

Municipal Electronic Voting Equipment Agreement

This Agreement (as hereinafter defined) is made by and between, _____, with a principal place of business at _____ (the Municipality) and the State of Connecticut with principal offices at State Capitol, Room 104, Hartford CT 06105 (the "State") in accordance with Title 4a Chapter 58 of the Connecticut General Statutes.

The Municipality and the State agree as follows:

1. Definitions

The following definitions apply in this Agreement, except to the extent clarifies or contradicted in the Contract, in which case Exhibit A, the Contract, controls.

a. Acceptance

Determination made by the Municipality upon successful User Acceptance Test that the Deliverable has satisfied the expectations set forth in the Contract.

b. Contract

The CT Source Contract #2024-01 and all attachments and exhibits thereto and all purchase orders issued hereunder. In the event of a conflict between the terms and conditions of the CT Source Contract #2024-01 and any attachment or exhibit hereto, or a purchase order issued thereunder.

c. Contractor

Election Systems & Software, LLC, a limited liability company existing under the laws of Delaware with a principal place of business at 11208 John Galt Boulevard, Omaha, NE.

d. Deliverable

Each (1) Good, Service, Maintenance Services, Improvement, Material, Documentation, System, process or information of any type, whether stand-alone or intended as part of the integration of the System with existing hardware or software of the Municipality, and whether or not used for administrative, maintenance, consulting, training, data warehousing, operations, support, hosting, or fulfillment of Performance; and (2) warranty of a Deliverable(s) that is listed in the pricing schedule of the Deliverables Document or provided by Contractor as an element of Contractor's overall approach and solution to the requirements of this Contract. Any one of them or a combination of any of them may be developed or produced by Contractor or by a third party as a supplier or subcontractor to Contractor.

e. Goods

All things which are movable, including, but not limited to, supplies, materials, equipment, hardware, software, specially manufactured things, a component incorporated into another thing and things that are attached to real property and that may be severed from the real property without material harm to the things.

f. Goods or Services

Goods, Services or both, as further defined in the Contract.

g. Licensed Software

Contractor's proprietary software and firmware products licensed by Contractor in connection with the Deliverables, for which the Office of the Secretary of the State ("SOTS") and the Municipality acquire a personal, non-exclusive, revocable, non-transferable license to access and use, but does not acquire title to such software products in accordance with the terms and conditions of the Contract.

h. Maintenance Services

The software and process support services described in the Contract.

i. Municipal Agreement

This agreement between SOTS and the Municipality regarding ownership and responsibility for Goods and Services, Improvement, Licensed Software and Maintenance Services and agreement to be bound by all terms and conditions of the Contract, including but not limited to all exhibits attached hereto, to the same and full extent as if the Municipalities had executed the Contract as of the Effective Date hereof.

j. Municipalities

Any city, borough or town within the State of Connecticut.

k. Perform

All acts and things of the parties, severally and collectively, that are necessary or appropriate to fulfill or accomplish this Agreement fully, including the Deliverables and all other Contract obligations. The word "Perform" includes all parts of speech.

l. Purchase Order

A written or electronic document that SOTS or a Municipality issues for one or more Deliverables in accordance with the terms of the Contract or this Agreement.

m. Services

The labor or work, necessary or appropriate for the Contractor to Perform.

n. Site

Location(s) specified by SOTS or Municipality where Deliverables are to be installed, Services rendered, or materials furnished.

o. Software Maintenance Agreement ("SMA")

Hardware Maintenance and Software License, Maintenance and Support Services Agreement set forth at Exhibit B of the Contract and incorporated therein as if fully set forth, which sets forth and describes the maintenance and support agreement or those performance standards, response times and associated obligation between the parties, that may be set forth in the Contract and its exhibits as applicable.

p. State

The State of Connecticut, including SOTS and any office, department, board, council, commission, institution or other agency of the State.

q. Term

The original term of the Contract plus any extensions exercised under the Contract.

r. Title

All ownership, title, licenses, rights and interest, including, but not limited to, perpetual use, of and to the Deliverable. Contractor shall not transfer and SOTS and any Municipalities shall not acquire any title to Contractor's Licensed Software.

s. User Acceptance Test

Those procedures defined in Exhibit C of the Contract that permit SOTS and Municipalities to authenticate and test the functionality of a Deliverable with real world scenarios to determine if the Deliverable performs in accordance with each applicable stage of the Statement of Work incorporated in the Contract.

2. Incorporation of Terms and Conditions

Upon Acceptance of the Deliverables, Municipality shall be bound by all the terms and conditions of the Contract set forth in Exhibit A hereto, including but not limited to, the Software Maintenance Agreement set forth as Exhibit B to the Contract, to the same and full extent as if the Municipality had executed the Contract at the time of execution of the Contract. Municipality agrees to maintain Deliverables and Licensed Software pursuant to the Contract.

3. Term of Agreement; Agreement Extension

This Agreement will be in effect from the date of execution of both parties, as evidenced by the signatures below (the "Effective Date") through July 31, 2034. SOTS, may extend the Contract for additional terms beyond the Term, prior to Termination or expiration, one or more times for a combined total period not to exceed the complete length of the original Term, but only in accordance with the Section in the Contract concerning Contract amendments.

In addition to the permitted extensions above, SOTS at its sole discretion may extend the Contract on a month-to-month basis for a period not to exceed six months from the expiration date of the Contract without changes to the pricing or other terms.

4. Privity

Except as all Federal, State of Connecticut and municipal laws, ordinances, regulation, rules, policies and procedures concerning all manner of elections, as the term "election" is used in the United States Code and the Connecticut General Statutes, as applicable ("Election Laws") otherwise provide, the mutually corresponding and respective rights and obligations of the Municipality and the Contractor under the Contract shall be deemed to be and treated the same as those that exist during the Contract term between the SOTS on the one hand and the Contractor on the other.

The privity of contract between Municipalities and the Contractor (the "Municipal Privity") shall be independent from that between the Contractor and SOTS, such that the Municipal Privity shall in no way impose any rights or obligations on SOTS or the State of Connecticut.

Municipality shall not have the right to modify substantively any of the terms and conditions of the Contract.

5. Purchase Orders

The Municipality shall issue a Purchase Order when acquiring any Deliverable or Service available under the Contract and this Agreement and, if appropriate, a Statement of Work mutually acceptable to the purchasing Municipality and the Contractor. Any Purchase Order issued by the Municipality will be issued in compliance with the requirements described for Purchase Orders under the Contract.

6. Delivery to Municipalities

The Contractor shall deliver all Goods and Services to Sites designated by the Municipality as noted in Purchase Orders from the Municipalities and in compliance with the terms of the Contract. The Municipality shall not impede Contractor's reasonable access to Sites designated for delivery in an issued Purchase Order. The Municipality will complete the User Acceptance Testing in compliance with the terms of the Contract within ten (10) business days of Delivery. Should the Municipality fail to test Goods within the ten (10) business day period such Goods shall be deemed accepted.

SOTS shall own all Deliverables provided by Contractor to SOTS under the Contract, subject to subparagraph b) below. Ownership of Deliverables will transfer to the Municipality following acceptance of Deliverables by the Municipality and execution of this Agreement, subject to subparagraph b) below. Municipality shall own all Deliverables provided by Contractor directly to the Municipality in satisfaction of a Purchase Order submitted by the Municipality.

7. Notice

All notices, demands, requests, consents, approvals or other communications required or permitted to be given or which are given with respect to this Agreement (for the purpose of this Section collectively called "Notices") shall be deemed to have been effected at such time as the notice is placed in the U.S. mail, first class and postage pre-paid, return receipt requested or placed with a recognized, overnight express delivery service that provides for a return receipt, or via electronic mail. All such Notices shall be in writing and shall be addressed as follows:

If to SOTS:
Connecticut Office of the Secretary of the State

165 Capitol Avenue, Suite 1000

Hartford, CT 06106

Attention: Kristin Sullivan, Director of Elections
Gabe Rosenberg, Chief of Staff and General Counsel
w/copy to: kristin.sullivan@ct.gov
gabe.rosenberg@ct.gov

If to the Municipality:

Attention:

8. Headings

The headings given to the Sections in this Agreement are inserted only for convenience and are in no way to be construed as part of this Contract or as a limitation of the scope of the particular Section to which the heading refers.

9. Number and Gender

Whenever the context so requires, the plural or singular shall include each other and the use of any gender shall include all genders.

_____(MUNICIPALITY)

BY:

Name:

Title:

Duly Authorized

Date:

STATE OF CONNECTICUT
Office of the Secretary of the State

BY:

Name:

Title:

Duly Authorized

Date: