Appendix E
Software Support Agreement
SPARTAN
Technology Solutions, Inc.

Software Support Agreement

{enter Type of System} Case Management System

Prepared for {enter Customer Name}

Submitted by

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Software Support Agreement

THIS SOFTWARE SUPPORT AGREEMENT, entered into this ______ day of ____________________, 20__ by and between SPARTAN TECHNOLOGY SOLUTIONS, INC., hereinafter referred to as the Company; and _____________, hereinafter referred to as the Customer.

WHEREAS, the Company has provided the Customer with Systems as described in the Software License Agreement;

WHEREAS, Customer desires to receive ongoing support services from the Company related to the software, and the Company offers ongoing support services to the Customer related to the software, as provided in this Software Support Agreement;

WHEREAS, this Software Support Agreement includes the Texas Department of Information Resources (DIR) Contract DIR- TSO-4045; Appendix A, Standard Terms and Conditions For Products and Related Services Contracts; Appendix B, Vendor’s Historically Underutilized Businesses Subcontracting Plan; Appendix C, Pricing Index; Appendix D, Software License Agreement; Appendix E, Software Support Agreement; Exhibit 1, Vendor’s Response to RFO DIR-TSO-TMP-401, including all addenda; and Exhibit 2, RFO DIR-TSO-TMP-401, including all addenda;

NOW, THEREFORE, pursuant to this Software Support Agreement and in consideration of the conditions, covenants, and agreements set forth herein, the Company and Customer further agree as follows:

1. SERVICES TO BE PROVIDED

The Company shall provide to the Customer services to meet the requirements set forth in this Agreement and any other written agreements approved by both the Company and the Customer.

2. PERIOD OF AGREEMENT

The support services set forth herein shall be provided by the Company to the Customer on the date of the initial “go-live” and continuing for one (1) year thereafter with the option for four (4) additional one (1) year automatic renewals, unless the Customer requests cancellation of support services by providing thirty (30) days’ advance written notice to the Company. The Company shall have the right to terminate this Agreement upon written notice to the Customer at least thirty (30) days prior to the anniversary date.
3. **PAYMENT**

In consideration of the performance of such services as set forth in this Agreement, the Company shall receive payment in accordance with DIR Contract Number DIR-TSO-4045 Appendix A Section 8J Payments, Appendix C Pricing Index, and Attachment A: Schedule of Costs and Fees. Additional services requested by the Customer shall be provided under the provisions of and invoiced in accordance Appendix C Pricing Index.

4. **CONTRACT DOCUMENTS**

The documents which comprise this contract include the Texas Department of Information Resources (DIR) Contract DIR-TSO-4045; Appendix A, Standard Terms and Conditions For Products and Related Services Contracts; Appendix B, Vendor’s Historically Underutilized Businesses Subcontracting Plan; Appendix C, Pricing Index; Spartan’s Software License Agreement; this Software Support Agreement; Attachment A: Schedule of Costs and Fees; Exhibit 1, Vendor’s Response to RFO DIR-TSO-TMP-401, including all addenda; and Exhibit 2, RFO DIR-TSO-TMP-401, including all addenda. Should a conflict arise between this agreement and DIR Contract No. DIR-TSO-4045, the DIR contract shall prevail.

5. **SYSTEMS**

Systems that are covered under this Agreement and included in the Contract Documents are the following:

- {enter Type of System} Case Management System

6. **CUSTOMER RESPONSIBILITIES**

The Customer shall support and assist the Company in identifying and clarifying problems encountered by the Customer and shall make available source documents or data files as may be necessary to isolate or replicate a problem condition.

The Customer shall support and assist the Company in identifying and clarifying problems encountered by the Customer and shall make available source documents or data files as may be necessary to isolate or replicate a problem condition.

The Customer shall respond promptly to any and all inquiries or requests for information from the Company. If, at any time during the project, the Company fails to receive a response within ten (10) business days after the Company makes its initial inquiry, the Customer shall be deemed to have no response or preference concerning the inquiry and shall be further deemed to permit the Company to proceed accordingly using its best judgment.
7. **COMPANY RESPONSIBILITIES**

The Company shall perform in a professional manner in providing services to the Customer and shall provide knowledgeable personnel experienced with the software installed at the Customer’s Site.

The Company shall safeguard any materials provided by the Customer in the performance of this Agreement in a manner as prescribed by the Customer. In lieu of specific guidance from the Customer, the Company shall take reasonable care as to prevent unauthorized disclosure of Customer information.

8. **OWNERSHIP OF DATA**

Data collected is the property of the Customer. Data used by the Company in the services contemplated herein shall remain the property of the Customer, and no use shall be made thereof beyond that listed in this Agreement without the written permission of the Customer.

9. **OWNERSHIP OF SOFTWARE AND DESIGNS**

All software development, design, documentation, and programs necessary to operate and maintain the Systems described herein that were produced by the Company shall remain the proprietary property of the Company. Restriction of this proprietary property does not limit the Customer from making such copies of programs, documentation, and systems-related materials for internal use. Disclosure of such materials to third parties or other contractors is strictly forbidden, with the exception of third parties or other contractors working with the Customer. The Company agrees to provide any appropriate licenses to Customer to use such proprietary software.

The parties recognize that, in the course of the Company’s rendering of software and services, some enhancements, modifications, and extensions to the software and its related applications may be appropriate. At all times these enhancements, modifications, and extensions shall remain the proprietary software of the Company. The Company reserves the right to control the design, performance, integration, and modification of any of its proprietary software and, as a result, may reject at its discretion Customer requests for modifications.

Subject to the Texas Public Information Act, in the event the Customer receives an order purporting to require the turnover of any information related to the software package, the Customer shall, before turning over such information, notify Company in the most expeditious manner. The Customer further agrees that it shall not impair, either by omission or commission, the Company’s right to protect its interests.

Company Systems are designed as standard products and not as customized systems. The Company recognizes the need for some modification; however, the Company reserves the right to control the design, performance, and integration of Company
products and, as a result, may reject Customer requests for modifications or enhancements that are inconsistent with the Company's product strategy.

10. SUPPORT SERVICES

During the Period of this Software Support Agreement, the Company shall furnish the Customer with the following services:

10.1 Scope of Support Services

Application software support services for the software identified in the Software License Agreement include procedural and technical assistance in troubleshooting and resolving problems/questions associated with the application(s) and the correction of software defects as defined by the Company and Customer.

10.2 Modifications/Enhancements Outside of Scope

The Customer may desire to have modifications or minor enhancements performed; the fees for these services shall be made available to the Customer. Specific services include requirements analysis, preparation of functional and programming specifications, software development, testing, documentation, installation, file conversion, training, and help desk support. The Company shall provide an estimate of cost prior to performing any of the above services. All programming change requests that do not fall within the scope of this Software Support Agreement must be received in writing before work will begin.

10.3 Product Updates

Product enhancements developed by the Company shall be made available to the Customer as an update to the current Product version. Should the Customer desire to implement these updates, the Customer would not be charged for additional license fees and release documentation, but would be charged for additional fee for on-site installation services if requested. The Company shall provide an estimate of total cost prior to performing any of the aforementioned services.

10.4 Product Releases

New releases of the Product are made available periodically for the customer, which include major and significant technical updates and functional improvements. The new Product releases are made available at no additional fees, as long as a Software Support Agreement is in place. Installation, training of Customer personnel, and onsite services may involve additional fees. The Company shall provide an estimate of cost prior to performing any of the aforementioned services.
10.5 Additional Technical Support

Additional technical support outside the scope of this Agreement may be made available to the Customer upon request. These services shall be performed on a time and materials basis at the prevailing rate of the Company in accordance with DIR Contract Number DIR-TSO-4045 Appendix C Pricing Index. Examples may include setting up user accounts, setting up printer queues, performing file conversions, system maintenance (defragmenting the disk, system fine-tuning, etc.), and operating system training.

10.6 Response Times and Availability

10.6.1 Definition

The Help Desk is the means of communication between the Customer and Company regarding all hardware and software issues itemized in Section 5. The Help Desk provides the most efficient means to track, manage, and resolve all hardware and software issues.

10.6.2 Procedures

A toll-free number is provided to the Customer for Help Desk access. Calls are received and logged in the Customer Support System for tracking and reviewed to determine priority. Necessary resources are then allocated to resolve each reported issue. The Customer shall be kept informed as to the status of the issue until resolution. The Company has a comprehensive escalation procedure in place to ensure that all calls are handled in an expeditious manner.

10.6.3 Remote Support

Remote support shall be provided off-site. This type of support includes remote diagnostic capability, which provides the most responsive on-line problem identification and resolution.

10.6.4 Response Time

The Company shall follow the response times for assistance as outlined in Spartan’s response to SC DHEC’s RFP #5400010092.

10.6.5 Hours of Operation

The Company shall be available for support services Monday through Friday, 8:00 A.M. to 6:00 P.M. Eastern Time.
11. **INVOICING AND PAYMENTS**

The Company shall invoice the Customer as products and services are delivered and accepted by the Customer. All invoices hereunder are due and payable within thirty (30) days of Customer receipt of the Company's invoice.

Invoices for additional services that have been requested by the Customer shall also be submitted to the Customer for payment. These additional services shall be billed at the Company's prevailing time and materials rates and in accordance with DIR Contract Number DIR-TSO-4045 Appendix C Pricing Index unless otherwise specified.

12. **LIMITATION OF WARRANTY**

The Company is not responsible for any errors or defects caused by modifications or alterations to the Company's software made by the Customer, or for any errors or defects resulting from the Customer's negligence, improper installation, or improper operation of the software or any other improper action by the Customer.

Furthermore, as any number of unanticipated events may cause data, programs, and files to be altered or damaged, Customer agrees to take measures to isolate and back up critical software and data.

12.1 **Correction of Software Defects**

The Company shall only be responsible to correct software defects, as defined by the Company, in or resulting from software listed in the Software Licensing Agreement. Customer will notify Company of software defects by reporting directly to the Company Help Desk.

12.2 **Customer Modifications**

The Customer shall inform the Company in writing of any change to or modification of any of the Company's software which it desires to make or has made. The Company is not responsible for any errors or defects caused by modifications made to the Company's software by the Customer. Correction of such errors or defects by the Company shall be at the Company's prevailing time and materials rates.

The Company does not guarantee that new releases or versions shall operate as designed if the Customer has altered Company software.

12.3 **Customer Negligence**

The Company shall not, at any time during the period of this Agreement, be required to correct any defects in any Company software caused by the Customer's negligence, improper installation or operation of the Company's software, or other improper action by the Customer.
### 12.4 Disclaimer

The Company and Customer shall have no liability under this Agreement except the correction or avoidance of defects as identified by the Company and Customer. The warranties set forth in this section are in lieu of all other representations and warranties relating to the software, expressed or implied.

### 13. LIMITATION OF LIABILITY

Limitation of Liability shall be handled in accordance with DIR Contract Number DIR-TSO-4045 Appendix A Standard Terms and Conditions Section 10K Limitation of Liability.

### 14. FORCE MAJEURE

Force Majeure shall be handled in accordance with DIR Contract Number DIR-TSO-4045 Appendix A Standard Terms and Conditions Section 11C Force Majeure.

### 15. CONFIDENTIALITY

The Customer acknowledges that the Company’s proprietary software contains proprietary trade secret material and is for use solely by the Customer in its internal governmental operations and consistent with the terms and conditions set forth in this Software Support Agreement and other contract documents between the parties. Therefore, the Customer agrees to exercise all reasonable precautions to safeguard the confidentiality of the Company’s proprietary software as set forth in this Software Support Agreement or as modified there under and to prevent the disclosure thereof, or any portions thereof, to any persons other than employees of the Customer involved in the use thereof or such other necessary persons as may be authorized by law to have access to such information. Customer further agrees not to modify, disassemble, decompile, or reverse engineer the Company’s proprietary software.

Subject to the Texas Public Information Act, disclosure to third parties or other contractors of the Company’s proprietary and confidential information is strictly forbidden without the express written consent of the Company. Any third parties or other contractors working with the Customer must be required to execute appropriate confidentiality agreements to maintain the confidentiality of any and all of the Company’s materials. In the event that Customer receives a court order or subpoena purporting to require the disclosure or production of any information related to the Company’s software, the Customer shall, before disclosing or producing such information, notify Company in the most expeditious manner. The Customer further agrees that it shall not impair, either by omission or commission, the Company’s right to protect its interests in maintaining the confidentiality of such information.
16. **STATUTORY REQUIREMENTS**

All statutory requirements, as contemplated in the performance of the services to be provided hereunder, shall be as the law has been enacted and interpreted by the courts of the State of South Carolina as of the date of this Agreement.

17. **SEVERABILITY**

If any provision of this Software Support Agreement shall be declared invalid or unenforceable, such invalidity or unenforceability shall not affect the balance of this Software Support Agreement, but the balance of this Software Support Agreement shall be construed as if not containing the provision, and the rights and obligations of the parties shall be construed and enforced accordingly, provided that same is not of a material nature and does not substantially affect the work or the associated cost.

18. **INSURANCE AND WORKERS' COMPENSATION**

Insurance shall be handled in accordance with DIR Contract Number DIR-TSO-4045 Appendix A Standard Terms and Conditions 10N Required Insurance Coverage.

19. **EMPLOYMENT LAWS**

The Company shall comply with all applicable provisions of Federal, State, and local laws, rules, and regulations regarding employment.

20. **SIGNATURES**

By signing below, the parties agree to be bound by the terms of this agreement.

APPLICATIONS COVERED:

{enter Type of System} Case Management System

---

By

Spartan Technology Solutions, Inc.

_____ 

Signature

_____ 

Date

_____ 

Name

_____ 

Title

By

{enter Customer Name}

_____ 

Signature

_____ 

Date

_____ 

Name

_____ 

Title