



State of West Virginia  
 Department of Administration  
 Purchasing Division  
 2019 Washington Street East  
 Post Office Box 50130  
 Charleston, WV 25305-0130

**Solicitation**

NUMBER
BPE140000

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF:
DEAN WINGERD 304-558-0468

RFQ COPY

TYPE NAME/ADDRESS HERE

VENDOR

GL Suite, Inc. DBA GL Solutions  
 PO Box 591  
 Bend, OR 97709

SHIP TO

PROFESSIONAL ENGINEERS,  
 BOARD OF REGISTRATION FOR  
 STE 910  
 300 CAPITOL ST  
 CHARLESTON, WV  
 25301 348-3554

DATE PRINTED
04/07/2014

BID OPENING DATE: 04/24/2014

BID OPENING TIME 1:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	LS		205-62	1	\$74,727
LICENSE MANAGEMENT SOFTWARE SOLUTION  THE WEST VIRGINIA PURCHASING DIVISION, ON BEHALF OF THE AGENCY, THE WV STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS, IS SOLICITING BIDS FOR A CONTRACT TO PROVIDE FOR THE ONE-TIME PURCHASE OF A LICENSURE MANAGEMENT SOFTWARE SOLUTION, INCLUDING WEBSITE DESIGN, CONTENT MANAGEMENT DATABASE SYSTEM, ADMINISTRATIVE INTERFACE AND CLOUD-BASED DOCUMENTATION PROGRAM, ALL TO STREAMLINE THE BOARD'S OPERATIONS IN THE AREAS OF LICENSING, RENEWALS, DISCIPLINE AND REGULATION, AND ALL PER THE ATTACHED DOCUMENTATION.  ATTACHMENTS INCLUDE: 1. INSTRUCTIONS TO VENDORS SUBMITTING BIDS 2. GENERAL TERMS AND CONDITIONS 3. BPE140000 SPECIFICATIONS (INCLUDING PRICING PAGE) 4. CERTIFICATION AND SIGNATURE PAGE 5. PURCHASING AFFIDAVIT 6. RESIDENT VENDOR PREFERENCE (RVP) FORM  THE MODEL/BRAND/SPECIFICATIONS NAMED HEREIN ESTABLISH THE ACCEPTABLE LEVEL OF QUALITY ONLY AND ARE NOT INTENDED TO REFLECT A PREFERENCE OR FAVOR ANY PARTICULAR BRAND OR VENDOR. VENDORS WHO ARE BIDDING ALTERNATES SHOULD SO STATE AND INCLUDE PERTINENT LITERATURE AND SPECIFICATIONS. FAILURE TO PROVIDE						

04/23/14 09:29:04AM  
 West Virginia Purchasing Division

SIGNATURE	TELEPHONE	DATE
	541-312-3662 x103	04/17/2014
TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE
VP for Business Solutions	43-1797439	

WHEN RESPONDING TO SOLICITATION, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'



State of West Virginia  
 Department of Administration  
 Purchasing Division  
 2019 Washington Street East  
 Post Office Box 50130  
 Charleston, WV 25305-0130

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 BOARD OF REGISTRATION FOR  
 STE 910  
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 CHARLESTON, WV  
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DATE PRINTED
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BID OPENING DATE: 04/24/2014 BID OPENING TIME 1:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
INFORMATION FOR ANY ALTERNATES MAY BE GROUNDS FOR REJECTION OF THE BID. THE STATE RESERVES THE RIGHT TO WAIVE MINOR IRREGULARITIES IN BIDS OR SPECIFICATIONS IN ACCORDANCE WITH SECTION 148-1-4(F) OF THE WEST VIRGINIA LEGISLATIVE RULES AND REGULATIONS.						
***** THIS IS THE END OF RFQ BPE140000 ***** TOTAL:						<u>\$74,727</u>

SIGNATURE	TELEPHONE 541-312-3662 x103	DATE 04/17/2014
TITLE VP for Business Solutions	FEIN 43-1797439	ADDRESS CHANGES TO BE NOTED ABOVE

WHEN RESPONDING TO SOLICITATION, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'

**INSTRUCTIONS TO VENDORS SUBMITTING BIDS**

- 1. **REVIEW DOCUMENTS THOROUGHLY:** The attached documents contain a solicitation for bids. Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked could lead to disqualification of a Vendor’s bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of Vendor’s bid.
- 2. **MANDATORY TERMS:** The Solicitation may contain mandatory provisions identified by the use of the words “must,” “will,” and “shall.” Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.
- 3. **PREBID MEETING:** The item identified below shall apply to this Solicitation.

- A pre-bid meeting will not be held prior to bid opening.
- A **NON-MANDATORY PRE-BID** meeting will be held at the following place and time:

- A **MANDATORY PRE-BID** meeting will be held at the following place and time:

All Vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor’s bid. No one person attending the pre-bid meeting may represent more than one Vendor.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. The State will not accept any other form of proof or documentation to verify attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing. Additionally, the person attending the pre-bid meeting should include the Vendor’s E-Mail address, phone number, and Fax number on the attendance sheet. It is the Vendor’s responsibility to locate the attendance sheet and provide the required information. Failure to complete the attendance sheet as required may result in disqualification of Vendor’s bid.

All Vendors should arrive prior to the starting time for the pre-bid. Vendors who arrive after the starting time but prior to the end of the pre-bid will be permitted to sign in, but are charged with knowing all matters discussed at the pre-bid.

Questions submitted at least five business days prior to a scheduled pre-bid will be discussed at the pre-bid meeting if possible. Any discussions or answers to questions at the pre-bid meeting are preliminary in nature and are non-binding. Official and binding answers to questions will be published in a written addendum to the Solicitation prior to bid opening.

4. **VENDOR QUESTION DEADLINE:** Vendors may submit questions relating to this Solicitation to the Purchasing Division. Questions must be submitted in writing. All questions must be submitted on or before the date listed below and to the address listed below in order to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are non-binding.

Question Submission Deadline: April 16, 2014 at 5:00pm

Submit Questions to: Dean Wingerd

2019 Washington Street, East

Charleston, WV 25305

Fax: 304-558-4115

Email: [Dean.C.Wingerd@wv.gov](mailto:Dean.C.Wingerd@wv.gov)



5. **VERBAL COMMUNICATION:** Any verbal communication between the Vendor and any State personnel is not binding, including that made at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the Purchasing Division is binding.
6. **BID SUBMISSION:** All bids must be signed and delivered by the Vendor to the Purchasing Division at the address listed below on or before the date and time of the bid opening. Any bid received by the Purchasing Division staff is considered to be in the possession of the Purchasing Division and will not be returned for any reason. The Purchasing Division will not accept bids, modification of bids, or addendum acknowledgment forms via e-mail. Acceptable delivery methods include hand delivery, delivery by courier, or facsimile. The bid delivery address is:

Department of Administration, Purchasing Division  
2019 Washington Street East  
Charleston, WV 25305-0130



The bid should contain the information listed below on the face of the envelope or the bid may not be considered:

**SEALED BID**

BUYER: \_\_\_\_\_  
 SOLICITATION NO.: \_\_\_\_\_  
 BID OPENING DATE: \_\_\_\_\_  
 BID OPENING TIME: \_\_\_\_\_  
 FAX NUMBER: \_\_\_\_\_

In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal plus \_\_\_\_\_ convenience copies of each to the Purchasing Division at the address shown above. Additionally, the Vendor should identify the bid type as either a technical or cost proposal on the face of each bid envelope submitted in response to a request for proposal as follows:

BID TYPE:  Technical  
 Cost

7. **BID OPENING:** Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when time stamped by the official Purchasing Division time clock.

Bid Opening Date and Time: April 24, 2014 at 1:30pm

Bid Opening Location: Department of Administration, Purchasing Division  
 2019 Washington Street East  
 Charleston, WV 25305-0130

8. **ADDENDUM ACKNOWLEDGEMENT:** Changes or revisions to this Solicitation will be made by an official written addendum issued by the Purchasing Division. Vendor should acknowledge receipt of all addenda issued with this Solicitation by completing an Addendum Acknowledgment Form, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.
9. **BID FORMATTING:** Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.

**GENERAL TERMS AND CONDITIONS:**

1. **CONTRACTUAL AGREEMENT:** Issuance of a Purchase Order signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.
  
2. **DEFINITIONS:** As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.
  - 2.1 **"Agency" or "Agencies"** means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.
  
  - 2.2 **"Contract"** means the binding agreement that is entered into between the State and the Vendor to provide the goods and services requested in the Solicitation.
  
  - 2.3 **"Director"** means the Director of the West Virginia Department of Administration, Purchasing Division.
  
  - 2.4 **"Purchasing Division"** means the West Virginia Department of Administration, Purchasing Division.
  
  - 2.5 **"Purchase Order"** means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the successful bidder and Contract holder.
  
  - 2.6 **"Solicitation"** means the official solicitation published by the Purchasing Division and identified by number on the first page thereof.
  
  - 2.7 **"State"** means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.
  
  - 2.8 **"Vendor" or "Vendors"** means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

3. **CONTRACT TERM; RENEWAL; EXTENSION:** The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

**Term Contract**

**Initial Contract Term:** This Contract becomes effective on \_\_\_\_\_  
and extends for a period of \_\_\_\_\_ year(s).

**Renewal Term:** This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal must be submitted to the Purchasing Division Director thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Renewal of this Contract is limited to \_\_\_\_\_ successive one (1) year periods. Automatic renewal of this Contract is prohibited. Notwithstanding the foregoing, Purchasing Division approval is not required on agency delegated or exempt purchases. Attorney General approval may be required for vendor terms and conditions.

**Reasonable Time Extension:** At the sole discretion of the Purchasing Division Director, and with approval from the Attorney General's office (Attorney General approval is as to form only), this Contract may be extended for a reasonable time after the initial Contract term or after any renewal term as may be necessary to obtain a new contract or renew this Contract. Any reasonable time extension shall not exceed twelve (12) months. Vendor may avoid a reasonable time extension by providing the Purchasing Division Director with written notice of Vendor's desire to terminate this Contract 30 days prior to the expiration of the then current term. During any reasonable time extension period, the Vendor may terminate this Contract for any reason upon giving the Purchasing Division Director 30 days written notice. Automatic extension of this Contract is prohibited. Notwithstanding the foregoing, Purchasing Division approval is not required on agency delegated or exempt purchases, but Attorney General approval may be required.

**Release Order Limitations:** In the event that this contract permits release orders, a release order may only be issued during the time this Contract is in effect. Any release order issued within one year of the expiration of this Contract shall be effective for one year from the date the release order is issued. No release order may be extended beyond one year after this Contract has expired.

**Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within 120 calendar \_\_\_\_\_ days.

**One Time Purchase:** The term of this Contract shall run from the issuance of the Purchase Order until all of the goods contracted for have been delivered, but in no event shall this Contract extend for more than one fiscal year.

**Other:** See attached.

4. **NOTICE TO PROCEED:** Vendor shall begin performance of this Contract immediately upon receiving notice to proceed unless otherwise instructed by the Agency. Unless otherwise specified, the fully executed Purchase Order will be considered notice to proceed

5. **QUANTITIES:** The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

**Open End Contract:** Quantities listed in this Solicitation are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

**Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.

**Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

**One Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.

6. **PRICING:** The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification.

7. **EMERGENCY PURCHASES:** The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute a breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.

8. **REQUIRED DOCUMENTS:** All of the items checked below must be provided to the Purchasing Division by the Vendor as specified below.

**BID BOND:** All Vendors shall furnish a bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.

**PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of . The performance bond must be issued and received by the Purchasing Division prior to Contract award. On construction contracts, the performance bond must be 100% of the Contract value.

**LABOR/MATERIAL PAYMENT BOND:** The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be issued and delivered to the Purchasing Division prior to Contract award.

In lieu of the Bid Bond, Performance Bond, and Labor/Material Payment Bond, the Vendor may provide certified checks, cashier's checks, or irrevocable letters of credit. Any certified check, cashier's check, or irrevocable letter of credit provided in lieu of a bond must be of the same amount and delivered on the same schedule as the bond it replaces. A letter of credit submitted in lieu of a performance and labor/material payment bond will only be allowed for projects under \$100,000. Personal or business checks are not acceptable.

**MAINTENANCE BOND:** The apparent successful Vendor shall provide a two (2) year maintenance bond covering the roofing system. The maintenance bond must be issued and delivered to the Purchasing Division prior to Contract award.

**WORKERS' COMPENSATION INSURANCE:** The apparent successful Vendor shall have appropriate workers' compensation insurance and shall provide proof thereof upon request.

**INSURANCE:** The apparent successful Vendor shall furnish proof of the following insurance prior to Contract award and shall list the state as a certificate holder:

**Commercial General Liability Insurance:**  
or more.

**Builders Risk Insurance:** builders risk – all risk insurance in an amount equal to 100% of the amount of the Contract.



The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether or not that insurance requirement is listed above.

- LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section entitled Licensing, of the General Terms and Conditions, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits prior to Contract award, in a form acceptable to the Purchasing Division.





The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications prior to Contract award regardless of whether or not that requirement is listed above.

9. **LITIGATION BOND:** The Director reserves the right to require any Vendor that files a protest of an award to submit a litigation bond in the amount equal to one percent of the lowest bid submitted or \$5,000, whichever is greater. The entire amount of the bond shall be forfeited if the hearing officer determines that the protest was filed for frivolous or improper purpose, including but not limited to, the purpose of harassing, causing unnecessary delay, or needless expense for the Agency. All litigation bonds shall be made payable to the Purchasing Division. In lieu of a bond, the protester may submit a cashier's check or certified check payable to the Purchasing Division. Cashier's or certified checks will be deposited with and held by the State Treasurer's office. If it is determined that the protest has not been filed for frivolous or improper purpose, the bond or deposit shall be returned in its entirety.
10. **ALTERNATES:** Any model, brand, or specification listed herein establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the State at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.
11. **EXCEPTIONS AND CLARIFICATIONS:** The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or



other proposed modifications in its bid. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.

- 12. LIQUIDATED DAMAGES:** Vendor shall pay liquidated damages in the amount  
N/A for N/A

This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy.

- 13. ACCEPTANCE/REJECTION:** The State may accept or reject any bid in whole, or in part. Vendor's signature on its bid signifies acceptance of the terms and conditions contained in the Solicitation and Vendor agrees to be bound by the terms of the Contract, as reflected in the Purchase Order, upon receipt.

- 14. REGISTRATION:** Prior to Contract award, the apparent successful Vendor must be properly registered with the West Virginia Purchasing Division and must have paid the \$125 fee if applicable.

- 15. COMMUNICATION LIMITATIONS:** In accordance with West Virginia Code of State Rules §148-1-6.6, communication with the State of West Virginia or any of its employees regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited without prior Purchasing Division approval. Purchasing Division approval for such communication is implied for all agency delegated and exempt purchases.

- 16. FUNDING:** This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available.

- 17. PAYMENT:** Payment in advance is prohibited under this Contract. Payment may only be made after the delivery and acceptance of goods or services. The Vendor shall submit invoices, in arrears, to the Agency at the address on the face of the purchase order labeled "Invoice To."

- 18. UNIT PRICE:** Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.

- 19. DELIVERY:** All quotations are considered freight on board destination ("F.O.B. destination") unless alternate shipping terms are clearly identified in the bid. Vendor's listing of shipping terms that contradict the shipping terms expressly required by this Solicitation may result in bid disqualification.

- 20. INTEREST:** Interest attributable to late payment will only be permitted if authorized by the West Virginia Code. Presently, there is no provision in the law for interest on late payments.

- 21. PREFERENCE:** Vendor Preference may only be granted upon written request and only in accordance with the West Virginia Code § 5A-3-37 and the West Virginia Code of State Rules. A Resident Vendor Certification form has been attached hereto to allow Vendor to apply for the preference. Vendor's

failure to submit the Resident Vendor Certification form with its bid will result in denial of Vendor Preference. Vendor Preference does not apply to construction projects.

- 22. SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES:** For any solicitations publicly advertised for bid on or after July 1, 2012, in accordance with West Virginia Code §5A-3-37(a)(7) and W. Va. CSR § 148-22-9, any non-resident vendor certified as a small, women-owned, or minority-owned business under W. Va. CSR § 148-22-9 shall be provided the same preference made available to any resident vendor. Any non-resident small, women-owned, or minority-owned business must identify itself as such in writing, must submit that writing to the Purchasing Division with its bid, and must be properly certified under W. Va. CSR § 148-22-9 prior to submission of its bid to receive the preferences made available to resident vendors. Preference for a non-resident small, women-owned, or minority-owned business shall be applied in accordance with W. Va. CSR § 148-22-9.
- 23. TAXES:** The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
- 24. CANCELLATION:** The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-7.16.2.
- 25. WAIVER OF MINOR IRREGULARITIES:** The Director reserves the right to waive minor irregularities in bids or specifications in accordance with West Virginia Code of State Rules § 148-1-4.6.
- 26. TIME:** Time is of the essence with regard to all matters of time and performance in this Contract.
- 27. APPLICABLE LAW:** This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code or West Virginia Code of State Rules is void and of no effect.
- 28. COMPLIANCE:** Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendors acknowledge that they have reviewed, understand, and will comply with all applicable law.
- 29. PREVAILING WAGE:** On any contract for the construction of a public improvement, Vendor and any subcontractors utilized by Vendor shall pay a rate or rates of wages which shall not be less than the fair minimum rate or rates of wages (prevailing wage), as established by the West Virginia Division of Labor under West Virginia Code §§ 21-5A-1 et seq. and available at <http://www.sos.wv.gov/administrative-law/wagerates/Pages/default.aspx>. Vendor shall be responsible for ensuring compliance with prevailing wage requirements and determining when prevailing wage

requirements are applicable. The required contract provisions contained in West Virginia Code of State Rules § 42-7-3 are specifically incorporated herein by reference.

- 30. ARBITRATION:** Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.
- 31. MODIFICATIONS:** This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary, no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). **No Change shall be implemented by the Vendor until such time as the Vendor receives an approved written change order from the Purchasing Division.**
- 32. WAIVER:** The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.
- 33. SUBSEQUENT FORMS:** The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.
- 34. ASSIGNMENT:** Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments. Notwithstanding the foregoing, Purchasing Division approval may or may not be required on certain agency delegated or exempt purchases.
- 35. WARRANTY:** The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.
- 36. STATE EMPLOYEES:** State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.
- 37. BANKRUPTCY:** In the event the Vendor files for bankruptcy protection, the State of West Virginia may deem this Contract null and void, and terminate this Contract without notice.

**38. [RESERVED]**

- 39. CONFIDENTIALITY:** The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/default.html>.
- 40. DISCLOSURE:** Vendor's response to the Solicitation and the resulting Contract are considered public documents and will be disclosed to the public in accordance with the laws, rules, and policies governing the West Virginia Purchasing Division. Those laws include, but are not limited to, the Freedom of Information Act found in West Virginia Code § 29B-1-1 et seq.

If a Vendor considers any part of its bid to be exempt from public disclosure, Vendor must so indicate by specifically identifying the exempt information, identifying the exemption that applies, providing a detailed justification for the exemption, segregating the exempt information from the general bid information, and submitting the exempt information as part of its bid but in a segregated and clearly identifiable format. Failure to comply with the foregoing requirements will result in public disclosure of the Vendor's bid without further notice. A Vendor's act of marking all or nearly all of its bid as exempt is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor's act of marking a bid or any part thereof as "confidential" or "proprietary" is not sufficient to avoid disclosure and WILL NOT BE HONORED. In addition, a legend or other statement indicating that all or substantially all of the bid is exempt from disclosure is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor will be required to defend any claimed exemption for nondisclosure in the event of an administrative or judicial challenge to the State's nondisclosure. Vendor must indemnify the State for any costs incurred related to any exemptions claimed by Vendor. Any questions regarding the applicability of the various public records laws should be addressed to your own legal counsel prior to bid submission.

- 41. LICENSING:** In accordance with West Virginia Code of State Rules §148-1-6.1.7, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.
- 42. ANTITRUST:** In submitting a bid to, signing a contract with, or accepting a Purchase Order from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired



by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

- 43. VENDOR CERTIFICATIONS:** By signing its bid or entering into this Contract, Vendor certifies (1) that its bid was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid for the same material, supplies, equipment or services; (2) that its bid is in all respects fair and without collusion or fraud; (3) that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; and (4) that it has reviewed this RFQ in its entirety, understands the requirements, terms and conditions, and other information contained herein. Vendor's signature on its bid also affirms that neither it nor its representatives have any interest, nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency.

The individual signing this bid on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.

- 44. PURCHASING CARD ACCEPTANCE:** The State of West Virginia currently utilizes a Purchasing Card program, administered under contract by a banking institution, to process payment for goods and services. The Vendor must accept the State of West Virginia's Purchasing Card for payment of all orders under this Contract unless the box below is checked.



Vendor is not required to accept the State of West Virginia's Purchasing Card as payment for all goods and services.

- 45. VENDOR RELATIONSHIP:** The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, *etc.* and the filing of all necessary documents, forms and returns pertinent to all of the foregoing. Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

- 46. INDEMNIFICATION:** The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered

by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

- 47. PURCHASING AFFIDAVIT:** In accordance with West Virginia Code § 5A-3-10a, all Vendors are required to sign, notarize, and submit the Purchasing Affidavit stating that neither the Vendor nor a related party owe a debt to the State in excess of \$1,000. The affidavit must be submitted prior to award, but should be submitted with the Vendor's bid. A copy of the Purchasing Affidavit is included herewith.
- 48. ADDITIONAL AGENCY AND LOCAL GOVERNMENT USE:** This Contract may be utilized by and extends to other agencies, spending units, and political subdivisions of the State of West Virginia; county, municipal, and other local government bodies; and school districts ("Other Government Entities"). This Contract shall be extended to the aforementioned Other Government Entities on the same prices, terms, and conditions as those offered and agreed to in this Contract. If the Vendor does not wish to extend the prices, terms, and conditions of its bid and subsequent contract to the Other Government Entities, the Vendor must clearly indicate such refusal in its bid. A refusal to extend this Contract to the Other Government Entities shall not impact or influence the award of this Contract in any manner.
- 49. CONFLICT OF INTEREST:** Vendor, its officers or members or employees, shall not presently have or acquire any interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.
- 50. REPORTS:** Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:
- Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.
  - Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at [purchasing.requisitions@wv.gov](mailto:purchasing.requisitions@wv.gov).
- 51. BACKGROUND CHECK:** In accordance with W. Va. Code § 15-2D-3, the Director of the Division of Protective Services shall require any service provider whose employees are regularly employed on the grounds or in the buildings of the Capitol complex or who have access to sensitive or critical information



to submit to a fingerprint-based state and federal background inquiry through the state repository. The service provider is responsible for any costs associated with the fingerprint-based state and federal background inquiry.

After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol complex to the Director of the Division of Protective Services for purposes of verifying compliance with this provision.

The State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check.

Service providers should contact the West Virginia Division of Protective Services by phone at (304)558-9911 for more information.

**52. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS:** Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open heath, basic oxygen, electric furnace, Bessemer or other steel making process.

The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:

- a. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or
- b. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

**53. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL:** In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a “substantial labor surplus area”, as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products.

This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

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**SPECIFICATIONS**

- 1. PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Board of Registration for Professional Engineers (hereinafter, "the Board") to establish a contract for the one time purchase of an off-the-shelf licensure/records product and content management system that will streamline Board operations in the areas of licensing, renewals, discipline and regulation, and enhance online capabilities through the implementation of a fully integrated web-based application and renewal system that operates from a single unified database. The Board will not host the system, and it is their intent that the system be hosted by the Vendor. The system must be housed in a centralized location. The Vendor and system are intended to provide secure functionality for a redesign and integration of the Board's current website and new database, online applications, licensure and renewal applications, plus provide documents, calendars, news and articles to meet the Board's requirement to communicate their mission to their constituents. The system must also provide for searching, sorting and exporting records for staff to manage record changes. The system must allow for printing of licenses, wallet cards, certificates, and receipts. The system will provide for processing of payments for applications and renewal of licenses, integrating with the WV State Treasurer's "E-Gov" system for electronic revenue. The system must also include an integrated and secure cloud-based documentation program with an interface that should minimize numbers of steps required to perform any actions of the end user, whether Board Member or Board Staff. The intent of the solicitation is to provide for a contract for required software licensing, the customization and implementation of the software to suit the Board's business (including all necessary training), and the hosting and support of the system once implemented and accepted. All data conversion is to be part of the implementation process. The Board will retain ownership of all data related to the project. This enterprise solution (content management, licensing, web design, etc.) shall be provided by a single Vendor.

The Board currently licenses 7,851 active professional engineers, 349 retired professional engineers, and 3,032 active companies, and certifies 4,422 engineer interns. Other licensee statuses include, but are not limited to, inactive, lapsed, deceased, invalidated, revoked, suspended, and pending applicants. The Board also maintains records of all disciplinary actions that have taken place, with information appropriate for public consumption made available upon its current website. The Board also manages complaints regarding its licensees (it anticipates no more than 100 such complaints each year). Overall, the Board currently manages approximately 15,000 various active licensees and certifications, of which the majority are currently renewed on a yearly basis.

The Board currently has an administrative Staff of five (5). The Board consists of five (5) members appointed by the Governor.

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2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.

2.1 **“Contract Item”** – means the Item being purchased, an off-the-shelf licensure/records product and Content Management Database System with specified capabilities that includes a fully integrated web-based application and renewal system that operates from a single unified database as well as an integrated and secure cloud-based documentation program.

2.2 **“Contract Services”** – means the planning, development, customization, configuration, administrative and end-user training, implementation and support required to be performed by the Vendor to provide for the Contract Item which meets the requirements as stated herein.

2.3 **“Pricing Page”** The Pricing Page is included as the last page of this RFQ.

2.4 **“RFQ”** means the official request for quotation published by the Purchasing Division and identified as **BPE140000**.

2.5 **“Board Member”** – means one of the five (5) appointed members of the Board.

2.6 **“Board Staff”** – means the staff of currently five (5), distinct from Board Members, who are responsible for the Board’s administrative functions.

3. **GENERAL REQUIREMENTS:**

3.1 **Mandatory Contract Item Requirements:** Contract Item and Services must meet or exceed the mandatory requirements listed below.

3.1.1 **Website:** Vendor must provide a comprehensive website, utilizing the Board’s existing website layout and content, which allows the Board to manage licensing applications (professional engineers, engineering interns and engineering companies), license renewals, license status changes for all licenses, as well as certifications for engineering companies. It must allow licensees to securely access the website to perform the actions, below, without any cost from the Vendor to the licensee user. And, it must allow for public access (also at no cost) to view records and other documentation. The website must, at a minimum:

3.1.1.1 Provide detailed real-time verification capabilities that include the ability for disciplinary orders to be viewed through the website.

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**3.1.1.2** The application and renewal portion must be able to support name/address changes, payment processing, uploads of various documents and storage of those submitted documents in the associated database. It must also be able to place the incoming data in a chronological sequence. Any functionality which allows for licensee to change data must include the additional functionality which allows Board Staff to review, revise and approve such changes before their changing in the database or on the website.

**3.1.1.3** The applications and renewal system must also have a status capacity so that users can see and print the application or renewal status and supporting documentation themselves from the web.

**3.1.1.4** Licensees must have the ability to provide a change of address online.

**3.1.2 Content Management Database System:** The Content Management Database System must handle all license types required by the Board and meet the following requirements, at a minimum:

**3.1.2.1** Must be housed in a centralized location. The Board's preference is for a Windows-based server (or equal) for the application.

**3.1.2.2** Must provide for document repository capability to store application, renewal, and historical documents and images. Storage of all documentation, information and materials shall take the place of current paper historical files of licensees and companies. Must provide for storage and relation of licensee employment, education, examination, discipline, and other data for management and reporting purposes.

**3.1.2.3** Must have a reminder system that supports recurrence and notification to multiple parties and includes disciplinary compliance monitoring.

**3.1.2.4** Transactional contact history must record multiple contact types including email, telephone, in-person meetings and written correspondence.

**3.1.2.5** Must have a portal dashboard that can allow for staff access security levels based upon the Board determination of their need to know.

**3.1.2.6** Must provide for Disciplinary and Complaints case management and reporting. This system should have the capacity for up to 100 complaints per year.

**3.1.2.7** Must provide for compliance management and reporting. System must be able to store documents, video and audio files with each case.



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**3.1.2.8** Must provide for Continuing Education data collection, management, and reporting, allowing for continuing education information to be entered at all times throughout the year and printable in a log form format provided by Board Staff. Continuing education information must be kept on file and accessible by the licensee for at least the past 3 years.

**3.1.2.9** Must have printing capabilities for licenses, reports, wallet cards, certificates, and correspondence/envelopes with mail merges, all of which should be simple to use, meaning requiring no more than one point-and-click action, if possible, but otherwise minimizing the number of steps required to produce a printed document.

**3.1.2.10** All changes to data must be stored in a transactional record so historical audit reports can be generated and that the system records and displays the user making the change (s).

**3.1.2.11** Must provide for complete Board Staff **user** content management over reports/exports, modules and front-end user screens, which will allow Board Staff to pick fields from the database to create reports and build templates for reusable reports.

**3.1.2.12** Must have ability for Board Staff users to perform data-mining searches and save those searches for later use.

**3.1.2.13** Must be able to store and provide licensee data for management and reporting purposes.

**3.1.2.14** Must be able to generate custom inspection reports and be able to provide a roster of licensee applicants.

**3.1.2.15** Must store and report on the history of a record by way of a User ID and time stamp of when record was updated and saved.

**3.1.2.16** Must have functionality that allows Board Staff to create and manage workflow for automatic and ad-hoc generated tasks. Task management, user assignment and workflow modules must be customizable by the Board Staff.

**3.1.2.17** Must allow for revenue collections from the online applications (renewals and all other online services), but also be able to allow the Board Staff to process manual payment in one interface that interfaces that payment data with the West Virginia Treasurer's Office "E-Gov" system, for posting to the Board's revenue account in the State of WV's accounting system.



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### 3.1.3 Administrative Interface

**3.1.3.1** The system must provide for an administrative interface that allows the Board Staff the ability to continue to manage the website components. It must support Board Staff being able to manage all content on the website including:

- i. News articles
- ii. Documents, applications and other various forms
- iii. Photos, media and video
- iv. Calendars, schedules and newsletters
- v. Events management
- vi. Surveys
- vii. Notification system that is integrated into the database to pull and merge information

**3.1.4 Cloud-Based Documentation Program:** The system must include an integrated and secure cloud-based documentation program whose interface should require minimal steps to access the managed content. The cloud-based program may allow for documentation to be locally stored on a machine or device. The program must permit:

**3.1.4.1** Board Members and Staff to access documents in the database;

**3.1.4.2** Real-time documentation mark-up and annotation;

**3.1.4.3** Configuration so notes can be saved by author and/or shared with Board Members and/or Staff;

**3.1.4.4** The Board Members and/or Staff to configure the format of the notes; it must allow options for Board Members and Staff to use multiple notation formats (e.g., highlighting, underlining, strike-through) that are available in standard word processing or spreadsheet software.

**3.1.4.5** As the entire system must be integrated, meaning that it operates from a single unified database, this Contract Item must operate from the same database as all other components.

**3.1.4.6** Must be an internet-based solution with the capability to be changed after implementation to support the Board's needs.

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**4. PERFORMANCE:**

**4.1 Installation and Implementation:** The system must be fully implemented and achieve Acceptance within 120 calendar days of fully executed contract. The successful Vendor must:

- 4.1.1 Meet with the Board as is necessary to plan data conversion, system customization and implementation. At least two on-site visits are required, but the vendor shall include the costs of these required visits **and** any additional visits they expect to need to conduct in their bid.
- 4.1.2 Provide a complete schedule (compliant with 4.1) for installation and implementation within ten (10) calendar days of award of the contract. The schedule should indicate all phases of installation and implementation, note any meetings for which Board attendance is required, and explain how installation and implementation will affect the availability of current website services to licensees. Installation and implementation should minimize the amount of time during which licensees cannot access the Board's business services.
- 4.1.3 All data conversion is to be part of the implementation process.
- 4.1.4 Provide and execute a plan, in coordination with the Board Staff, for notifying licensees and others of the new website and system.
- 4.1.5 Provide at least one electronic copy of an instruction manual for Board Staff (which allows the Board Staff the ability to reproduce as needed to circulate to staff during the life of contract).
- 4.1.6 Provide training for use of the system to all Board Staff (currently numbering 5), including intensive software training for Board's IT staff. Training may be on-site or by electronic communication, and shall not require Board staff to travel outside of their normal travel range to attend meetings. Training must cover both the system software and the customized processes of the Board as they exist in the system. Vendor will be expected to provide training to any additional license users during the life of the Contract (at the cost of the Unit Price for the additional license, see Section 5.2.6, below).
- 4.1.7 Provide a list of five (5) successful projects similar in size and scope to this RFQ, listing references for each project. The five projects must have been completed in the last 3 years.

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**4.2 Acceptance:** Acceptance shall be defined as successful demonstration and testing of all system requirements including training, with the ability for all users to utilize the system. The agency will issue a written letter to the vendor as formal acceptance of the system. Upon issuance of the letter, vendor shall be required to agree to implementation of the first year's maintenance and support, by providing a signed/dated letter agreeing to the start date of the first year's Maintenance and Support to the Board.

**4.3 Maintenance and Support:** The first year's support/ maintenance will be added by formal change order, as mutually agreed to by both vendor and Board (and as approved by the State Purchasing Division and the WV Attorney General's Office, as to form only), upon Acceptance of the system by the Board. The second and third year's support/maintenance will also be added by subsequent formal change order, upon contract renewal at the end of the prior year's contract period for support/maintenance. The successful Vendor must provide maintenance and support meeting the following requirements:

**4.3.1 User Help Desk**

**4.3.1.1** Vendor must provide 24 hour-per-day, 7 days-per-week access to online or telephonic technical support to both the Board staff and the end user licensee.

**4.3.1.2** Support must also include support to Board's administrative user and IT staff for configuration of the website, the database, the administrative interface and the cloud-based program.

**4.3.1.3** Vendor must be able to provide remote desktop support for both licensees and Board staff.

**4.3.2 Software Patches and New Releases**

**4.3.2.1** During the life of the contract, Vendor shall make available to the Board all new software versions and patches of defects. Though the expectation is that software updates and patches will be installed remotely, none shall be undertaken without the prior notification, in writing, to the Board and without the Board's prior approval.

**4.3.3 Customization of the System**

**4.3.3.1** All customization of software required to meet the requirements of the Request for Quotation and the Board, and to achieve Acceptance, shall be included in the Base Bid.

**4.3.3.2** Each year of subsequent support shall include (up to) at least five (5) hours of development hours from the Vendor to be used by the Board for

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making new customizations to the system (including, but not limited to, adding a new type of license, etc.), at no charge additional to the base cost of annual support.

- 4.3.3.3 Should a (post-Acceptance) customization require hours from the Vendor in addition to the five provided each year, the Vendor shall be required to create a scope of work and a signed, dated quote for the actual cost of the work (with hours billed per the Unit Price - Item#7 on the Pricing Page - provided below, and noting that the contractually provided five hours are first used), to be processed as a Change Order request for increasing the Contract amount. Note: only upon approval by the State Purchasing Division and the WV Attorney General's Office (as to form only) shall any work be undertaken on such a customization request. This scope of work should also include a timeline for deliverables, and notification of any potential downtime (including estimated dates and times of occurrence and duration) required for its implementation.
- 4.3.3.4 All (post-Acceptance) customization requiring hours from the Vendor shall include all installation, testing and post-installation defect correction
- 4.3.3.5 No (post-Acceptance) customization will result in a change of the cost of basic support, maintenance or hosting as provided in the original Contract or any subsequent years.

#### 4.3.4 Hosting Services

- 4.3.4.1 The Vendor shall install and maintain the system on their own server.
- 4.3.4.2 The Vendor should provide continuous access to the system. However, it is understood that the system may require expected outages for maintenance. Vendor shall perform all planned system outages during off-peak hours (between 12:00pm and 6am EST), and shall notify Board in writing (email suffices) prior to any such outage, providing the estimated date and time of the outage and a brief explanation of the cause of the outage.
- 4.3.4.3 In the event of an unplanned outage, the Vendor shall notify the Board (in writing, email suffices) within one hour after the outage, and shall provide the time of the beginning of the outage and the estimated time for when the outage will end.
- 4.3.4.4 The Vendor shall have and provide as part of this Contract a disaster recovery plan for insuring remote backup of the Board's data. Vendor

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shall work with the Board staff to develop a secondary backup system on the agency's existing equipment.

#### 4.3.5 General Information

**4.3.5.1** It is understood that the Board will likely be required to sign Vendor's terms and conditions for support (and/or licensing, hosting, etc.) in order to fully execute a Contract as a result of this solicitation. Included in the RFQ documentation is the WV-96A, Agreement Addendum for Software, that is traditionally required for State of WV IT purchases. Bidders should take this form into consideration when bidding this project, with the understanding that the State of WV, as a sovereign entity, may require the successful Vendor to negotiate its standard terms and conditions in order to comply with WV State law. **It is strongly preferred that all bidders include with their bid a sample of the terms and conditions they expect the Board to sign as part of the contract.**

#### 5. CONTRACT AWARD:

**5.1 Contract Award:** The Contract is intended to provide Agencies with a purchase price for the Contract Items and Services. The Contract shall be awarded to the Vendor that provides the Contract Items and Services meeting the required specifications for the lowest overall total cost as shown on the Pricing Pages. Initial award of the Contract shall be made for the costs of only Item#1 and Item#2, with all other items added, as required and prescribed herein, by formal Change Order.

**5.2 Pricing Page:** Vendor should complete the Pricing Page provided for as the last page of this RFQ. Vendor should complete the Pricing Page in full as failure to complete the Pricing Page in its entirety may result in Vendor's bid being disqualified.

Notwithstanding the foregoing, the Purchasing Division may correct errors as it deems appropriate. Vendor should enter the information into the Pricing Page to prevent errors in the evaluation.

All data conversion, customization of system to meet the requirements of the Board, and training to achieve Acceptance shall be included in the Vendor's Base Bid. Under no circumstances will any additional costs be allowed to achieve Acceptance.

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**5.2.1 Item#1 Licensure**

**5.2.1.1 Item** - It is anticipated that the Board will have ten (10) administrative positions (staff or members) at the time of Implementation and Installation and Acceptance, all of which will require a **concurrent license** to have perpetual access to the system. The system will support up to 15,000 licensee users. Licenses are perpetual, one-time costs.

**5.2.1.2 Vendor Description** – Bidders should provide a brief, summary description of the product they are bidding. Bidders should state here whether they are bidding one “lump sum” license, 10 individual licenses, or whatever configuration they are using to meet the requirement for Board staff, member access and licensee user access.

**5.2.1.3** The Unit of Measure has been assigned as LS, for lump sum.

**5.2.1.4** The quantity (QTY) is established as One (1).

**5.2.1.5 Cost** – Bidders are required to provide one Cost for their entire package of licenses required for the ten (10) administrative positions, whether those are a single group license or broken into units of the vendor’s choosing. It is understood that any future addition of **single** concurrent, perpetual licenses to compensate for the Board’s increasing their staff size shall be done, by formal Change Order, at the Unit Price listed below. **The Unit Price below and the Cost here are not required to match.**

**5.2.2 Item#2 Implementation and Installation**

**5.2.2.1 Item** – To include all professional services required from award of Contact to Acceptance to meet the requirements of the Contract and the Board.

**5.2.2.2 Vendor Description** – should only be used if the Vendor needs to clarify some aspect of their professional services.

**5.2.3 Item#3 First Year Support/Warranty**

**5.2.3.1** Per Section 4.3, provide cost to the Board, to be added by mutual Change Order upon Acceptance, for the First Year of support, maintenance, and hosting. The pricing provided for the subsequent



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first, second and third year's support shall be fixed during the life of the contract. No price escalation terms for support will be accepted.

**5.2.3.2** Bidders are to provide a single cost for the support option which meets the requirements herein, and not a series of options from which the Board might choose.

**5.2.4 Item#4 Second Year Support/Warranty**

**5.2.4.1** Bids to meet the requirements of Section 5.2.3, but to be for the Second year of support, maintenance and hosting. It is not required that the First and Second (nor Third) Years match in price.

**5.2.5 Item#5 Third Year Support/Warranty**

**5.2.5.1** Bids to meet the requirements of Section 5.2.3, but to be for the Third year of support, maintenance and hosting. It is not required that the First and Second (nor Third) Years match in price.

**5.2.6 Item #6 Unit Price for Additional License(s)**

**5.2.6.1** Provide unit price, to be added to the Contract only by formal, approved Change Order, for a single, concurrent user license should the Board increase its total of administrative positions (from the 10 current at the time of award covered by Item#1) during the life of the contract, and subsequently require the Vendor to provide an additional license. Price should be all inclusive to add, configure, and train the additional user (minimally remotely, though at the Board's site is acceptable).

**5.2.6.2** The quantity provided is an estimate only, for bid evaluation purposes. There is no guarantee that any additional licenses will be needed during the life of the Contract.

**5.2.7 Item #7 Unit Price for Professional Services**

**5.2.7.1** Provide unit price, per hour, for any additional support hours that may be required (but only added by formal, approved Change Order), above and beyond those provided by Section 4.3.3.2, for customization of software after Acceptance, and during First, Second or Third year's support. The hourly rate will be firm for the life of the Contract.

**5.2.7.2** The quantity provided is an estimate only, for bid evaluation purposes. There is no guarantee that any additional professional services support hours will be needed during the life of the Contract.

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6. **PAYMENT:** Agency shall pay the lump sum costs, as shown on the Pricing Pages, for all Contract Services performed and accepted under this Contract. Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.
7. **TRAVEL:** Vendor shall be responsible for all mileage and travel costs, including travel time, associated with performance of this Contract. Any anticipated mileage or travel costs may be included in the flat fee or hourly rate listed on Vendor's bid, but such costs will not be paid by the Agency separately.
8. **FACILITIES ACCESS:** Performance of Contract Services may require access cards and/or keys to gain entrance to Agency's facilities. In the event that access cards and/or keys are required:
  - a. Vendor must identify principal service personnel which will be issued access cards and/or keys to perform service.
  - b. Vendor will be responsible for controlling cards and keys and will pay replacement fee, if the cards or keys become lost or stolen.
  - c. Vendor shall notify Agency immediately of any lost, stolen, or missing card or key.
  - d. Anyone performing under this Contract will be subject to Agency's security protocol and procedures.
  - e. Vendor shall inform all of vendor's staff of Agency's security protocol and procedures.
9. **VENDOR DEFAULT:**
  - a. The following shall be considered a vendor default under this Contract.
    - i. Failure to perform Contract Services in accordance with the requirements contained herein.
    - ii. Failure to comply with other specifications and requirements contained herein.
    - iii. Failure to comply with any laws, rules, and ordinances applicable to the Contract Items or Services provided under this Contract.

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- iv. Failure to remedy deficient performance upon request.
- b. The following remedies shall be available to Agency upon default.
  - i. Cancellation of the Contract.
  - ii. Cancellation of one or more release orders issued under this Contract.
  - iii. Any other remedies available in law or equity.

**10. MISCELLANEOUS:**

- a. **Contract Manager:** During its performance of this Contract, Vendor must designate and maintain a primary contract manager responsible for overseeing Vendor's responsibilities under this Contract. The Contract manager must be available during normal business hours to address any customer service or other issues related to this Contract. Vendor should list its Contract manager and his or her contact information below.

**Contract Manager:** Sharon Apperson

**Telephone Number:** 541-312-3662 x111

**Fax Number:** 503-374-9063

**Email Address:** apperson@glsolutions.com

**RFQ  
Exhibit A Pricing Page**

**Contract Item**

<u>Item#</u>	<u>Item</u>	<u>Vendor Description</u>	<u>Unit of Measure</u>	<u>QTY</u>	<u>Cost</u>	<u>Ref.</u>
1	Concurrent User License (s) for ten (10) WV Board of Registration for Professional Engineers Users of Licensure/Records Product with Content Management Database System (including website, administrative interface, and cloud-based program) for up to 20,000 various licenses and certificates.	License for GL Suite software, as described in RFQ and GL Suite Software and Support Agreement. Due upon contract execution.	LS	1	\$ 35,000	A

**Contract Services**

<u>Item#</u>	<u>Item</u>	<u>Vendor Description</u>	<u>Unit of Measure</u>	<u>QTY</u>	<u>Cost</u>	<u>Ref.</u>
2	Implementation and Installation, to Acceptance	As described in RFQ and Initial Scope of Work in GL Suite Software and Support Agreement.	LS	1	\$ 22,000	B
3	First Year Support/Warranty	As described in RFQ and GL Suite Software and Support Agreement.	YR	1	\$ 5,450	C
4	Second Year Support/Warranty	As described in RFQ and GL Suite Software and Support Agreement.	YR	1	\$ 5,559	D
5	Third Year Support/Warranty	As described in RFQ and GL Suite Software and Support Agreement.	YR	1	\$ 5,670	E

**Unit Prices**

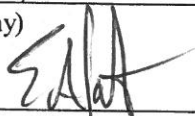
<u>Item#</u>	<u>Item</u>	<u>Vendor Description</u>	<u>Unit of Measure</u>	<u>QTY</u>	<u>Cost</u>	<u>Ref.</u>
Unit prices are to be provided for the following two (2) Items, and will only be used to execute formal Change Orders during the life of contract, if required. Estimated Quantities are included for bid evaluation only; there is no guarantee that any quantity of the Item(s) will be purchased.						
6	Additional License, Per User	Perpetual License for GL Suite software, as described in RFQ and GL Suite Software and Support Agreement.	EA	1	\$ 0	F
7	Additional Professional Services Support Hours	Unit Price per Hour = \$ 131 (x 8 hours = Cost)	HR	8	\$ 1,048	G
<b>TOTAL BID (A + B + C + D + E + F + G) =</b>					\$ 74,727	

**CERTIFICATION AND SIGNATURE PAGE**

By signing below, I certify that I have reviewed this Solicitation in its entirety, understand the requirements, terms and conditions, and other information contained herein; that I am submitting this bid or proposal for review and consideration; that I am authorized by the bidder to execute this bid or any documents related thereto on bidder's behalf; that I am authorized to bind the bidder in a contractual relationship; and that to the best of my knowledge, the bidder has properly registered with any State agency that may require registration.

GL Suite, Inc. DBA GL Solutions

(Company)



(Authorized Signature)

Eric Staley, VP for Business Solutions

(Representative Name, Title)

541-312-3662 x103

(Phone Number)

503-374-9063

(Fax Number)

4/17/2014

(Date)



STATE OF WEST VIRGINIA  
Purchasing Division

**PURCHASING AFFIDAVIT**

**MANDATE:** Under W. Va. Code §5A-3-10a, no contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

**EXCEPTION:** The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. Code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

**DEFINITIONS:**

**"Debt"** means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

**"Employer default"** means having an outstanding balance or liability to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code § 23-2c-2, failure to maintain mandatory workers' compensation coverage, or failure to fully meet its obligations as a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

**"Related party"** means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

**AFFIRMATION:** By signing this form, the vendor's authorized signer affirms and acknowledges under penalty of law for false swearing (W. Va. Code §61-5-3) that neither vendor nor any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

**WITNESS THE FOLLOWING SIGNATURE:**

Vendor's Name: GL Suite, Inc. DBA GL Solutions

Authorized Signature: [Signature] Date: 4/18/2014

State of Oregon

County of Deschutes, to-wit:

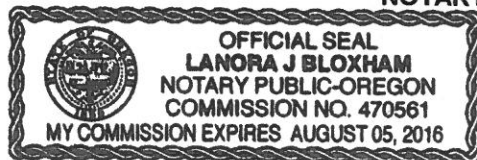
Taken, subscribed, and sworn to before me this 18 day of April, 2014.

My Commission expires August 05, 2016.

**AFFIX SEAL HERE**

**NOTARY PUBLIC**

[Signature: Lanora J Bloxham]



State of West Virginia

VENDOR PREFERENCE CERTIFICATE

Certification and application\* is hereby made for Preference in accordance with West Virginia Code, §5A-3-37. (Does not apply to construction contracts). West Virginia Code, §5A-3-37, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the West Virginia Code. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Resident Vendor Preference, if applicable.

- 1. Application is made for 2.5% resident vendor preference for the reason checked: Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification; or, Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or 80% of the ownership interest of Bidder is held by another individual, partnership, association or corporation resident vendor who has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or, Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; or,
2. Application is made for 2.5% resident vendor preference for the reason checked: Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; or,
3. Application is made for 2.5% resident vendor preference for the reason checked: Bidder is a nonresident vendor employing a minimum of one hundred state residents or is a nonresident vendor with an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia employing a minimum of one hundred state residents who certifies that, during the life of the contract, on average at least 75% of the employees or Bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; or,
4. Application is made for 5% resident vendor preference for the reason checked: Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; or,
5. Application is made for 3.5% resident vendor preference who is a veteran for the reason checked: Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; or,
6. Application is made for 3.5% resident vendor preference who is a veteran for the reason checked: Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.
7. Application is made for preference as a non-resident small, women- and minority-owned business, in accordance with West Virginia Code §5A-3-59 and West Virginia Code of State Rules. Bidder has been or expects to be approved prior to contract award by the Purchasing Division as a certified small, women- and minority-owned business.

Bidder understands if the Secretary of Revenue determines that a Bidder receiving preference has failed to continue to meet the requirements for such preference, the Secretary may order the Director of Purchasing to: (a) reject the bid; or (b) assess a penalty against such Bidder in an amount not to exceed 5% of the bid amount and that such penalty will be paid to the contracting agency or deducted from any unpaid balance on the contract or purchase order.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of Revenue to disclose to the Director of Purchasing appropriate information verifying that Bidder has paid the required business taxes, provided that such information does not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential.

Under penalty of law for false swearing (West Virginia Code, §61-5-3), Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.

Bidder: GL Suite, Inc. DBA GL Solutions
Date: 4/17/2014

Signed: [Signature]
Title: VP for Business Solutions

**AGREEMENT ADDENDUM FOR SOFTWARE**

In the event of conflict between this addendum and the agreement, this addendum shall control:

1. **DISPUTES** - Any references in the agreement to arbitration or to the jurisdiction of any court are hereby deleted. Disputes arising out of the agreement shall be presented to the West Virginia Court of Claims.
2. **HOLD HARMLESS** - Any provision requiring the Agency to indemnify or hold harmless any party is hereby deleted in its entirety.
3. **GOVERNING LAW** - The agreement shall be governed by the laws of the State of West Virginia. This provision replaces any references to any other State's governing law.
4. **TAXES** - Provisions in the agreement requiring the Agency to pay taxes are deleted. As a State entity, the Agency is exempt from Federal, State, and local taxes and will not pay taxes for any Vendor including individuals, nor will the Agency file any tax returns or reports on behalf of Vendor or any other party.
5. **PAYMENT** - Any references to prepayment are deleted. Fees for software licenses, subscriptions, or maintenance are payable annually in advance. Payment for services will be in arrears.
6. **INTEREST** - Any provision for interest or charges on late payments is deleted. The Agency has no statutory authority to pay interest or late fees.
7. **NO WAIVER** - Any language in the agreement requiring the Agency to waive any rights, claims or defenses is hereby deleted.
8. **FISCAL YEAR FUNDING** - Service performed under the agreement may be continued in succeeding fiscal years for the term of the agreement, contingent upon funds being appropriated by the Legislature or otherwise being available for this service. In the event funds are not appropriated or otherwise available for this service, the agreement shall terminate without penalty on June 30. After that date, the agreement becomes of no effect and is null and void. However, the Agency agrees to use its best efforts to have the amounts contemplated under the agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default.
9. **STATUTE OF LIMITATION** - Any clauses limiting the time in which the Agency may bring suit against the Vendor, lessor, individual, or any other party are deleted.
10. **SIMILAR SERVICES** - Any provisions limiting the Agency's right to obtain similar services or equipment in the event of default or non-funding during the term of the agreement are hereby deleted.
11. **FEES OR COSTS** - The Agency recognizes an obligation to pay attorney's fees or costs only when assessed by a court of competent jurisdiction. Any other provision is invalid and considered null and void.
12. **ASSIGNMENT** - Notwithstanding any clause to the contrary, the Agency reserves the right to assign the agreement to another State of West Virginia agency, board or commission upon thirty (30) days written notice to the Vendor and Vendor shall obtain the written consent of Agency prior to assigning the agreement.
13. **LIMITATION OF LIABILITY** - The Agency, as a State entity, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision in the agreement limiting the Vendor's liability for direct damages is hereby deleted. Vendor's liability under the agreement shall not exceed three times the total value of the agreement. Limitations on special, incidental or consequential damages are acceptable. In addition, any limitation is null and void to the extent that it precludes any action for injury to persons or for damages to personal property.
14. **RIGHT TO TERMINATE** - Agency shall have the right to terminate the agreement upon thirty (30) days written notice to Vendor. Agency agrees to pay Vendor for services rendered or goods received prior to the effective date of termination. In such event, Agency will not be entitled to a refund of any software license, subscription or maintenance fees paid.
15. **TERMINATION CHARGES** - Any provision requiring the Agency to pay a fixed amount or liquidated damages upon termination of the agreement is hereby deleted. The Agency may only agree to reimburse a Vendor for actual costs incurred or losses sustained during the current fiscal year due to wrongful termination by the Agency prior to the end of any current agreement term.
16. **RENEWAL** - Any reference to automatic renewal is deleted. The agreement may be renewed only upon mutual written agreement of the parties.
17. **INSURANCE** - Any provision requiring the Agency to purchase insurance for Vendor's property is deleted. The State of West Virginia is insured through the Board of Risk and Insurance Management, and will provide a certificate of property insurance upon request.
18. **RIGHT TO NOTICE** - Any provision for repossession of equipment without notice is hereby deleted. However, the Agency does recognize a right of repossession with notice.
19. **ACCELERATION** - Any reference to acceleration of payments in the event of default or non-funding is hereby deleted.
20. **CONFIDENTIALITY** - Any provision regarding confidentiality of the terms and conditions of the agreement is hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act.
21. **AMENDMENTS** - All amendments, modifications, alterations or changes to the agreement shall be in writing and signed by both parties. No amendment, modification, alteration or change may be made to this addendum without the express written approval of the Purchasing Division and the Attorney General.

**ACCEPTED BY:**

**STATE OF WEST VIRGINIA**

Spending Unit: \_\_\_\_\_

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**VENDOR**

Company Name: GL Suite, Inc. DBA GL Solutions

Signed: 

Title: VP for Business Solutions

Date: 4/17/14

## GL Suite Software and Support Agreement

GL Solutions is a DBA for GL Suite, Inc. and provides here the terms of the GL Suite Software and Support Agreement, in response to page 27 of the RFQ, "It is strongly preferred that all bidders include a sample of the terms and conditions they expect the Board to sign as part of the contract."

# GL Suite Software and Software Support Agreement

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Date of Agreement: \_\_\_\_\_, 20\_\_

### Parties to this agreement:

GL Suite, Inc., an Oregon corporation ("Company"), and the \_\_\_\_\_, an agency of the State of \_\_\_\_\_ ("Licensee").

## GL Suite Software

**1. Contract Term.** This Contract shall be effective on the date this Contract has been fully executed by every party, and shall expire on the expiration of any Software Support Services Plan purchased in conjunction with Section 9 of this Agreement.

**2. Grant of License.** Company grants to Licensee and Licensee accepts from Company a non-exclusive, non-transferrable, perpetual license and right to use GL Suite software (the "Software") on the terms and conditions set forth in this Agreement, exclusively for the following purposes:

(a) Licensee's employees may use the Software for the purpose of performing their admissions, licensing, and prosecution of ethics, violations as well as group benefit and public service programs for the Nevada Supreme Court and related support functions for Licensee.

(b) Licensee may use the Software to support customers, licensees, and other third-parties for the purpose of providing these persons the ability to apply, renew and verify a license, permit, or registration and related information, documents and enforcement actions. Licensee may connect third-party software to the Software through Company provided interfaces to support the use identified in this paragraph.

(c) For the duration of this agreement, Company licenses to Licensee the rights to develop new customized functionality, create and modify database objects, stored



procedures, tables, fields and structures, create and modify customized reports and otherwise make customizations to the Software for the exclusive use of Licensee. All such developments by Licensee shall be considered part of the “Software.”

(d) The “Software” includes all new releases and versions, and Customizations, as described in Section 7.

**3. Certain Limitations.** The Software license granted by this agreement is limited.

(a) Licensee may not use, copy, modify, or transfer the Software, or any copy, in whole or in part, except as expressly provided for in this agreement.

(b) Licensee may copy the Software only for backup purposes, provided that Licensee reproduces all copyright and other proprietary notices that are on the original copy of the Software provided to Licensee.

(c) Company retains all rights, title and interest in and to all software, documentation, derivative works and other intellectual property developed, designed, created or contributed by Company pursuant to this Agreement, excluding Licensee's domain name, and excluding the graphics and data supplied by Licensee.

(d) Licensee may transfer the Software and all rights under this agreement to another party together with a copy of this agreement if the other party agrees to accept the terms of this agreement and Licensee receives written authorization directly from Company prior to any such transfer. If Licensee transfers the Software, Licensee must at the same time either transfer all copies whether in printed or machine-readable form to the same party or destroy any copies not transferred. Any attempt to transfer any of the rights, duties, or obligations hereunder except as expressly provided for in this agreement is void.

(e) Licensee may not rent, lease, loan, resell for profit, distribute, or network the Software except as otherwise provided in this agreement.

(f) Licensee agrees not to disassemble, decompile, translate or convert into human readable form or into another computer language, reconstruct or decrypt, or reverse engineer, all or any part of the Software to develop new software with some or all of the functions of the Software.

(g) In the event Company ceases to exist and fails to assign its rights in the Software to another entity, Licensee shall have the right to make modifications of the Software source code notwithstanding the terms of this paragraph.

(h) Licensee shall not donate, distribute, license, sell or otherwise authorize the use or possession of modifications to any person other than Licensee's employees.

(i) Any software, reports, data structures, and other work product created as a consequence of Software Support Services shall become the exclusive property of Company. Company licenses without additional charge Custom Programs to Licensee.



License shall include all rights granted under the Software License and the additional rights to decompile and modify the software, reports, data structures, and other work product created as a consequence of Customization Services.

(j) Software includes the distribution of other licensed software code subject to the limitations noted below:

i. The Alex FTPS Client is distributed under the GNU Library General Public License (LGPL) Version 2.1, February 1999. Therefore, the licensee is entitled to all rights under that license to the Alex FTPS Client software assemblies only.

ii. Json.net Copyright (c) 2007 James Newton-King from Newtonsoft is provided under the MIT Free Software license. Therefore, the licensee is entitled to all rights under that license to Newtonsoft assembly only.

iii. The Sphorium Technologies Webdav.Net is distributed under the GNU Library General Public License (LGPL) Version 2.1, February 1999. Therefore, the licensee is entitled to all rights under that license to the Sphorium Technologies Webdav.Net software assemblies only.

iv. Software redistributes Telerik Rad Controls, Copyright © 2002-2012 Telerik. All rights reserved, for Ajax under license with Telerik. Licensee may not develop new software utilizing Telerik's software libraries without first obtaining a Telerik Developer's License. Licensee may configure and utilize Software features without a Telerik Developer's License.

**4. Intellectual Property Protection.** This Agreement does not provide Licensee with title to or ownership of the Software, but only a right of limited use. Licensor shall have sole and exclusive ownership of all right, title and interest in and to the Software, all copies thereof, all derivative works, Program Concepts, and all related works and materials (including ownership of all copyrights, trademarks and other intellectual property rights pertaining thereto), in any media now existing or subsequently developed, whether created by Licensor or any other party, subject to the rights of Licensee expressly granted herein. Licensee agrees to protect Company's interest in the Software, as follows.

(a) Licensee agrees to allow access or use of the Software only by employees of Licensee or by contractors under a written agreement, which preserves Company's rights to the Software and that prevents contractors from using, redistributing, disclosing or otherwise violating the rights of Company.

(b) Licensee agrees to maintain the confidentiality of the Software including all concepts, documentation, methods, processes and ideas, and the structure, sequence, and organization, designs, data models, tables and set-ups, and interfaces embodied, or expressed therein (the "Program Concepts") and to use same only as expressly authorized in this License. Licensee shall not disclose, provide, or make the Software or Program Concepts available in any form or medium to any person, in whole or in part,

except on a confidential basis to such of Licensee's employees and consultants who need to access the Software to enable Licensee to exercise its rights under this License. Licensee shall take reasonable steps to ensure that such employees and consultants will keep the Software and Program Concepts confidential, and Licensee shall be liable for any breach of this License by such employees or consultants.

(c) Licensee shall include all proprietary, copyright, trademark, design right and trade secret legends, in the same form and location as the legend appearing on the Software on all authorized backup and archival copies of the Software. Further, Licensee shall not remove any proprietary, copyright, trademark, design right or trade secret legend from the Software.

(d) Licensee shall, at its own expense, keep the Software free and clear of all levies, liens and encumbrances. Licensee shall give Company immediate notice of any attachment or other judicial process affecting the Software.

**5. No Adequate Remedy.** Licensee agrees that should it breach or threaten to breach any provision of this section, Company will suffer irreparable damages and its remedy at law will be inadequate. Upon any breach or threatened breach of this section by Licensee, Company shall be entitled to injunctive relief in addition to any other remedy which it may have at law or in equity.

## **6. Installation and Migration Services**

(a) Legacy Software means existing software owned or licensed by Licensee and designed to produce the same functional outcomes as the Software being licensed by Company to Licensee as described in the Licensee's RFQ which is attached.

(b) Conversion Services means the Company transfers data from delimited or fixed length ASCII text files or an ODBC compliant data source to the Software. Transfer of data means the manipulation of data from a data source to the table structure utilized by Software. Currently used software must be intended to perform functionality similar to the functionality of Licensed Software. Conversion Services does not include the identification or correction of data-entry or normalization errors present in legacy systems. Licensee produces legacy data in the Company specified format along with documentation that describes the legacy data structure, relationships, fields and tables in sufficient detail to enable Company to convert the data to a format utilized by Software.

(c) Installation and Migration Services means the configuration, deployment and user training, requirements gathering, gap analysis, project management and data conversion services necessary to migrate Licensee from Legacy Software to Company's Software as described in Licensee's RFQ.

(d) Company shall provide Installation and Migration Services to Licensee and shall invoice for deliverables upon production and Licensee shall pay such invoices within 30 days of receipt of the invoice. Installation and Migration Services shall be

provided as necessary to migrate Licensee from Legacy Software to Company's Software.

(e) Licensee shall provide all necessary staff and management reasonably necessary and required by Company to accomplish Installation and Migration Services within the planned go-live schedule mutually agreed to by Company and Licensee. Licensee shall provide a copy of the Legacy Software database and other files necessary to provide Installation and Migration Services. Licensee shall conduct UAT testing exclusively by following written process instructions and flow diagrams provided by Company and developed for each business process identified and mutually agreed to at during the project initiation.

## Software Support Services and Plans

7. **Software Support Services and Plans.** Company offers Software Support Services to Licensee. As described in Section 8, Software Support Services include Help Desk Support, Training and Documentation, Software Patches and Releases, Customizations, Enhancements and Corrections, Hosting Services, and Mobile Services. The specific Software Support Services to be provided to Licensee, and the fees therefore, shall be determined by the type of Software Support Plan purchased by Licensee pursuant to Section 9.

8. **"Software Support Services"** means any of the following services:

**(a) Help Desk Support**

i. 24 X 7 Emergency Support – Company provides access to a technical representative, who can be reached 24 hours a day, seven days a week to resolve critical issues.

ii. End-User Support – Company provides end-user support including telephone support for user-level questions about how to use Software to perform the user's job function.

iii. Configuration Troubleshooting – Licensee may call and get support from Company when Licensee's IT staff need help modifying the configuration of the software. Company will provide guidance, troubleshooting and examples on how to configure screens, fields, rules, reports and correspondence.

iv. Developer-to-Developer Support – Company provides access to Company software developers when Licensee's professional IT staff needs help with web site development, third-party application integration, custom GUIs, etc.

v. Hardware, Network and Security Tips – Company provides technical-level guidance to Licensee's staff to assist with hardware and network and security specifications. Company will offer suggestions on redundancy, load balancing, firewall configuration, etc.

**vi. Architecture and Best Practice Guidance** – Company will provide assistance to solve complex software design or architectural problems through access to Company’s analysts. Company provides comprehensive business analysis and application component support.

**vii. Online Remote Desktop Support** – Company provides Licensee with Software Support Services that allow Company to view and interact with Licensee’s desktop computer to troubleshoot problems and demonstrate functionality.

**viii. Account Management** – Company will assign an Account Manager who monitors Licensee’s issues, coordinates regular service release installation, and tracks Licensee’s business process cycles to help Licensee prepare for renewals and other busy times. The Account Manager is available for periodic reviews on the status of open issues and future goals.

**ix. Local User Group Support** – Company provides remote support for periodic meetings between Licensee and other local licensees of the Software. Support by Company includes providing existing training documentation, train-the-trainer support, technical support, product guidance, and remote presentations in support of the periodic meetings.

#### **(b) Training and Documentation**

**i. GL Suite Web Courses** – Company offers Licensee opportunities to attend regularly scheduled, live training sessions on the configuration of screens, security, rules, correspondence, reports and more. Courses via remote desktop demonstrations and conference call.

**ii. Agency-Specific Process Training** – Company provides Licensee’s employees with training on the use of the software to perform specific Licensee business processes.

**iii. Software Training** – Company provides Licensee technical staff with training on the administration, maintenance and configuration of the Software.

**iv. Core Software Documentation** – Company provides access to application use, administration and configuration manuals via the Company web site.

**v. User Conference** – Licensee may attend Company’s User Conference typically held in Bend, Oregon. The User Conference includes opportunities to: meet and learn from staff at other agencies that are using the Software, attend information and training sessions on new features, and meet directly with Company’s staff.

#### **(c) Software Patches and Releases**

i. New Software Versions – Company produces and makes available to Licensee an enhanced version of the Software under the same Software license terms of this agreement. An enhanced version of the software contains new or improved functionality not included in a previous version of the software, including but not limited to new releases to support compatibility with new releases of the Microsoft operating systems known as Windows Server and desktop operating systems, Microsoft Internet Explorer and Microsoft Office. Company may elect at Company’s sole discretion the features and compatibility of new releases. Company provides access to new versions of the Software on Company’s web site, along with documentation on changes, enhancements and installation instructions.

ii. Installation of New Software Versions – Company provides remote installation services for new versions of GL Suite.

iii. Core Software Patches – Company produces and makes available to Licensee a version of the Software that corrects Software defects or errors that prevent the Software from providing the functionality described in the Software documentation. Company provides access to Core Software Patches on Company’ web site, along with documentation on changes and installation instructions. Core software refers to the base, pre-configured/customized software application only.

iv. Installation of Core Software Patches – Company provides remote installation services for Core Software Patches of the Software.

#### **(d) Customization, Enhancement and Corrections**

i. Company provides services to specify, support, configure, design, program, test, implement, correct and document the Software as required to meet the business needs of the agency (such services collectively “Customizations”), pursuant to a written Scope of Work Addendum as agreed upon by Company and Licensee (the description of a Customization in a Scope of Work Addendum a “Specification”). For purposes of determining applicable fees, Customizations are classified as “Customization Projects” or “Customization Tasks,” as described in this Section 7(d).

##### **ii. Customization Projects –**

**(1)** A proposed Customization is a “Customization Project” if it includes a request for a Software Support Service and includes any of the following: 1) functionality requests that require coordination between Company and a third-party; 2) functionality requests with three or more finite deliverables which must be delivered in a specific sequence to meet the Licensee’s business requirements; 3) functionality which may impact other aspects of the configured Software and therefore require a system test of an entire business process; or 4) service or functionality which



requires the presence of a Company employee onsite at Licensee's place of business.

(2) Company may determine a request is more than one Customization Projects if the activities are designed to produce more than one specific final output, the activities may start and stop independently of one another, an output is being produced for more than one internal or external customer, or the process steps substantially vary to produce the specific final output.

(3) Company designed the Software for the purpose of meeting multiple Licensee needs without modification of software code distributed to all Licensees. Customization Projects may include configuration of the Software, or other modifications to the Software, as determined by Company. Configuration includes making changes to the Software through existing Software interfaces designed for such purposes including, but not limited to, creating screens, fields, reports, business logic and correspondence. Company retains the right to determine whether the functionality requirements shall be provided by configuration of the Software or by other means.

(4) Company shall periodically create a project timeline, which identifies the latest date by which each party must perform specific duties in this contract in order to deliver timely Customization Projects.

iii. Customization Tasks – A “Customization Task” is a single request for a Software Support Service, support for one month for one device under Mobile Services, or modification or defect correction of a customization of the Software except: 1) requests that are a Customization Project; or 2) an enhancement or defect in a Customization Project reported within thirty days following the delivery of a Customization Project or Task.

iv. Defect Correction – Company provides corrections to Customizations for thirty days following delivery of the Customization or Task. A “correction” means causing the functionality to perform in material conformity with an applicable Specification.

v. Installation of Configuration and Customization Corrections – Company provides remote installation services for configuration and customization corrections.

vi. Company may subdivide a Customization or other Software Support Service deliverable into one or more discrete deliverables for acceptance and payment by Licensee, as may be agreed to by Licensee in an applicable Scope of Work Addendum or an accepted Software Support Service request.

vii. Licensee acknowledges that failure to timely review or test scope deliverables or to allocate sufficient and timely staff resources necessary to accomplish the purpose of this contract shall delay the provision of Customization Projects, Tasks or Defect Corrections. The extent of the delay shall be determined by Company after consideration of Company's prior commitments to third parties, available Company resources, and Licensee's business needs.

**(e) Hosting Service** – Company installs and maintains Software on a server(s) on Company's computer system or an alternate collocation facility chosen by Company; and, the provision by Company of all licenses, services and support required for the Software to be accessed via the Internet and meet performance, functionality and security requirements described in this Software agreement.

i. Company shall be responsible for backing up the following components: application and database servers, application operating system, and configuration databases.

ii. Company shall perform daily incremental backups with weekly full backups. Backup media shall be rotated off-site on a weekly basis. The Company shall test recovery operations on a regular basis. The Company shall recover operations as necessary.

iii. Company may decline to install on Company's computer system any customization not developed by Company based upon the reliability, design and/or resources required by such customization.

iv. Company, in its sole discretion, may secure domain names and assign Internet address space (subject to reasonable availability) for the benefit of Licensee, and Company will route those addresses on Company's network; it being understood and agreed that neither Licensee nor any of its "Users" shall have the right to route these addresses. Licensee shall have no ownership interest in any IP addresses which Company obtains on Licensee's behalf and Company retains ownership of all such IP addresses, and upon termination of the Software Support Service, Licensee's access to and utilization of such IP addresses shall terminate.

v. Company makes reasonable efforts to provide continuous internet access to Software. Company periodically disables access to Software for the purpose of maintenance and repair of Company's computer systems and Software. Company shall attempt to provide 24 hours notice to users of the Software of planned access outages and such outages shall be scheduled during off-peak hours when possible. Unplanned outages may occur at any time due to failure of the Software, failure of the company's computer systems or failure of another party providing services relating to the Company's Internet access. Such unplanned outages may occur during peak usage times – even during the Licensee's peak renewal periods. Company shall immediately notify Licensee

when an unplanned outage occurs and shall take reasonable efforts to restore Internet access to the Software when an unplanned outage occurs.

vi. Company is responsible for exercising a reasonable standard of care to maintaining the security of sensitive data, regardless of ownership. In event of a breach of the security of the sensitive data the Company will immediately notify the Licensee and work with the Licensee regarding recovery and remediation.

vii. The Licensee may inspect and review vendor operations for potential risks to the Licensee operations or data. The review may include a physical site inspection and an inspection of documentation such as security test results, IT audits, and disaster recovery plans.

viii. Company shall provide: effectively deployed and administered firewalls, intrusion detection with 24x7 alerting capability, incident response support, access controls to enforce restrictions on a need-to-know basis, established and tested policies and procedures, contingency plans and disaster recovery plans, security testing and evaluation process for security controls, to include regularly scheduled, at least annually, vulnerability assessments. Configuration settings required to maintain the system's security on the system itself and other Licensee systems that interface with it.

ix. The cost of SSL Certification for Licensee websites that use a glsuite.us domain is covered by Company. Licensees using custom URLs assume the cost of the corresponding SSL Certification.

x. Company maintains certified partner relationships with credit card processors, hosting providers and independent software vendors for products and services integrated with the Software. Company and certified partners establish beneficial relationships in order to provide a breadth of software and services to Company's clients including Licensee. Licensee may procure integrated products and services from certified partners through this contract.

**(f) Mobile Services** – Company provides a comprehensive solution for Licensee's employees to complete inspection, complaints and other business process activities from remote locations.

i. Company will provide a mobile kit to enable remote connectivity to the Software. Licensee will utilize a task for each initial and replacement kit provided. The kit remains the property of Company and will be returned to Company by Licensee upon request by Company.

ii. Company will provide technical support for Licensee's employee usage, data synchronization and connectivity, and mobile device management services for each device. Each device shall be provided as either 1 customization project per year or 1 customization task per month for each device as elected by Licensee.

iii. Company shall provide a mobile version of each Software form as requested by Licensee that may be completed by Licensee staff utilizing the mobile kit. Licensee shall utilize a project for each such form.

**9. Software Support Plans.** Licensee may purchase Software Support Services through the First, Second and Third Year Support/Warranty plan from Company beginning with the first production usage of the Software until three years after the first production usage of the Software, unless otherwise extended by mutual agreement between the parties. Licensee may purchase the Software Support Services as Hourly Rate Support as defined in subsection 9(b) below.

**(a) “First, Second and Third Year Support/Warranty”** Under the “First, Second and Third Year Support Warranty” plan Company provides only Software Support Services explicitly identified in the RFQ at a predetermined, annual cost.

**(b) “Hourly Rate Support”** means the purchase of Software Support Services on a time and materials basis not otherwise included in the support plan.

i. Hourly Rate Support is rendered on a time and materials basis regardless of the actually work product produced, if any.

ii. Hourly Rate Support may be used to acquire any Software Support Service except items under the Hosting and Software Patches and Release section.

iii. Company makes no warranty on functionality developed on an Hourly Rate basis. Licensee must purchase additional Software Support Services to correct defects.

iv. Upon request by Licensee, Company shall specify and provide a written authorization approval form for each Hourly Rate Software Support Service. The request shall contain a description an estimate of the hours required to complete the Software Support Service. Upon written approval by Licensee, Company shall perform Software Support Services.

v. Company shall notify and request additional approval from Licensee to continue providing Hourly Rate Support if the objective of the request is not met and the hours actually expended exceed the approved estimate.

vi. Licensee may decline or revoke initial or subsequent Hourly Rate Support authorizations at any time. In the event of a declined or revoked authorization, Licensee shall pay to Company for all hours expended prior to the refusal or revocation regardless of work product produced.

vii. Company shall invoice Licensee for Hourly Rate Support on a monthly basis for each hour of Software Support Services rendered in the prior month regardless of the status of each service request. Payment is due within 30 days of the invoice date.

(b) Software Support Services will only be provided for the most current and immediately prior version of the Software in effect at the time the Software Support Services are requested.

## Other Terms

**10. Acceptance.** Licensee agrees that any the following conditions constitute acceptance of the Software by Licensee, in the form delivered by Company, including acceptance of a Customization or other Software Support Service deliverable:

(a) Written acceptance by Licensee;

(b) Production use of the Software (or, as applicable, Customization or other Software Support Service deliverable) in a live environment; or

(c) Failure to inspect and report defects regarding the Software or deliverable identified in the Initial Scope of Work Addendum within fourteen calendar days after delivery notification by Company to Licensee.

### 11. Software Warranties.

(a) Company warrants Software and Installation and Migration Services for a period of ninety (90) days from Acceptance by Licensee (the "Warranty Period"), the Software and Customization Services will function in material conformity with the description, definition, specification and functional requirements set forth in this License and the Scope Deliverables, and will be free from material defects in operational performance. Company will, at its own expense, promptly cure all breaches of the foregoing warranty reported by Licensee in writing during the Warranty Period even if the period to perform such corrective action extends beyond the Warranty Period. If such non-conformity cannot be corrected, worked around, or replaced, then Licensee may terminate this License and all funds previously paid to Company during the current License term shall be refunded immediately to Licensee. These remedies are Licensee's sole and exclusive remedies for any non-conformities, defects or errors and all performance or non-performance problems related to the Software, Software Support Services, or this License, including without limitation any breach of warranty by Company.

(b) Company warrants that Company has the full power and authority to grant the rights granted Licensee hereunder with respect to the Software, and neither the License or use by Licensee of the Software, as permitted under this License, will in any way constitute an infringement or other violation of any copyright, patent, trade secret, trademark or any other intellectual property right of any third party.

(c) In the event Software requires updating due to Federal, State statutory or regulatory requirements affecting Licensee, the Company's Software development department shall give its highest priority to the implementation of such updates, but Company does not warrant that all such updates will be completed, or that any updates will be completed by a certain time.



**(d)** In the event that the Software is, in the opinion of the Company, likely to or does become the subject of a claim for copyright or other intellectual property rights infringement, Company may, at its option and expense, either (1) procure for Licensee, the right under such third-party rights to use the Software; or (2) replace or modify the Software, or parts thereof, with other suitable and reasonable equivalent technology so that the Software becomes non-infringing; or (3) if it is not commercially reasonable to take actions specified in (1) and (2) immediately preceding, terminate this License and refund all license fees to Licensee.

**(e) Hosting Service Warranty.** Licensee assumes total responsibility for Licensee's use and users' use of the Software on any equipment provided by Company, if any, and the Internet. Licensee understands and agrees further that the Internet is accessible by persons who may attempt to breach the security of Company and/or Licensee's networks. Company has no control over and expressly disclaims any liability or responsibility whatsoever for such actions and Licensee and Licensee's end users access the service at Licensee's own risk. Hosting Services provided by Company are provided on an "as is" and "as available" basis without warranties of any kind, either express or implied, including but not limited to warranties of title, merchantability or fitness for a particular purpose. No advice or information given by Company, its affiliates or contractors or their respective employees, create a warranty. Some states do not allow the limitation of implied warranty, and therefore certain provisions may not apply to Licensees located in those states.

**(f)** EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 11, COMPANY MAKES NO OTHER WARRANTIES OF ANY KIND, AND EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE SUITABILITY OR THE CONDITION OF THE SOFTWARE, OR ITS FITNESS OR SAFETY FOR ANY PARTICULAR PURPOSE OR USE, OR AS TO ITS MERCHANTABILITY. COMPANY MAKES NO WARRANTY REGARDING THE USABILITY OR CONVERTIBILITY OF ANY OF LICENSEE'S DATA, THE SUITABILITY OF THE SOFTWARE FOR LICENSEE'S NEEDS, OR ANY PERFORMANCE PROBLEM, CLAIM OF INFRINGEMENT OR OTHER MATTER ATTRIBUTABLE TO ANY USE OR MODIFICATION OF THE SOFTWARE, OR COMBINATION OF THE SOFTWARE WITH ANY OTHER SOFTWARE OR COMPUTER PROGRAM OR COMMUNICATIONS DEVICE, NOT EXPRESSLY AUTHORIZED BY COMPANY IN WRITING. COMPANY SHALL NOT BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL (INCLUDING LIABILITY IN TORT, STRICT OR OTHERWISE) DAMAGES ARISING DIRECTLY OR INDIRECTLY FROM THE SOFTWARE, THE USE, MISUSE, LOSS OF USE OR SALE THEREOF OR THE DELAY OR FAILURE OF DELIVERY OF THE SOFTWARE OR FROM ANY OTHER CAUSE WHATSOEVER EVEN IF IT HAS BEEN ADVISED OF SUCH POSSIBILITY. THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS IN THIS LICENSE SHALL APPLY IRRESPECTIVE OF THE NATURE OF THE CAUSE OF ACTION, DEMAND OR ACTION BY LICENSEE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, NEGLIGENCE, TORT OR ANY OTHER LEGAL THEORY, AND REGARDLESS OF THE SUCCESS OR EFFECT OF OTHER REMEDIES. IN NO EVENT WILL THE AGGREGATE LIABILITY OF COMPANY TO LICENSEE UNDER THIS LICENSE FOR DAMAGES, COSTS, ATTORNEY'S FEES, EXPENSES OR INDEMNITY EXCEED THE TOTAL FEES PAID BY LICENSEE TO COMPANY HEREUNDER.

LICENSEE HEREBY WAIVES ANY CLAIM THAT THESE EXCLUSIONS DEPRIVE IT OF AN ADEQUATE REMEDY OR CAUSE THIS AGREEMENT TO FAIL OF ITS ESSENTIAL PURPOSE.

## 12. Assignments by Company

(a) Any and all rights and interests of Company under this License may be assigned, either in whole or in part, without notice to Licensee, and Licensee agrees that its rights under this License are expressly subject and subordinate to any and all security interests which may now or hereafter be placed by Company or its assigns upon the Software. All references in this subparagraph to assignment shall be deemed also to include any pledge, mortgage, transfer or other disposition.

(b) Subject always to the foregoing provisions of subparagraph (a) of this section, this License shall inure to the benefit of, and shall be binding upon, the successors and assigns of the parties hereto and, where appropriate, their heirs, legatees and personal representatives.

## 13. Defaults and Remedies

(a) If (a) Licensee fails to pay any payment provided herein within thirty (30) days after the same is due and payable, or (b) Licensee fails to observe, keep or perform its obligations, covenants and agreements hereunder and does not cure such failure, within thirty (30) days after the sending of notice of such default by Company, or (c) any representation or warranty herein made by Licensee shall be proved to have been false or incorrect in any material respect when made, then and in each such event Company shall have the right, with thirty (30) days notice or demand, to exercise any one or more of the following remedies:

- i. To sue for and recover all payments, then due or thereafter accruing hereunder;
- ii. If Licensee fails to surrender the Software and make assurances the Software was completely removed from all storage media controlled by Licensee, to bring an action in a court with jurisdiction over Licensee seeking injunctive relief mandating such removal and surrender of the Software;
- iii. To terminate this License as to any or all items of the Software; and
- iv. To pursue any other remedy available at law or in equity.

The foregoing remedies are cumulative and not exclusive or sequential.

(b) Licensee shall provide no less than thirty (30) days written notice and allow such period to cure any warranty breach. Company and Licensee agree that thirty (30) days written notification, as defined in the "Notices" section of this contract, are a substantive, material and essential to the ability of the parties to perform their respective responsibilities.

**14. Payment Obligation Absolute.** Licensee's obligations under this License, including the obligation to pay license fees unabated, shall continue in full force and effect regardless of any inability of Licensee to use the Software because of war, governmental regulations, or strikes, unless for breach of contract or warranty.

**15. Expenses of Company and Interest.**

(a) Licensee shall reimburse Company for reasonable costs and expenses, including attorneys' fees, incurred by Company in exercising any of its rights or remedies in enforcing any of the terms, conditions or provisions hereof.

(b) Should Licensee fail to pay any amount required hereunder to be paid by Licensee to Company, within thirty (30) days after the due date thereof, Licensee shall pay unto the Company interest on the unpaid amount of such delinquent payment at the rate of eight percent (8%) per annum from the date such payment was due until it is paid in full, or, in the event such rate exceeds that which is permitted by applicable law, the highest permissible rate.

**16. Miscellaneous.**

(a) This agreement creates no liability or responsibility for Company to maintain, setup, troubleshoot or otherwise support computer systems owned by Licensee. Licensee shall provide hardware and support for computer systems owned by Licensee.

(b) Company shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to this Contract.

(c) **Workers' Compensation Insurance.** Company shall maintain during the term of this Agreement workers' compensation insurance in compliance with applicable State law, which requires subject employers to provide workers' compensation coverage for all their subject workers.

(d) **Professional Liability Insurance.** Company shall maintain during the term of this Agreement professional liability insurance with a combined single limit, or the equivalent, of not less than one and one-half (1-1/2) times the total amount payable to Company under this Agreement for each claim, incident or occurrence to cover damages caused by error, omission, or negligent acts related to the professional services to be provided under this Agreement.

(e) **General Liability Insurance.** Company shall maintain during the term of this Agreement general liability insurance with a combined single limit, or the equivalent, of not less than one and one-half (1-1/2) times the total amount payable to Company under this Agreement for each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnities provided under this Agreement and endorsements for products, completed operations and personal injury. It also shall provide that the Licensee and their agencies, subdivisions, officers, employees and agents are additional insured but only with respect to Company's services to be provided under this Agreement.

**(f) Automobile Liability Insurance.** Company shall maintain during the term of this Agreement automobile liability insurance with a combined single limit, or the equivalent, of not less than the amount required under law for each accident for bodily injury and property damage, including coverage for owned, hired or non-owned vehicles, as applicable.

**(g) Notice of Cancellation or Change.** Company shall not cancel, cause a material change in, reduce its limits for or omit or intend not to renew the insurance coverage required under this Agreement without thirty (30) calendar days' prior written notice from Company or its insurers to Licensee.

**(h) Certificates of Insurance.** The certificates shall specify all of the parties who are additional insured and shall indicate all deductible amounts or retentions for all self-insurance. If requested, complete copies of insurance policies shall be provided to Licensee. Company shall be financially responsible for all pertinent deductibles, self-insured retention, and self-insurance.

**(i) Notices.** Any and all notices ("Notices") which either party hereto may desire to give to the other party hereunder shall be deemed to be duly given if and only if mailed by registered or certified mail, postage prepaid, addressed to the other party at its address as set forth below or at such other address as such party may designate to the other party in writing from time to time. Notification by any other means shall be considered a service request and a waiver of any related breach of contract dispute until such time as the party provides notice in accordance with this paragraph.

If to Company:           GL Suite, Inc.  
                                  PO Box 591  
                                  Bend, Oregon 97709

If to Licensee:

**(j) Waiver.** The waiver by either party, or the failure by either party, to claim a breach, or give notice with respect thereto, of any provision of this License shall not be, or be held to be, a waiver of any subsequent breach, or as affecting in any way the effectiveness, of such provision.

**(k) Headings.** The headings of the sections of this License have been inserted for convenience of reference only and shall in no way restrict or otherwise modify any of the terms or provisions hereof.

**(l) Access of Company.** Company shall at reasonable times and in a manner that minimizes disruption of the Licensee's operations have the right to enter into and upon the premises of the Licensee during business hours for the purposes described by this contract, inspecting the software, observing its use or otherwise protecting Company's

interest therein. Licensee shall, whenever requested by Company, advise Company of the exact location of the Software. Subject to Licensee's review and approval of data access security precautions, Licensee shall establish a secure method by which Company can perform remote administration and updates to the installed Software.

**(m)** This License may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one agreement which is binding upon all the parties hereto, notwithstanding that all parties are not signatories to the same counterpart.

**(n)** This License and all rights and obligations of the parties hereunder and all rights and obligations of the parties shall be governed by, and construed and interpreted in accordance with, the laws of the State of Oregon applicable to agreements made and to be performed entirely within such State, including all matters of enforcement, validity and performance. This License may only be amended in a written agreement executed by authorized representatives of both parties hereto.



## Initial Scope of Work

Deliverable #	Name	Description	Deliverable Acceptance
D01	Project Initiation	Initial set up of test system Delivery of legacy data Project Plan delivered	Acceptance of Client Guide (GL Solutions' Project Plan)
D02	Business Process Identification	Identification of business processes to be included in the project	Acceptance of the Goal and Scope Document
D03	System Design and Configuration	Detailed Design Specification --Workflow Diagrams (Visio) --Detailed Screens Specification (SDS)	Completed and accepted screen review(s) for each business process identified in the Goal and Scope Document
D04	Data Conversion	Conversion of all legacy data into the GL Suite Application	Completion of two runs of conversion (including 2 rounds of facilitated screen reviews of converted data)
D05	Self Service Website	Implementation of web portal allowing applicants and licensees to apply, renew, and manage association and demographic information	Completion of UAT (all Severity 1 & 2 issues corrected)
D06	Online License Verification	Implementation of website allowing general public to confirm license status	Completion of UAT (all Severity 1 & 2 issues corrected)
D07	Data Exchange Interfaces	Interfaces to exchange data with 3rd Party Software Systems	Deploy to Live
D08	System Testing and User Acceptance Testing	GL Suite system tested and user acceptance testing complete	Delivery of UAT Training & Correction of all Severity 1 & 2 UAT issues.
D09	Project Management	GL Solutions project management staff time through go-live	Go Live
D10	Training and Go-Live	Training on GL Suite Application and Go-Live	Contract Delivery of Onsite Training/ Support at Go Live

