for the payments or performances due under the Supplement and this Master Agreement. In the event of termination due to unavailability of funds, Contractor shall be entitled to be paid for Services rendered by Contractor in connection with this Master Agreement and accepted by Customer prior to the effective date of termination.

## **ARTICLE 13 TERMINATION**

**13.1 Termination Upon Mutual Agreement:** A Supplement may be terminated in whole or in part upon the mutual written agreement of Contractor and the Customer.

**13.2 Termination Due To Bankruptcy:** Should Contractor become the subject of bankruptcy or receivership proceedings, whether voluntary or involuntary, or execute an assignment for the benefit of its creditors, the Customer may, upon the giving of thirty (30) days prior written notice, terminate a Supplement and this Master Agreement without the assessment of penalties, solely as between those two parties.

**13.3 Termination Other Than For Cause:** A Customer may terminate a Supplement and this Master Agreement as to itself only, in whole or in part and without the assessment of penalties, for any reason by giving one hundred and eighty (180) calendar days written notice specifying the effective date thereof to Contractor.

**13.4 Termination For Cause:** If either party fails to comply with the terms and conditions of the Supplement or this Master Agreement and that breach continues for thirty (30) days after the defaulting party receives written notice from the other party, then the non-defaulting party has the right to terminate the Supplement and this Master Agreement solely as between those two parties. The non-defaulting party may also pursue any remedy available to it in law or in equity.

**13.5 Termination of Master Agreement:** ITS may terminate this Master Agreement without the assessment of penalties for any reason after giving thirty (30) calendar days written notice specifying the effective date thereof to Contractor but any Supplement entered into prior to the termination date of this Master Agreement shall survive the termination of the Master Agreement. The terms of this Master Agreement shall survive its termination/expiration with respect to any un-expired Supplements.

**13.6** In the event a Supplement is terminated, Contractor shall be paid for Services rendered by Contractor and accepted by Customer prior to the effective date of termination. Such compensation shall be based upon and shall not exceed the amounts set forth in the particular Supplement.

#### **ARTICLE 14 GOVERNING LAW**

This Master Agreement and each Supplement shall be construed and governed in accordance with the laws of the State of Mississippi and venue for the resolution of any dispute shall be Jackson, Hinds County, Mississippi. Contractor expressly agrees that under no circumstances shall Customer or ITS be obligated to pay an attorneys fee, prejudgment interest or the cost of legal action to Contractor. Further, nothing in this Master Agreement shall affect any statutory rights Contractor and Customer may have that cannot be waived or limited by contract.

#### **ARTICLE 15 WAIVER**

Failure of either party hereto to insist upon strict compliance with any of the terms, covenants and conditions hereof shall not be deemed a waiver or relinquishment of any similar right or power hereunder at any subsequent time or of any other provision hereof, nor shall it be construed to be a modification of the terms of this Master Agreement. A waiver by either party to be effective, must be in writing, must set out the specifics of what is being waived, and must be signed by an authorized representative of the waiving party.

#### **ARTICLE 16 SEVERABILITY**

If any term or provision of a Supplement or this Master Agreement is prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of the Supplement or this Master Agreement shall be valid and enforceable to the fullest extent permitted by law provided that the Customer's purpose for entering into the Supplement can be fully achieved by the remaining portions of the Supplement that have not been severed.

#### **ARTICLE 17 CAPTIONS**

The captions or headings in this Master Agreement are for convenience only, and in no way define, limit or describe the scope or intent of any provision or section of this Master Agreement.

#### **ARTICLE 18 HOLD HARMLESS**

To the fullest extent allowed by law, Contractor shall indemnify, defend, save and hold harmless, protect and exonerate Customer, ITS and the State, its Board Members, officers, employees, agents and representatives from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses of every kind and nature whatsoever, including without limitation, court costs, investigative fees and expenses, attorney fees and claims for damages arising out of or caused by Contractor and/or its partners, principals, agents, employees or subcontractors in the performance of or failure to perform the Supplement and this Master Agreement.

#### **ARTICLE 19 THIRD PARTY ACTION NOTIFICATION**

Contractor shall notify Customer in writing within five (5) business days of Contractor filing bankruptcy, reorganization, liquidation or receivership proceedings or within five (5) business days of its receipt of notification of any action or suit being filed or any claim being made against Contractor or Customer by any entity that may result in litigation related in any way to the Supplement or this Master Agreement and/or which may affect the Contractor's performance under the Supplement or this Master Agreement. Failure of the Contractor to provide such written notice to Customer shall be

considered a material breach of this Master Agreement and the Customer may, at its sole discretion, pursue its rights as set forth in the Termination Article herein and any other rights and remedies it may have at law or in equity.

#### **ARTICLE 20 AUTHORITY TO CONTRACT**

Contractor warrants that it is a validly organized business with valid authority to enter into this Master Agreement; that entry into and performance under this Master Agreement is not restricted or prohibited by any loan, security, financing, contractual or other agreement of any kind, and notwithstanding any other provision of this Master Agreement to the contrary, that there are no existing legal proceedings, or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under a Supplement and this Master Agreement.

#### **ARTICLE 21 NOTICE**

Any notice required or permitted to be given under this Master Agreement shall be in writing and personally delivered or sent by electronic means provided that the original of such notice is sent by certified United States mail, postage prepaid, return receipt requested, or overnight courier with signed receipt, to the party to whom the notice should be given at their usual business address. ITS' address for notice is: Craig P. Orgeron, Ph.D., Executive Director, Mississippi Department of Information Technology Services, 3771 Eastwood Drive, Jackson, Mississippi 39211. Contractor's address for notice is: Mr. Brian Caraway, Senior Vice President, Enterprise Markets, C Spire Governmental Data Solutions, LLC, 1018 Highland Colony Parkway, Suite 330, Ridgeland, Mississippi 39157. Customer's address for notice will be set forth in the applicable Supplement. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address or points of contact.

#### **ARTICLE 22 RECORD RETENTION AND ACCESS TO RECORDS**

Contractor shall establish and maintain financial records, supporting documents, statistical records and such other records as may be necessary to reflect its performance of the provisions of this Master Agreement and the Supplement. The Customer, ITS, any state or federal agency authorized to audit Customer, and/or any of their duly authorized representatives, accountants or attorneys, shall have unimpeded, prompt access to the Supplement, this Master Agreement, and to any of Contractor's proposals, books, documents, papers and/or records that are pertinent to the Supplement and this Master Agreement to make audits, copies, examinations, excerpts and transcriptions at the State's or Contractor's office as applicable where such records are kept during normal business hours. All records relating to this Master Agreement and the Supplement shall be retained by Contractor for three (3) years from the date of receipt of final payment under this Master Agreement and the Supplement. However, if any litigation or other legal action, by or for the state or federal government has begun that is not completed at the end of the three (3) year period, or if an audit finding, litigation or other legal action has not been resolved at the end of the three (3) year period, the records shall be retained until resolution.

#### **ARTICLE 23 INSURANCE**

Contractor represents that it will maintain workers' compensation insurance as prescribed by law which shall inure to the benefit of Contractor's personnel, as well as comprehensive general liability and employee fidelity bond insurance. Contractor will, upon request, furnish Customer with a certificate of conformity providing the aforesaid coverage.



## **ARTICLE 24 DISPUTES**

Any issues or provisions of this Master Agreement in dispute between the Customer and Contractor which, in the judgment of either party may materially affect the performance of such party shall be reduced to writing and delivered to the other party. The Customer and Contractor shall promptly thereafter negotiate in good faith and use every reasonable effort to resolve such dispute in a mutually satisfactory manner. Any such dispute as to a question of fact which is not disposed of in a mutually satisfactory manner shall be submitted to and decided by the Executive Director of ITS or such person as the Executive Director may select. The decision of the Executive Director shall be reduced to writing and a copy thereof mailed to the parties. Disagreement with such a decision by either party shall not constitute a breach under the terms of this Master Agreement. Such decision shall not be a final disposition of the matter if either party still disagrees, and such disagreeing party shall be entitled to seek such other rights and remedies it may have in law or in equity.

## **ARTICLE 25 COMPLIANCE WITH LAWS**

**25.1** Contractor shall comply with, and all activities under a Supplement and this Master Agreement shall be subject to all Customer policies and procedures of which Contractor's employees assigned to provide the Services have actual knowledge without the necessity of any investigation, and all applicable federal, state and local laws and regulations as now existing and as may be amended or modified. Specifically, but not limited to, Contractor shall not discriminate against any employee nor shall any party be subject to discrimination in the performance of the Supplement and this Master Agreement because of race, creed, color, sex, age, national origin or disability.

**25.2** Contractor represents and warrants that it will comply with the state's data breach notification laws codified at Section 75-24-29 of the Mississippi Code Annotated (Supp. 2012). Further, to the extent applicable, Contractor represents and warrants that it will comply with the applicable provisions of the HIPAA Privacy Rule and Security Regulations (45 CFR Parts 160, 162 and 164) ("Privacy Rule" and "Security Regulations", individually; or "Privacy and Security Regulations", collectively); and the provisions of the Health Information Technology for Economic and Clinical Health Act, Title XIII of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 (the "HITECH Act").

## **ARTICLE 26 CONFLICT OF INTEREST**

Contractor shall notify Customer of any potential conflict of interest resulting from the representation of or service to other clients. If such conflict cannot be resolved to Customer's satisfaction, Customer reserves the right to terminate the Supplement and this Master Agreement as to itself only.

## **ARTICLE 27 SOVEREIGN IMMUNITY**

By entering into this Master Agreement with Contractor, the State of Mississippi does in no way waive its sovereign immunities or defenses as provided by law.

## **ARTICLE 28 CONFIDENTIAL INFORMATION**

**28.1** Contractor shall treat all Customer data and information to which it has access by its performance under the Supplement and this Master Agreement as confidential and shall not disclose such data or information to a third party without specific written consent of Customer. In the event that Contractor receives notice that a third party requests divulgence of confidential or

otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of such information, Contractor shall promptly inform Customer and thereafter respond in conformity with such subpoena to the extent mandated by state and/or federal laws, rules and regulations. This Article shall survive the termination or completion of the Supplement or this Master Agreement and shall continue in full force and effect and shall be binding upon the Contractor and its agents, employees, successors, assigns, subcontractors or any party or entity claiming an interest in the Supplement or this Master Agreement on behalf of, or under the rights of the Contractor following any termination or completion of the Supplement or this Master Agreement.

**28.2** With the exception of any attached exhibits which are labeled as "confidential", the parties understand and agree that the Supplement and this Master Agreement do not constitute confidential information, and may be reproduced and distributed by the State without notification to Contractor. ITS will provide third party notice to Contractor of any requests received by ITS for any such confidential exhibits so as to allow Contractor the opportunity to protect the information by court order as outlined in ITS Public Records Procedures.

**28.3** The parties understand and agree that pursuant to §25-61-9(7) of the Mississippi Code of 1972, as amended, the contract provisions specifying the commodities purchased or the Services provided; the price to be paid; and the term of this Master Agreement and any Supplement shall not be deemed confidential information.

#### **ARTICLE 29 EFFECT OF SIGNATURE**

Each person signing a Supplement or this Master Agreement represents that he or she has read the Supplement and this Master Agreement in its entirety, understands its terms, is duly authorized to execute the Supplement or this Master Agreement on behalf of the parties and agrees to be bound by the terms contained herein. Accordingly, the Supplement and this Master Agreement shall not be construed or interpreted in favor of or against the State or the Contractor on the basis of draftsmanship or preparation hereof.

#### **ARTICLE 30 STATE PROPERTY**

If applicable, Contractor shall be responsible for the proper custody of any Customer-owned equipment that Customer furnishes to Contractor for Contractor's use in connection with Services performed pursuant to any Supplement, and Contractor shall reimburse the Customer for any damage done to the Customer's equipment by Contractor. This does not include Customer equipment co-located in Customer's data centers for which Customer remains responsible for its loss or damage.

#### **ARTICLE 31 NEWS RELEASES**

News releases pertaining to a Supplement or this Master Agreement or the products, study, data, or project to which it relates will not be made without Customer's prior written approval, and then only in accordance with the explicit written instructions from Customer.

#### **ARTICLE 32 SURVIVAL**

Articles 8, 14, 18, 22, 27, 28, 33, 36, and all other articles which, by their express terms so survive or which should so reasonably survive, shall survive any termination or expiration of the Supplement or this Master Agreement.

### **ARTICLE 33 OWNERSHIP OF DOCUMENTS AND WORK PRODUCTS**

Ownership of all files, work papers, documentation, and/or other material, electronic or otherwise, collected and created in connection with work performed under a Supplement shall be determined as set forth in such Supplement. Notwithstanding, Contractor shall own all of: (a) Contractor's internal administrative and quality assurance files and internal project correspondence; (b) documents, objects or things owned by Contractor and pre-existing the work performed under the Supplement, and (c) documents, objects or things in which Contractor has no right to transfer ownership.

### **ARTICLE 34 ENTIRE AGREEMENT**

**34.1** This Master Agreement constitutes the entire agreement of the parties with respect to the subject matter contained herein and supersedes and replaces any and all prior negotiations, understandings and agreements, written or oral, between the parties relating hereto, including all terms of any unsigned or "shrink-wrap" license included in any package, media or electronic version of Contractor-furnished software, or any "click-wrap" or "browse-wrap" license presenting in connection with a purchase via the internet. The Supplement, RFP No. 3847, and Contractor's Proposal submitted in response thereto are hereby incorporated into and made a part of this Master Agreement as far as the individual Customer is concerned. A copy of Contractor's Exception Summary, as accepted by ITS, is attached hereto as Exhibit B.

**34.2** The Master Agreement made by and between the parties hereto shall consist of, and precedence is hereby established by the order of the following:

- A. This Master Agreement signed by Contractor and ITS;
- B. Any Exhibits attached to this Master Agreement;
- C. The Supplement;
- D. RFP No. 3847 and all written clarifications/addenda; and
- E. Contractor's Proposal, as accepted by ITS, in response to RFP No. 3847.

**34.3** The intent of the above listed documents is to include all items necessary for the proper execution and completion of the Services by Contractor. The documents are complementary, and what is required by one shall be binding as if required by all. A higher order document shall supersede a lower order document to the extent necessary to resolve any conflict or inconsistency arising under the various provisions thereof; provided, however, that in the event an issue is addressed in one of the above mentioned documents but is not addressed in another of such documents, no conflict or inconsistency shall be deemed to occur by reason thereof. The documents listed above are shown in descending order of priority, that is, the highest document begins with the first listed document ("A. This Master Agreement") and the lowest document is listed last ("E. Contractor's Proposal").

### **ARTICLE 35 DEBARMENT AND SUSPENSION CERTIFICATION**

Contractor certifies that neither it nor its principals: (a) are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency; (b) have, within a three (3) year period preceding this Master Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of

records, making false statements or receiving stolen property; (c) are presently indicted of or otherwise criminally or civilly charged by a governmental entity with the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property, and (d) have, within a three (3) year period preceding this Master Agreement, had one or more public transaction (federal, state or local) terminated for cause or default.

#### **ARTICLE 36 NON-SOLICITATION OF EMPLOYEES**

Contractor agrees not to employ or to solicit for employment, directly or indirectly, any of Customer's employees until at least one (1) year after the expiration/termination of the Supplement unless mutually agreed to the contrary in writing by the Customer and Contractor and provided that such an agreement between these two entities is not a violation of the laws of the State of Mississippi or the federal government. The hiring of Customer employees responding to general advertisements for employment shall not be deemed a violation of this Article 36.

#### **ARTICLE 37 COMPLIANCE WITH ENTERPRISE SECURITY POLICY**

Contractor and Customer understand and agree that all Services provided by Contractor under this Master Agreement must be and remain in compliance with the State of Mississippi's Enterprise Security Policy. The parties understand and agree that the State's Enterprise Security Policy is based on industry-standard best practices, policy, and guidelines at the time of contract execution. The State reserves the right to introduce a new policy during the term of this Master Agreement. The State will provide Contractor with a copy of such amended Enterprise Security Policy. If Contractor cannot comply with the amended policy, it will provide the State with written notice of same and the State may either grant a waiver from the portions of the amended policy with which Contractor cannot comply, or the State may terminate this Master Agreement on thirty (30) calendar days' written notice.

#### **ARTICLE 38 TRANSPARENCY**

In accordance with the Mississippi Accountability and Transparency Act of 2008, §27-104-151, et seq., of the Mississippi Code of 1972, as Amended, the American Accountability and Transparency Act of 2009 (P.L. 111-5), where applicable, and §31-7-13 of the Mississippi Code of 1972, as amended, where applicable, a fully executed copy of this Master Agreement and any subsequent amendments and Supplements shall be posted to the State of Mississippi's accountability website at: <https://www.transparency.mississippi.gov>. Prior to ITS posting the Master Agreement and any subsequent amendments and Supplements to the website, any attached exhibits which contain trade secrets or other proprietary information and are labeled as "confidential" will be redacted by ITS. Notwithstanding the preceding, however, it is understood and agreed that pursuant to §25-61-9(7) of the Mississippi Code of 1972, as amended, the contract provisions specifying the commodities purchased or the services provided; the price to be paid; and the term of this Master Agreement and any Supplement shall not be deemed a trade secret or confidential commercial or financial information and shall thus not be redacted.

#### **ARTICLE 39 CHANGE ORDER RATE AND PROCEDURE**

**39.1** It is understood that the State may, at any time by a written order, make changes in the scope of the project. No changes in scope are to be conducted or performed by the Contractor except by the express written approval of the State. The Contractor shall be obligated to perform all

changes requested by the Customer, which have no price or schedule effect.

**39.2** The Contractor shall have no obligation to proceed with any change that has a price or schedule effect until the parties have mutually agreed in writing thereto. Neither the State nor the Contractor shall be obligated to execute such a change order; and if no such change order is executed, the Contractor shall not be obliged or authorized to perform Services beyond the scope of the Supplement. All executed change orders shall be incorporated into previously defined deliverables.

**39.3** With respect to any change orders issued in accordance with this Article, the Contractor shall be compensated for work performed under a change order according to the hourly change order rate of \$180.00 per hour as stated in Contractor's Proposal. The Contractor agrees that this change order rate shall be a "fully loaded" rate, that is, it includes the cost of all materials, travel expenses, per diem, and all other expenses and incidentals incurred by the Contractor in the performance of the change order. The Contractor shall invoice the Customer upon acceptance by the Customer of all work documented in the change order, and the Customer shall pay invoice amounts on the terms set forth in this Master Agreement. The Contractor acknowledges and agrees that the fully-loaded change order hourly rate stated herein must remain valid for the duration of this Master Agreement.

**39.4** Upon agreement of the parties to enter into a change order, the parties will execute such a change order setting forth in reasonable detail the work to be performed thereunder, the revisions necessary to the specifications or performance schedules of any affected project work plan, and the estimated number of professional services hours that will be necessary to implement the work contemplated therein. The price of the work to be performed under any change order will be determined based upon the change order rate; however, the change order will be issued for a total fixed dollar amount and may not be exceeded regardless of the number of hours actually expended by the Contractor to complete the work required by that change order. The project work plan will be revised as necessary.

**39.5** The Contractor will include in the progress reports delivered under the Supplement, the status of work performed under all then-current change orders.

**39.6** In the event the Contractor and the State enter into a change order which increases or decreases the time required for the performance of any part of the work under a Supplement, the Contractor shall submit to the Customer a revised version of the project work plan, clearly indicating all changes, at least five (5) working days prior to implementing any such changes.

**39.7** The Customer shall promptly review all revised project work plans submitted under a Supplement, and shall notify the Contractor of its approval or disapproval, in whole or in part, of the proposed revisions, stating with particularity all grounds for any disapproval, within ten (10) working days of receiving the revisions from the Contractor. If the Customer fails to respond in such time period or any extension thereof, the Customer shall be deemed to have approved the revised project work plan.

#### **ARTICLE 40 FORCE MAJEURE**

Each party shall be excused from performance for any period and to the extent that it is prevented from performing any obligation or Service, in whole or in part, as a result of causes beyond the reasonable control and without the fault or negligence of such party and/or its subcontractors. Such

acts shall include strikes, lockouts, riots, acts of war or terrorism, epidemics, storms generating north-south winds in excess of 51.9 psf and east-west winds in excess of 46.8 psf, flooding due to a storm likely to occur less than once every 100 years, and governmental regulations superimposed after the fact (the 'Force Majeure Events'). When such a cause arises, the Contractor shall notify the Customer immediately in writing of the cause of its inability to perform, how it affects its performance, and the anticipated duration of the inability to perform. Delays in delivery of Services or in meeting completion dates due to Force Majeure Events shall automatically extend such dates for a period equal to the duration of the delay caused by such events, unless the Customer determines it to be in its best interest to terminate its Supplement.

#### **ARTICLE 41 SERVICE LEVEL AGREEMENT**

**41.1** With respect to co-location Services provided to a Customer, Contractor shall provide Service Availability to Customer during the term specified in the applicable Supplement. For purposes of this Master Agreement, "Service Availability" shall mean the provision of continuous power to Customer's colocated equipment from at least one (1) power feed in Contractor's facility which maintains temperature and humidity levels within the ASHRAE TC9.9 (Class A) standards for data centers existing as of the date of this Master Agreement. In the event of a loss of Service Availability which results in the failure of a Customer's equipment to operate solely due to (a) loss of power from both power feeds provided by Contractor; or (b) Contractor's failure to maintain temperature and/or humidity within ASHRAE TC9.9 (Class A) standards for data centers, Contractor shall issue to such affected Customer a credit against such Customer's monthly power and space fees for co-location Services ("Service Availability Credits") as set forth below. Service Availability shall be measured on a per calendar month basis.

<b>Service Availability</b>	<b>Service Availability Credit</b>
<b>Below 100% but not less than 99.82%</b>	<b>25% of monthly fee credited</b>
<b>Below 99.82%</b>	<b>50% of monthly fee credited</b>

**41.2** In order to be eligible for Service Availability Credits, a Customer: (a) must have properly functioning dual power supply equipment which is properly connected to both power feeds supplied by Contractor, as certified by Contractor; (b) must not have power usage exceed Contractor's maximum power allocation to each rack; (c) must not have power usage exceed 90% nominal power draw allowable per power drop; and (d) must immediately open a technical support ticket through Contractor's online management tools reporting an apparent loss of Service Availability at the time of the event.

**41.3** Receipt by Customer of Service Availability Credit is subject to Customer's valid submission of a Service Availability Credit request. Service Availability Credit requests must include Customer's account name or account number and the dates and specific times for which Customer is requesting Service Availability Credits. A Service Availability Credit will be issued only if Contractor reasonably confirms from such data that a Service Availability Credit is available. If the remaining term for co-location services is less than one (1) calendar month, the Service Availability Credit will be adjusted on a pro-rata basis. In no event shall the Service Availability Credit for any calendar month exceed the fees payable for co-location Services during that month plus the fees for power during that month.

For the faithful performance of the terms of this Master Agreement, the parties have caused this Master Agreement to be executed by their undersigned representatives.

State of Mississippi, Department of  
Information Technology Services, on  
behalf of the agencies and institutions  
of the State of Mississippi

By: Craig P. Orgeron  
Authorized Signature

Printed Name: Craig P. Orgeron, Ph.D.

Title: Executive Director

Date: 11/2/2016

C Spire Governmental Data Solutions, LLC

By: J. Brian Chelway  
Authorized Signature

Printed Name: J. BRIAN CHELWAY

Title: SVP, ENTERPRISE MARKETS

Date: NOVEMBER 1, 2016

# EXHIBIT A

Item	Non Recurring Cost	Monthly Recurring Cost	Other
<b>Space - Caged</b>			
Full (42RU)	\$999	\$448 per rack + \$11.20 per square foot	n/a
<b>Space – Un-Caged</b>			
Full (42RU)	\$499	\$392 per rack	n/a
Half (20RU)	\$499	\$252 per half rack	n/a
<b>Power</b>			
Electrical Circuit	\$750	\$84 each	n/a
Power – up to 3 kW	n/a	\$280	n/a
Power – up to 4 kW	n/a	\$403	n/a
Power – up to 5 kW	n/a	\$504	n/a
Power – up to 6 kW	n/a	\$819	n/a
Power – up to 8 kW	n/a	\$1,092	n/a
<b>Network</b>			
Core Network Uplink	\$229	\$154	n/a
Telco Closet Uplink	\$229	\$100	n/a
<b>Other</b>			
Fully-Loaded Change Order Rate	n/a	n/a	\$180/hour
Managed Services – Basic Package	n/a	n/a	\$125 per server/month
Remote Hands	n/a	n/a	\$150 per hour
Circuit Connectivity	n/a	Individual case basis pricing	n/a



<b>Internet Connectivity – Dedicated*</b>			
<b>Item</b>	<b>Non Recurring Cost</b>	<b>Monthly Recurring Cost</b>	<b>Other</b>
100 x 100 Mbps	n/a	\$500	n/a
200 x 200 Mbps	n/a	\$1,000	n/a
300 x 300 Mbps	n/a	\$1,275	n/a
400 x 400 Mbps	n/a	\$1,700	n/a
500 x 500 Mbps	n/a	\$1,750	n/a
600 x 600 Mbps	n/a	\$2,100	n/a
700 x 700 Mbps	n/a	\$2,450	n/a
800 x 800 Mbps	n/a	\$2,600	n/a
900 x 900 Mbps	n/a	\$2,925	n/a
1,000 x 1,000 Mbps	n/a	\$3,250	n/a

<b>Internet Connectivity – Shared*</b>			
<b>Item</b>	<b>Non Recurring Cost</b>	<b>Monthly Recurring Cost</b>	<b>Other</b>
100 x 100 Mbps	n/a	\$250	n/a
200 x 200 Mbps	n/a	\$650	n/a
300 x 300 Mbps	n/a	\$1,050	n/a
400 x 400 Mbps	n/a	\$1,450	n/a
500 x 500 Mbps	n/a	\$1,850	n/a

\* - Requires prior approval from ITS before use by state government entities, including state agencies, boards, commissions, and public universities

#### **Infrastructure Services**

The Services listed below have a tiered pricing structure that delivers pricing discounts as volume tiers are achieved. The tier calculation applies once per month, and aggregates revenue on all accounts which maintain active service under this Master Agreement (state, county, local, schools, and other eligible governing authorities). This means that all accounts can share in savings as total monthly recurring revenue increases. Revenue from Core Services do not count toward tier level achievement.

Volume Tiers (monthly recurring revenue for all Infrastructure Services):

Tier A: \$0-\$19,999

Tier B: \$20,000-\$54,999

Tier C: \$55,000-\$89,999

Tier D: \$90,000-\$124,999

Tier E: \$125,000+

Compute-as-a-Service	Non Recurring Cost	Monthly Recurring Cost				
		Tier A	Tier B	Tier C	Tier D	Tier E
<u>Physical Servers</u>						
Medium Server 3x1.2TB	\$550.00	\$478.00	\$442.15	\$430.20	\$418.25	\$406.30
Medium Server 8x1.2TB	\$550.00	\$747.00	\$690.98	\$672.30	\$653.63	\$634.95
Large Server 3x1.2 TB	\$650.00	\$1,302.00	\$1,204.35	\$1,171.80	\$1,139.25	\$1,106.70
Large Server 8x1.2 TB	\$650.00	\$1,571.00	\$1,453.18	\$1,413.90	\$1,374.63	\$1,335.35
<u>Virtual Servers</u>						
Small	\$150.00	\$80.00	\$74.00	\$72.00	\$70.00	\$68.00
Medium	\$150.00	\$170.00	\$157.25	\$153.00	\$148.75	\$144.50
Large	\$150.00	\$375.00	\$346.88	\$337.50	\$328.13	\$318.75
Extra Large	\$150.00	\$725.00	\$670.63	\$652.50	\$634.38	\$616.25
<u>Virtual Data Center</u>						
vCPU (each)	\$150.00	\$15.00	\$13.88	\$13.50	\$13.13	\$12.75
vRAM (each, monthly/GB)	\$150.00	\$15.00	\$13.88	\$13.50	\$13.13	\$12.75

Storage-as-a-Service	Non Recurring Cost	Monthly Recurring Cost				
		Tier A	Tier B	Tier C	Tier D	Tier E
Archival - Block (per GB)	\$100.00	\$0.06	\$0.06	\$0.06	\$0.05	\$0.05
Standard - Block (per GB)	\$100.00	\$0.15	\$0.14	\$0.14	\$0.14	\$0.13
SSD - Block (per GB)	\$100.00	\$0.45	\$0.43	\$0.42	\$0.41	\$0.39
Object (per GB)	\$100.00	\$0.05	\$0.05	\$0.05	\$0.05	\$0.04

Backup-as-a-Service	Non Recurring Cost	Monthly Recurring Cost				
		Tier A	Tier B	Tier C	Tier D	Tier E
Silver (inside Starkville) per GB	\$150.00	\$0.35	\$0.32	\$0.32	\$0.31	\$0.30
Gold (inside Starkville) per GB	\$150.00	\$0.50	\$0.46	\$0.45	\$0.44	\$0.43
Silver (Starkville to Jackson) per GB	\$150.00	\$0.30	\$0.28	\$0.27	\$0.26	\$0.26
Gold (Starkville to Jackson) per GB	\$150.00	\$0.45	\$0.42	\$0.41	\$0.39	\$0.38
Data Replication	Non Recurring Cost	Monthly Recurring Cost				
		Tier A	Tier B	Tier C	Tier D	Tier E
One Target Site (per GB)	\$150.00	\$0.30	\$0.28	\$0.27	\$0.26	\$0.26
Two Target Sites (per GB)	\$150.00	\$0.60	\$0.56	\$0.54	\$0.53	\$0.51

Disaster Recovery-as-a-Service	Non Recurring Cost	Monthly Recurring Cost				
		Tier A	Tier B	Tier C	Tier D	Tier E
Virtual Server Replication (per server)	\$500.00	\$63.00	\$58.28	\$56.70	\$55.13	\$53.55
vCPU Active (per day)	n/a	\$0.70	\$0.65	\$0.63	\$0.61	\$0.60
vRAM Active (per day)	n/a	\$0.70	\$0.65	\$0.63	\$0.61	\$0.60

Firewalls and Load Balancing	Non Recurring Cost	Monthly Recurring Cost				
		Tier A	Tier B	Tier C	Tier D	Tier E
Standard	\$150.00	\$250.00	\$231.25	\$225.00	\$218.75	\$212.50
Advanced	\$150.00	\$500.00	\$462.50	\$450.00	\$437.50	\$425.00
Premium	\$499.00	\$2,500.00	\$2,312.50	\$2,250.00	\$2,187.50	\$2,125.00
IPsec VPNs	\$50.00	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00

Static IP Addresses	Non Recurring Cost	Monthly Recurring Cost				
		Tier A	Tier B	Tier C	Tier D	Tier E
Set of 1	n/a	Free	Free	Free	Free	Free
Set of 5	n/a	\$29.99	\$29.99	\$29.99	\$29.99	\$29.99
Set of 13	n/a	\$39.99	\$39.99	\$39.99	\$39.99	\$39.99
Set of 29	n/a	\$49.99	\$49.99	\$49.99	\$49.99	\$49.99
Set of 61	n/a	\$64.99	\$64.99	\$64.99	\$64.99	\$64.99

IBM Power System Add-Ons	Description	Non Recurring Cost	Monthly Recurring Cost				
			Tier A	Tier B	Tier C	Tier D	Tier E
20MB VPN	Site to Site VPN over Public Internet – 1 Unit minimum	n/a	\$80.00	\$80.00	\$80.00	\$80.00	\$80.00
S824/1.0 Additional CPU	9605 CPW/16.425 SMT4/17.575 SMT8 rPerf	n/a	\$300.00	\$300.00	\$300.00	\$300.00	\$300.00
S824/0.2 Additional CPU	1921 CPW/3.285 SMT4/3.515 SMT8 rPerf	n/a	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00
S824/RAM/4GB	Memory charges	n/a	\$25.00	\$25.00	\$25.00	\$25.00	\$25.00
v7000 Disk – Additional 1 TB	600 GB 15K Drive Arrays w/10% SSD Easy Tier	n/a	\$125.00	\$125.00	\$125.00	\$125.00	\$125.00
Spectrum Accelerate – Additional 1TB	XIV type storage, not for use with iSeries	n/a	\$95.00	\$95.00	\$95.00	\$95.00	\$95.00
Backup – Additional 1TB	VSS Backup/ Recovery Service or BRMS for iSeries	n/a	\$250.00	\$250.00	\$250.00	\$250.00	\$250.00
OS License – AIX Std 36 Mo.	Includes Power VM EE; requires 1 unit per LPAR	n/a	\$40.00	\$40.00	\$40.00	\$40.00	\$40.00
OS License – iSeries 36 Mo.	Includes Power VM EE or customer transfer license	n/a	\$1,200.00	\$1,200.00	\$1,200.00	\$1,200.00	\$1,200.00
OS License – iSeries X-fer	One time charge per core	n/a	\$595.00	\$595.00	\$595.00	\$595.00	\$595.00
Vision Solutions – Mimix DR	iSeries DR Tier P20 and below	n/a	\$1,335.00	\$1,335.00	\$1,335.00	\$1,335.00	\$1,335.00
Vision Solutions – DoubleTake Avail AIX	pSeries DR Tier 20 and below	n/a	\$1,335.00	\$1,335.00	\$1,335.00	\$1,335.00	\$1,335.00
Network Connectivity Fee	Switches/Routers/Firewall Port Charges – 1 unit minimum	n/a	\$250.00	\$250.00	\$250.00	\$250.00	\$250.00
Rack Unit Fees	Rack/Power/ Cooling – 1 unit minimum	n/a	\$125.00	\$125.00	\$125.00	\$125.00	\$125.00

IBM Power System Add-Ons	Description	Non Recurring Cost	Monthly Recurring Cost				
			Tier A	Tier B	Tier C	Tier D	Tier E
Management and Monitoring	Operations and Replication	n/a	\$300.00	\$300.00	\$300.00	\$300.00	\$300.00
LPAR System Administration	Operational Systems Administration	n/a	\$1,250.00	\$1,250.00	\$1,250.00	\$1,250.00	\$1,250.00

**EXHIBIT B**  
**PROPOSAL EXCEPTION SUMMARY FORM**

**List and clearly explain any exceptions, for all RFP Sections and Exhibits, in the table below.**

ITS RFP Reference	Vendor Proposal Reference	Brief Explanation of Exception	ITS Acceptance (sign here only if accepted)
(Reference specific outline point to which exception is taken)	(Page, section, items in Vendor's proposal where exception is explained)	(Short description of exception being made)	
Section VII.7.1.9	Technical Specifications	Availability of financial information	ITS accepts this exception.
Section VII.10.5.4	Technical Specifications	Block diagram of electrical distribution	ITS accepts this exception.
Section VII.10.5.5	Technical Specifications	Block diagram of power	ITS accepts this exception.
Section VII.10.5.13	Technical Specifications	Drawing of UPS locations	ITS accepts this exception.
Section VII.10.6.2	Technical Specifications	Drawing of HVAC locations	ITS accepts this exception.
Section VII.10.7.1.5.1	Technical Specifications	Floor plan of sprinkler heads	ITS accepts this exception.
Section VII.10.7.1.5.2	Technical Specifications	Floor plan of floor drains	ITS accepts this exception.
Section VII.11.2.5.6	Technical Specifications	Multiple street level access points	ITS accepts this exception.
Section VII.11.5.3.1	Technical Specifications	Summary of BC/DR plan.	ITS accepts this exception.
Section VII.11.5.3.2	Technical Specifications	Testing of BC/DR plan.	ITS accepts this exception.
Section VIII	Cost Information	Alternate pricing table	ITS accepts this exception, and provided a Best and Final Offer Cost Submission Form.
Article 6.2	Contract	Undisputed amounts and late charges	See the revised Article 6.2 in the contract for revisions ITS is amenable to making.
Article 6.3	Contract	Last payment and release	ITS accepts this exception.
Article 8.2	Contract	Warranties	See the revised Article

ITS RFP Reference	Vendor Proposal Reference	Brief Explanation of Exception	ITS Acceptance (sign here only if accepted)
(Reference specific outline point to which exception is taken)	(Page, section, items in Vendor's proposal where exception is explained)	(Short description of exception being made)	
			8.2 in the contract for revisions ITS is amenable to making.
Article 13.3	Contract	Termination of Master Agreement Other than for Cause	See the revised Article 13.3 in the contract for revisions ITS is amenable to making.
Article 13.5	Contract	Termination of Master Agreement	ITS does not accept this exception.
Article 24.1	Contract	Disputes	See the revised Article 24 in the contract for revisions ITS is amenable to making.
Article 25.1	Contract	Compliance with Customer policies and procedures (actual knowledge)	See the revised Article 25.1 in the contract for revisions ITS is amenable to making.
Article 30	Contract	State Property	See the revised Article 30 in the contract for revisions ITS is amenable to making.
Article 33	Contract	Ownership of Documents and Work Products	See the revised Article 33 in the contract for revisions ITS is amenable to making.
Article 34.2	Contract	Order of precedence	ITS does not accept this exception.
Article 34.3	Contract	Order of precedence (reiterated)	ITS does not accept this exception.
Article 36	Contract	Non-solicitation of employees	See the revised Article 36 in the contract for revisions ITS is amenable to making.
Article 38	Contract	Personnel assignment guarantee and penalty	ITS accepts this exception, and has removed Article 38.
Article 41 (new)	Contract	Force Majeure	See the revised Article



<b>ITS RFP Reference</b>	<b>Vendor Proposal Reference</b>	<b>Brief Explanation of Exception</b>	<b>ITS Acceptance (sign here only if accepted)</b>
(Reference specific outline point to which exception is taken)	(Page, section, items in Vendor's proposal where exception is explained)	(Short description of exception being made)	
			40, Force Majeure in the contract for revisions ITS is amenable to making.
Article 42 (new)	Contract	Service Level Agreement	See the revised Article 41, Service Level Agreement in the contract for revisions ITS is amenable to making.