



TRANSPONDER MANAGEMENT & FULFILLMENT

REQUEST FOR PROPOSALS

Mandatory Pre-Proposal Scope of Services Meeting

February 19, 2024

11:00 a.m. to 12:00 p.m. EDT

Online via Web Conference

Technical Proposal Due Date

~~March~~ April 15, 2024 (4:00 p.m. EDT)

Physical Delivery Address:

NC Quick Pass

200 Sorrell Grove Church Rd, Suite A

Morrisville, NC 27560

Attn: Eliza Davis

Issue Date: February 8, 2024

Updated through Addendum 1 (March 1, 2024)

TRANSPONDER MANAGEMENT & FULFILLMENT RFP

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I. Notice of Request for Proposals

TITLE: Transponder Management & Fulfillment Request for Proposals
ISSUING DATE: February 8, 2024
ISSUING AGENCY: North Carolina Turnpike Authority
CONTACT PERSON: Eliza Davis

I.1 Background and Purpose

The North Carolina Turnpike Authority (NCTA) is requesting written Technical and Price Proposals from qualified proposing Contractors (“Proposers”) interested in providing a Transponder Management and Fulfillment service, inclusive of transponder packaging and shipment, Retailer management, and transponder order management.

The North Carolina Turnpike Authority (NCTA), a business unit of the North Carolina Department of Transportation (NCDOT), was formed in 2002 by the North Carolina General Assembly. The mission of NCTA is to supplement the traditional non-toll transportation system by accelerating the delivery of roadway projects using alternative financing options and facilitating the development, delivery, and operation of toll roads.

NCTA operates approximately 36 miles of tolled expressway facilities on the North Carolina state highway network, including the Triangle Expressway near Raleigh and the Monroe Expressway near Charlotte. In addition, NCTA’s toll collection program also provides back-office toll transaction processing and customer service for the I-77 Express Lanes in Charlotte, an NCDOT public-private partnership project. In addition, there are several toll projects under construction or development in North Carolina, including I-485 Express Lanes, Complete 540 (an extension of the Triangle Expressway), the Mid-Currituck Bridge, US-74 Express Lanes, and I-77 Express Lanes South.

NCTA’s administrative and project development work is performed by professional teams comprised of NCTA staff, NCDOT staff, and consultants. This arrangement provides management oversight while assuring that necessary expertise is available when needed to advance projects in an efficient and timely manner. NCTA has primary responsibility for this Request for Proposals (RFP) process including defining the requirements addressed in this RFP, the evaluation of the Proposals submitted by Proposers, and execution and oversight of the Contract.

Transponder as a Service Project Description

NCTA’s goals for this Project and requirements for the Transponder as a Service Provider (“**Contractor**”) are outlined below.

NCTA's goals are as follows:

- Provide customers with delivery options from existing commercial distribution facilities and outlets such as Amazon, UPS, and FedEx.
- Provide customers with additional options to obtain and use a transponder.
- Reduce license plate image review cost and encourage proper use as soon as possible after transponder purchase with the current USPS delivery option.
- Reduce time to fulfill transponder orders with the use of automated and efficient fulfillment processes.
- Reduce calls to CSC by providing updated order shipment tracking information on the NC Quick Pass website.

The Contractor shall be responsible for the following:

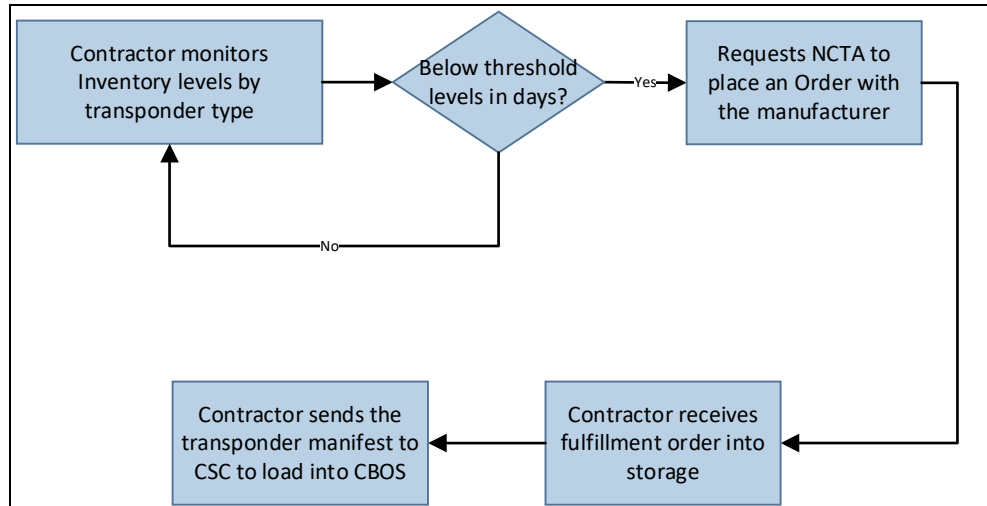
- Transponder order management with NCTA contracted manufacturer(s);
- Integrate using current and modern interfaces to a NCTA provided Commercial Back Office System (CBOS);
- Transponder fulfillment for customers and Retailers;
- Transponder packaging for Retail distribution;
- Retailer contract management and contract development; and
- Securely house transponder inventory and provide inventory, sales reporting, and analytics regarding transponder Services.

The below use cases outline the outsourcing of transponder fulfillment, order management with the manufacturer, transponder packaging, and retail order management.

USE CASE I – TRANSPONDER ORDER MANAGEMENT

The Contractor is responsible for monitoring inventory levels at each location by transponder type. Using the historical transponder issuance rate and seasonal statistics, the Contractor will request NCTA to place orders with the manufacturer. The Contractor's general process will be as follows:

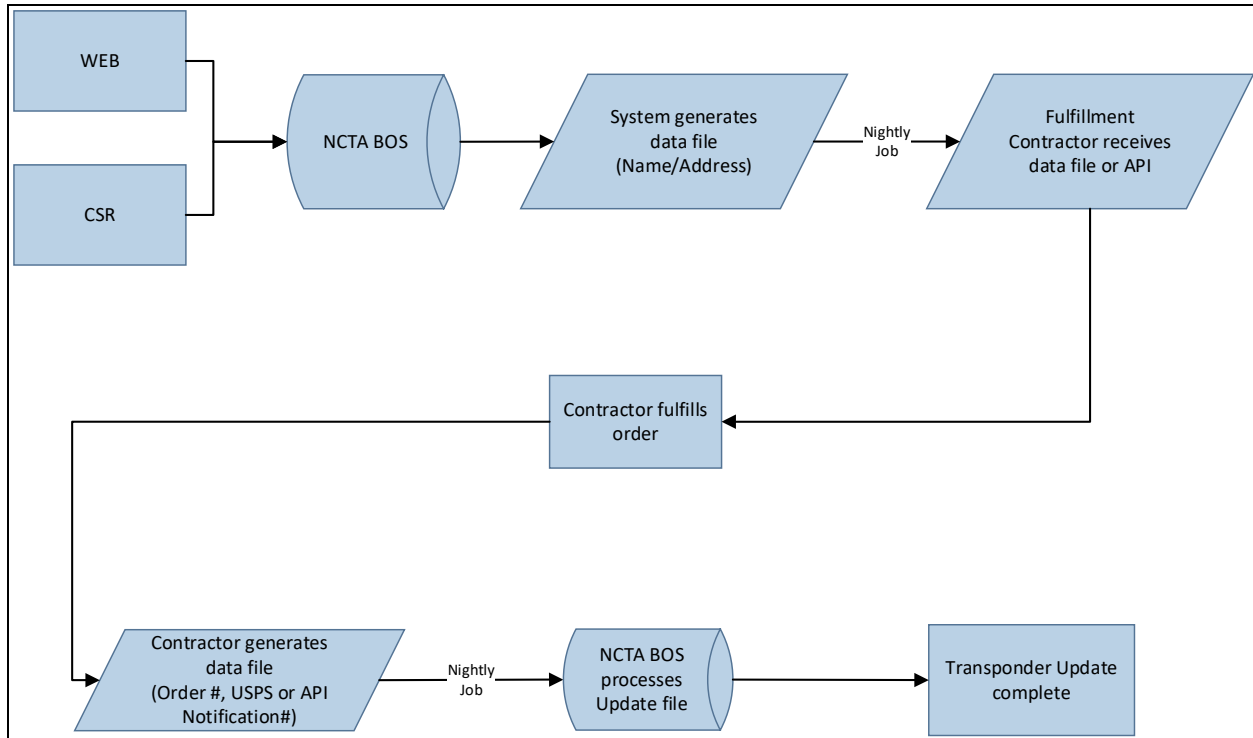
1. Monitor and verify physical inventory against the NCTA CBOS inventory report counts.
2. When the inventory counts fall below the threshold, request NCTA to place an order with the manufacturer.
3. Receive transponder orders, perform verification checks, and securely store transponders in an NCTA Approved storage facility provided by the Contractor in North Carolina.
4. Provide CSC the transponder manifest to load the manifest into the CBOS, which creates inventory records in the system.
5. Performs quality checks on configurable ten percent (10%) of transponders upon receipt.

Figure 1: Transponder Order to Manufacturer**USE CASE 2 – TRANSPONDER FULFILLMENT**

When the customer orders a transponder on the web or by phone to the CSC, the general process will be as follows:

1. When a transponder is purchased and ordered, the CSR/Website will record the payment in the NCTA CBOS and inform the customer that all transponders will be shipped in 5-7 days.
2. All transponder orders are sent to the Contractor via an Interface file or API with the customer's shipping information.
3. The Contractor will receive the file or API request and process the order. After the order is fulfilled, transponders are dropped at the USPS or an alternate delivery location.
4. After receiving the USPS tracking number, the Contractor will generate a file or use API to update the CBOS with the USPS tracking number in case the customer calls the CSC regarding the status of their transponder order.
5. The CSC will remain as the customer's point of contact. If a customer calls the CSC to obtain the status of their transponder order, they will use the tracking number to provide shipment details.

Figure 2: NC Quick Pass Customer Transponder Fulfillment Flowchart

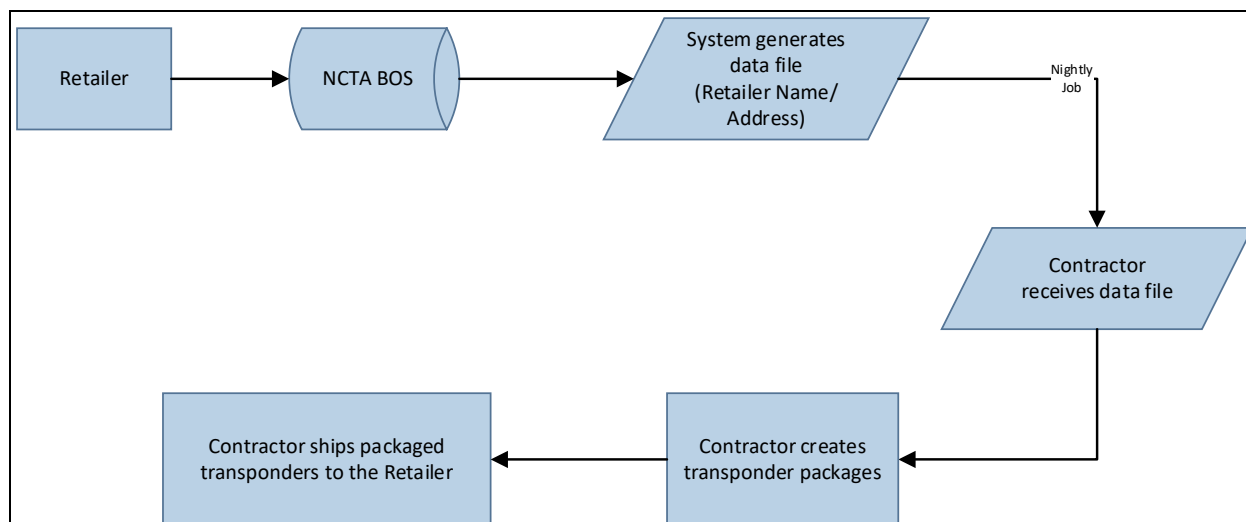


USE CASE – RETAIL ORDER FULFILLMENT

When a Retailer places an order for a box of packaged transponders by phone to the CSC, the general process would be as follows:

1. When a Retailer orders, the CSR will record the request in the system with details such as transponder type, protocol, quantity, and the Retailer's name and delivery address. This request will be sent to the Contractor via an Interface file or API.
2. The Contractor will pick up the file or API request and process the order. After the transponders are packaged, they will be shipped to the Retailer's location.
3. The NCTA CBOS will track all details of the Retailer order fulfillment and shipping.
4. The CSC will remain the Retailer's point of contact.

Figure 3: Retailer Transponder Fulfillment Flowchart



I.2 NCTA Facilities

NCTA staff, NCDOT staff, and consultants provide management oversight for all NCTA projects from the following facilities: The NCDOT/NCTA Transportation Building (also known as the “Highway Building”), four NC Quick Pass® customer service centers, the NC Quick Pass Operations Center, the Metrolina Regional Transportation Management Center, and the Statewide Traffic Operations Center.

NCDOT/NCTA Transportation Building

The headquarters for the NCTA/NCDOT staff is at the State Transportation Building (“Highway Building”) located at 1 South Wilmington Street in downtown Raleigh, NC.

NC Quick Pass Storefronts

NCTA operates three storefronts in North Carolina, which are located in Morrisville, Monroe, and Charlotte. The Morrisville Storefront, which serves the Raleigh/Durham region, is located just south of the Raleigh/Durham International Airport and near the northern terminus of the Triangle Expressway. The Monroe Storefront is located approximately two (2) miles from the Monroe Expressway, midway between the project termini. The Charlotte Storefront is located just inside the I-485 loop around Charlotte, near the midpoint of the I-77 Express Lanes. These storefronts are in the vicinity of NCTA toll facilities for customers to perform NC Quick Pass business activities in person. These storefronts are responsible for housing the following services:

- Customer account creation and closure, management, and maintenance.
- NC Quick Pass transponder inventory distribution and maintenance.
- Account Conversion management; and
- Walk-in customer service (e.g., dispute resolution, account payments, and replenishments).

NC Quick Pass Operations Center

NCTA currently operates three (3) NC Quick Pass Operations Centers in North Carolina. One in Morrisville, which is co-located with the Morrisville Storefront. The second one is in Rocky Mount, which is co-located with the other DMV buildings. The third one is in Winston-Salem. The NC Quick Pass Operations Centers house the call center, account management activities, and back-office operations activities, including transponder programming and limited fulfillment. The NC Quick Pass Operations Centers also provide office space for the CSC management team, NCTA agency and consultant staff.

Metrolina Regional Transportation Management Center (MRTMC)

Highly trained NCTA operators monitor and manage traffic operations and coordinate incident response and maintenance/construction work for the Monroe Expressway from the Metrolina Regional Transportation Management Center (MRTMC) located in Charlotte at 2327 Tipton Dr. These operators are co-located with NCDOT managed operators who oversee the Charlotte regional road network. The NCTA operators are responsible for monitoring the Monroe Expressway from 5:30 a.m. to 9:30 p.m., 5-days a week using closed-circuit TV (CCTV) cameras, vehicle detectors, and Toll Zone security cameras. Additionally, they monitor roadside toll technology and facilities.

Statewide Transportation Operations Center (STOC)

NCTA operators at the Statewide Transportation Operations Center (STOC) Traffic Management Center (TMC) monitor the Triangle Expressway and take over management of the Monroe Expressway during the hours the MRTMC is not staffed. The STOC is located at the North Carolina National Guard's Joint Force Headquarters at 1636 Gold Star Drive in Raleigh. The operators have the same duties, responsibilities, and tools at their disposal as the operators at the MRTMC. The STOC is staffed 24-hours a day, 7 days a week, 365 days a year.

I.3 NCTA Toll Program

NCTA operates and manages the NC Quick Pass[®] Electronic Toll Collection (ETC) and Bill by Mail programs utilized for toll facilities in North Carolina.

NC Quick Pass Transponder Accounts

As of October 2023, there are over 550,000 active prepaid NC Quick Pass Transponder Accounts with over one million active transponders. NC Quick Pass account holders have multiple transponder options to fit specific travel needs, including paying tolls in other states. In addition, NC Quick Pass Transponder users receive a discounted toll rate on North Carolina toll facilities.

NC Quick Pass maintains partnership agreements with E-ZPass[®], Florida's SunPass[®] and Georgia's Peach Pass[®]. The partnership with E-ZPass allows more than 51 million drivers who have E-ZPass Transponders to use toll facilities in North Carolina, while also allowing all 19 states to accept NC Quick Pass as a form of payment. Similar agreements with SunPass and Peach Pass offer numerous toll payment options for travelers in the southeastern United States.

Currently, approximately sixty-seven percent (67%) of tolls on the Triangle Expressway are paid via prepaid Transponder accounts. On the Monroe Expressway, approximately fifty percent (50%) of tolls are

paid via prepaid Transponder accounts, a number expected to rise steadily as customers in the area become more familiar with the project.

Bill by Mail

Customers traveling toll roads in North Carolina without an NC Quick Pass Transponder Account (or interoperable Transponder) are invoiced at a higher toll rate through the Bill by Mail (BBM) program. The registered owner of the vehicle is identified by license plate, and an invoice is mailed to the address registered with the NC Division of Motor Vehicles (NCDMV). If the bill is not paid within thirty (30) days from the date of the invoice, the vehicle's registered owner could incur fees, civil penalties, DMV registration holds, and/or be turned over to a collection agency.

NC Quick Pass Back Office System Technology and Operations

The NC Quick Pass Operations contractor provides customer service support using a separate contractor's existing Commercial Back Office System (CBOS). The CBOS manages all the North Carolina toll collection system functionality and serves as an Electronic Toll Collection (ETC) clearing house for all toll transactions produced in the State. The current system provides functionality for:

- Posting all lane transactions (ETC, image-based and interoperable) to Quick Pass and BBM accounts;
- Customer service and customer interaction (website, Interactive Voice Recognition (IVR), email, text message, etc.);
- Financial transactions and account replenishment;
- Financial and lane transaction reconciliations;
- Revenue management;
- Inventory management and tracking; and
- Reporting.

The CBOS maintains all NC Quick Pass Transponder and BBM accounts. Numerous interfaces required for interoperability, license plate lookup, document mailing, banking, credit card processing, collections, etc. are in place supporting on-going business processes.

1.4 RFP Inquiries and Notices

Any questions regarding this RFP shall be directed in writing to the contact person identified below in **Part I, Administrative**, Section 1.5. Only inquiries in writing will be accepted by NCTA, and only written responses will be binding upon NCTA. Any inquiries received after the deadline referenced in **Table I-1: Procurement Schedule** may or may not be answered by NCTA at NCTA's sole determination. All answers to inquiries will be posted on the NCTA web site at <https://connect.ncdot.gov/business/turnpike>. Proposers shall use the form provided in **Exhibit C-4, Proposer Questions Form** when submitting questions to be addressed by NCTA.

I.5 NCTA Contact Person

Eliza Davis is the contact person on this RFP. Any questions in regard to this RFP shall be directed in writing to NCTA_Transponder_RFP@ncdot.gov.

I.6 Information Posting

It is the responsibility of all prospective Proposers interested in responding to this RFP to routinely check the NCTA website at <https://connect.ncdot.gov/business/turnpike> for any revisions, question responses, Addenda, and changes to schedule and announcements related to this RFP. NCTA also will develop an email distribution list of contact persons for those Proposers who attend the mandatory Pre-Proposal Scope of Services Meeting and will email this additional information to such contact persons; however, this does not relieve Proposers of the responsibility to be aware of all additional information related to this RFP posted via the website. NCTA and NCDOT grant permission to use its logo on Proposal Submittals.

I.7 Policy Statement

This procurement shall be conducted in accordance with all applicable Federal and State laws and regulations, and the policies and procedures of NCTA, as those may be amended. All future amendments to any such laws, regulations and applicable NCTA policies and procedures shall be applicable to this procurement. A copy of the North Carolina Turnpike Authority Policies and Procedures for the Procurement of Commodities and Services (February 2009) may be obtained from NCTA.

I.8 Prohibited Communications During Evaluation

During the evaluation period, from the date Proposals are opened through the date the contract is awarded, each Proposer submitting a Proposal (including its representatives, sub-Contractors and/or suppliers) is prohibited from having any communications with any person inside or outside NCTA, any other government agency office, or body (including NCDOT, department secretary, agency head, members of the general assembly and/or governor's office), or private entity, if the communication refers to the content of the Proposer's Proposal or qualifications, the contents of another Proposer's Proposal, another Proposer's qualifications or ability to perform the contract, and/or the transmittal of any other communication of information that could be reasonably considered to have the effect of directly or indirectly influencing the evaluation of proposals and/or the award of the contract. A Proposer not in compliance with this provision shall be disqualified from contract award, unless it is determined in NCTA's discretion that the communication was harmless, that it was made without intent to influence and that the best interest of NCTA would not be served by the disqualification. A Proposer's Proposal may be disqualified if its Sub-Contractor and supplier engage in any of the foregoing communications during the time that the procurement is active (i.e., the issuance date of the procurement to the date of contract award). Only those discussions, communications or transmittals of information authorized or initiated by NCTA for this RFP or general inquiries directed to the contact person noted in **Part I, Administrative**, Section I.5 in writing regarding requirements of the RFP (prior to Proposal submission) or the status of the Contract award (after submission) are excepted from this provision.

1.9 Cost Incurred Responsibility

All costs incurred by any interested party in responding to this RFP shall be borne by such interested party. NCTA shall have no responsibility whatsoever for any associated direct or indirect costs.

1.10 Right to Reject

NCTA retains the right and option to reject any and all Proposals.

1.11 Responsiveness of Proposals

NCTA reserves the right to reject any Proposal as non-responsive if the Proposal fails to include any of the required information in the specified order, as further detailed in **Part I, Administrative**, Section 3 Technical Proposal Response and Submission Instructions and Section 4 Price Proposal Submission Instructions.

1.12 Right to Cancel

NCTA reserves the right to cancel this RFP if it is determined to be in the best interest of NCTA to do so.

1.13 Right to Amend and Addenda

NCTA reserves the right to amend, insert, or delete any item in this RFP if it is determined to be in the best interest of NCTA. If it becomes necessary to revise any part of this RFP, a written Addendum to the solicitation will be sent via email to the RFP email list and will be posted to NCTA's website in accordance with **Part I, Administrative**, Section 1.6 Information Posting. NCTA expects to issue the last Addendum no later than the date for NCTA Inquiry Responses and Addendum (if required) Issued provided in **Table I-1: Procurement Schedule**. NCTA will not be bound by, and the Proposer shall not rely on, any oral or written communication or representation regarding the RFP documents, except to the extent that it is contained in an Addendum to these RFP documents or in the questions and answers as posted on the NCTA web site. In the case of a conflict between Addenda the latest Addendum shall apply.

Proposers are required to confirm the receipt of all Addenda issued to this RFP by completing **Exhibit C-7, Acknowledgement of Receipt of Addenda** and including the completed form in the Proposal Section 7.

1.14 Written Clarifications

NCTA may request written clarifications to Proposals. NCTA will identify in its request the due date for response. If the requested information is not received by the due date for response, the Proposer's scores may be adversely affected.

1.15 Oral and Referenced Explanations

NCTA will not be bound by oral explanations or instructions given by anyone at any time during the Proposal process or after Contract award. NCTA will not consider Proposer referenced information not

included in the Proposal; however, NCTA may consider other sources in the evaluation of Proposals, such as reference reviews, financial ratings and Proposer oral presentations, for example.

1.16 Oral Presentations and Interviews

NCTA reserves the right to request oral presentations and interviews with Proposers if NCTA decides that oral presentation and interviews are in its best interests. If oral presentations and interviews are used, NCTA will develop a compliant list for the oral presentations and interviews based on the scores of the Technical Proposals. See **Part I, Administrative**, Section 5 Procurement Evaluation Process for more details.

In advance of any oral presentations and interviews, Proposers will be given detailed instructions on what the format and content of the presentation and interview will be, including what functionality, if any shall be demonstrated.

1.17 Proposal Submittal Deadline

Complete and separate Technical Proposals and Price Proposals shall be delivered by mail or to the front desk of the NC Quick Pass Morrisville Storefront location presented on the cover page of this RFP, before the due date and time provided in **Table I-1: Procurement Schedule**, where they will be logged in as received. NCTA will not accept Proposals delivered after the due date and time.

1.18 Submittal Responsibility

The responsibility for submitting a Proposal to NCTA on or before the stated time and date will be solely and strictly the responsibility of the Proposer. NCTA will in no way be responsible for delays caused by the United States mail delivery, common carrier or caused by any other occurrence.

1.19 Waivers

NCTA may waive minor informalities or irregularities in Proposals received where such is merely a matter of form and not substance, and the correction or waiver of which is not prejudicial to other Proposers. Minor irregularities are defined as those that will not have an adverse effect on NCTA's interest and will not affect the price of the Proposals by giving a Proposer an advantage or benefit not enjoyed by other Proposers.

1.20 Modification or Withdrawal of Proposals

NCTA will permit modifications to a Proposal after Proposal Submittal until the specified due date and time for accepting Proposals provided in **Table I-1: Procurement Schedule**. The Proposal may be picked up by a representative of the Proposer provided that the request to modify is in writing, is executed by the Proposer or the Proposer's duly authorized representative and is submitted to NCTA. It is the Proposer's responsibility to resubmit a Proposal before the deadline in accordance with the instructions and requirements for Proposal submission detailed in this RFP.

A Proposer may withdraw a Proposal without prejudice prior to the Submittal deadline provided in **Table I-1**, provided that the request is submitted in writing to the contact person noted in **Part I**,

Administrative, Section 1.5 Contact Person, is executed by the Proposer or the Proposer's duly authorized representative and is submitted with NCTA.

1.21 Confidentiality and RFP Ownership

The North Carolina Turnpike Authority is a public agency of the State of North Carolina, subject to the North Carolina Public Records Act, Chapter 132 of the North Carolina General Statutes. NCTA may maintain confidential information, including any designated as trade secrets or otherwise proprietary, only in accordance with applicable Federal and State laws or regulations. NCTA, therefore, expects that Proposers will keep confidential information designations to a minimum. Any material labeled as confidential constitutes a representation by Proposer that it has made a reasonable effort in good faith to determine that such material is, in fact, a trade secret under G.S. § 132-1.2. Proposer are urged and cautioned to limit the marking of information as a trade secret or as confidential so far as is possible.

Proposer, having formed a good faith opinion, upon consultation with legal or other knowledgeable advisors, that information submitted may contain a trade secret as defined in G.S. § 66-152 or other information exempted from the North Carolina Public Records Act pursuant to G.S. § 132-1.2, may so designate appropriate portions of Proposer Materials by marking the top and bottom of pages containing confidential information in boldface type "CONFIDENTIAL." NCTA, however, may serve only as a custodian of information a Proposer deems confidential. NCTA shall not act as an arbiter or defender of any claims related to assertions of confidential information. If a request is made for disclosure of information submitted, or an action is brought to compel NCTA to disclose information marked confidential pursuant to G.S. § 132-1 et seq. NCTA will notify the affected Proposer of such request or action.

In submitting Proposer Materials in response to this RFP, a Proposer agrees to: (i) defend its assertions of confidentiality by instituting appropriate legal proceedings, at its own expense and through its counsel, or intervening in an action brought against NCTA to compel disclosure, to defend its assertions of confidentiality; and (ii) hold the State and NCTA, and any officials or employees thereof harmless from any and all damages, costs, and attorney's fees awarded against the State and NCTA arising out of any such actions. Nothing in this section shall preclude the State or NCTA from participating in the defense of such actions, at its option and expense through its counsel. NCTA shall have no liability to a Proposer with respect to the disclosure of any information, including confidential information, subject to an order by a court of competent jurisdiction pursuant to G.S. § 132-9 or any other applicable law.

In accordance with G.S. § 136-28.5, bids and documents submitted in response to an advertisement or this RFP shall not be public record until the NCTA issues a decision to award or not to award the Contract.

1.22 Contractual Obligations

NCTA will not be required to evaluate or consider any additional terms and conditions submitted with a Proposal. This applies to any language appearing in or attached to the document as part of the Proposer's Proposal. By execution and delivery of this RFP and Proposal, the Proposer agrees that any additional terms and conditions or changes to the terms and conditions, whether submitted purposely or

inadvertently, shall have no force or effect unless such are specifically accepted by NCTA. Further, all exceptions must be taken in accordance with the instructions set forth in in **Part I, Administrative**, Section 3.1 Content of Technical Proposal (H. Proposal Section 6).

I.23 Proposer's Bid

By submitting a Proposal to NCTA, the Proposer agrees that the Contractor's Technical Proposal and Price Proposal shall remain effective two hundred and forty (240) Calendar Days after the deadline for submitting the Proposal. If NCTA determines it is in the best interest, NCTA may request that Proposers extend the date through which the Price Proposals are valid. Requests by NCTA for time extensions of Price Proposal validity will not result in change to the prices as stated in the original Price Proposals unless so specified in the request to extend or subsequently agreed to by NCTA in writing.

I.24 Certificate to Transact Business in NC

As a condition of Contract award, each out-of-state Contractor that is a corporation, limited-liability company or limited-liability partnership shall have received, and shall maintain throughout the term of the Contract, a Certificate of Authority to Transact Business in North Carolina from the North Carolina Secretary of State, as required by North Carolina law.

I.25 Disadvantaged, Minority, Women Business Enterprises (Race and Gender Neutral)

I.25.1 Policy

It is the policy of NCTA to comply with NCDOT's Disadvantaged Business Enterprises (DBE) Program and ensure that small businesses have an equal opportunity to compete fairly for and to participate in the performance of contracts financed in whole or in part by federal and state funds. NCDOT sets DBE, Minority Business Enterprises (MBE) and Women Business Enterprises (WBE) utilization goals for all construction projects. This Contract, for goods and services specific to establishing and operating a toll collection system, is not a construction contract and does not contain utilization goals. However, the Contractor is encouraged to give every opportunity to allow DBE/MBE/WBE Subconsultant participation on all contracts and supplemental agreements.

I.25.2 Obligation

In compliance with Title VI, 23 CRF 200, 230, 635, 117(d) and (e) and 49 CFR Parts 21 and 26, the Proposer and Subconsultant shall not discriminate on the basis of race, religion, color, creed, national origin, age, disability or sex in the performance of this Contract. Failure by the Proposer to comply with these requirements is a material breach of this Contract, which will result in the termination of this Contract or such other remedy, as NCTA deems necessary.

I.25.3 Participation

Due to the Scope of Work and Requirements for this Contract, specific goals are not established. However, NCTA encourages the utilization of Small Professional Services Firms (SPSF) Subconsultants

and/or suppliers on professional services contracts let by NCDOT. All DBE/MBE and WBE firms currently certified by the NCDOT Unified Certification Program (UCP) automatically qualify as a SPSF.

I.25.4 Listing of Subconsultants or Subcontractors

NCTA encourages the use of Small Professional Services Firms (SPSF). Small businesses determined to be eligible for participation in the SPSF program are those meeting size standards defined by Small Business Administration (SBA) regulations, 13 CFR Part 121 in Sector 54 under the North American Industrial Classification System (NAICS). The SPSF program is a race, ethnicity, and gender-neutral program designed to increase the availability of contracting opportunities for small businesses on federal, state or locally funded contracts. SPSF participation is not contingent upon the funding source.

The Proposer, at the time of the Technical Proposal Submittal, shall submit a list of all known SPSF that will participate in the performance of the identified Work. The participation of each SPSF shall be submitted on a separate Subconsultant or Subcontractor Form RS-2. In the event the Proposer has no SPSF/Subconsultant or Subcontractor participation, the Proposer shall indicate this on the Subconsultant or Subcontractor Form RS-2 by entering the word 'none' or the number 'zero' and the form shall be signed and submitted with the Technical Proposal. Subconsultant or Subcontractor Form RS-2 is provided in **Exhibit C-2, List of Subcontractors and RS-2 Form**.

See form instructions for each requirement. For TIP, enter the "Type of Work"; for "Submitted by" enter Subcontractor name and name of person responsible for Subcontractor performance; for "Recommended by" enter name of prime Proposer and person responsible for delivery of Services. See instruction no. 7 on form. **A Subconsultant or Subcontractor Form RS-2 is required for all Subconsultants or Subcontractors whether or not they are considered a SPSF entity.**

I.25.5 Directory of Approved Transportation Firms

For Subconsultants or Subcontractors to be considered for SPSF utilization, a firm must be certified as SPSF and prequalified through North Carolina's Prequalification Unit. Real-time information about firms that are prequalified and approved through North Carolina's Prequalification Unit, is available in the Directory of Firms. The Directory can be accessed at <https://www.ebs.nc.gov/ContractorDirectory/default.html>.

I.25.6 Reporting Participation

When payments are made to Subconsultants or Subcontractors, including material suppliers, firms at all levels (Contractor, Subconsultants or Subcontractors) shall provide NCTA's contract administrator (the addressee for invoices under this Contract) with an accounting of said payments. The accounting shall be listed on NCTA's Subcontractor Payment Information Form (Form DBE-IS). In the event the firm has no Subconsultant or Subcontractor participation, the firm shall indicate this on the Form DBE-IS by entering the word 'none' or the number 'zero' and the form shall be signed. Form DBE-IS may be accessed on the NCDOT website at [https://connect.ncdot.gov/projects/planning/TransPlanManuals/MPO_Contractor%20_Payment_Form\(DBE-IS\).pdf](https://connect.ncdot.gov/projects/planning/TransPlanManuals/MPO_Contractor%20_Payment_Form(DBE-IS).pdf).

A responsible fiscal officer of the payee Firm, or Subconsultant, who can attest to the date and amount of the payments shall certify that the accounting is correct on the Form DBE-IS by affixing his/her signature. This information shall be submitted as part of the requests for payments made to NCTA.

I.26 Federal Aid Requirements

Due to the potential of Federal Aid in implementations of various portions of NCTA Transponder Management & Fulfillment, Proposers shall also include the appropriate completed Non-Collusion Forms provided in **Exhibit C-5, Non-Collusion Forms** in Proposal Section 7.

I.27 Insurance Requirements

The Contractor, at all times during the Term of this Agreement, shall maintain insurance in such form as is satisfactory to NCTA, and will furnish NCTA with continuing evidence of insurance as provided below. With respect to any insurance policy required pursuant to this Agreement, all such policies shall be issued by companies licensed to do business in the State of North Carolina and all such insurance shall meet all laws of the State of North Carolina. The Contractor shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this Contract.

NCTA shall be named as an “additional insured” on all applicable coverage. The Contractor shall provide NCTA with certificates issued by the insurer showing the required coverage to be in effect and showing NCTA to be an additional insured. Such policies shall provide that the insurance is not cancelable except upon thirty (30) Calendar Days prior written Notice to NCTA. The certificates and policies shall provide that in the event of any material change in or cancellation of the policies reflecting the required coverage, thirty (30) Calendar Days advance Notice shall be given to NCTA or as provided in accordance with North Carolina law. Material change includes but is not limited to change in limits, coverage, or status of the policy. Copies of all insurance policies and endorsements shall be provided to NCTA upon request.

NCTA reserves the right to review all insurance coverage and amounts of insurance coverage on an annual basis and to require the Contractor to adjust the insurance coverage and amounts of insurance coverage based on industry standards for contracts of this size and type. Contractor shall timely pay all premiums and deductibles when due for all insurance coverage required herein.

The Contractor shall not commence any Work until it has obtained the following types of insurance, and a certificate of such insurance has been received and approved by NCTA. Nor shall the Contractor allow any Subcontractor to commence Work until all insurance required of the Subcontractor has been obtained. The Contractor shall provide the required Certificates of Insurance to NCTA within fourteen (14) Calendar Days of Notice of Award.

During the term of the Contract, the Contractor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the Contract. As a minimum, the Contractor shall provide and maintain the following coverage and limits:

I. Worker’s Compensation - The Contractor shall provide and maintain Worker’s Compensation Insurance, as required by the laws of North Carolina, as well as employer’s liability coverage with minimum

limits of \$100,000.00, covering all of the Contractor's employees who are engaged in any Work under the Contract. If any Work is sublet, the Contractor shall require the Subcontractor to provide the same coverage for any of his employees engaged in any Work under the Contract; and

2. Commercial General Liability Policy - Combined Single Limits: \$1,000,000.00 per person, \$3,000,000.00 per occurrence The Commercial General Liability Policy shall include contractual liability coverage and must be on an "occurrence" basis. A Comprehensive General Liability Policy may be substituted for the Commercial General Liability Policy if the Comprehensive General Liability Policy has been endorsed to insure contractual liability, broad form property damage, and personal injury liability.

3. Business Automobile Liability Policy - To include liability coverage covering all owned, hired and non-owned vehicles used in connection with the Contract. Combined Single Limits: \$1,000,000.00 per person \$3,000,000.00 per occurrence; and

4. Professional Liability Policy- Any other provision herein to the contrary notwithstanding, the Professional Liability Policy must be with a company authorized to do business in the State of North Carolina, affording professional liability coverage for the professional services to be rendered in accordance with this Contract in the amount of at least one million dollars (\$1,000,000). The Contractor shall maintain professional liability coverage for a minimum of three (3) years after completion of the Services rendered under this Contract.

5. Crime – Crime Insurance with limits not less than \$1,000,000.00. Said policy shall cover both theft and burglary.

6. Cyber Liability Insurance- The Contractor shall maintain Privacy and Network Security (Cyber Liability) insurance covering liability arising from (1) hostile action, or a threat of hostile action, with the intent to affect, alter, copy, corrupt, destroy, disrupt, damage, or provide unauthorized access/unauthorized use of a computer system including exposing or publicizing confidential electronic data or causing electronic data to be inaccessible (2) computer viruses, Trojan horses, disabling codes, trap doors, back doors, time bombs drop-dead devices, worms and any other type of malicious or damaging code (3) dishonest, fraudulent, malicious, or criminal use of a computer system by a person, whether identified or not, and whether acting alone or in collusion with other persons, to affect, alter, copy, corrupt, delete, disrupt, or destroy a computer system or obtain financial benefit for any party or to steal or take electronic data (4) denial of service for which the insured is responsible that results in the degradation of or loss of access to internet or network activities or normal use of a computer system (5) loss of service for which the insured is responsible that results in the inability of a third-party, who is authorized to do so, to gain access to a computer system and conduct normal internet or network activities (6) access to a computer system or computer system resources by an unauthorized person or persons or an authorized person in an unauthorized manner with a limit not less than ten million dollars (\$10,000,000) per occurrence. This insurance shall provide coverage for personal injury (including emotional distress and mental anguish). Such Cyber Liability insurance coverage may be met through or combined with the Professional Liability Insurance referenced in the above paragraph 4; however, if combined then the coverage requirement for Cyber Liability insurance shall be equal or greater than the combined aggregate.

Pertaining to the above paragraphs 4, 5, 6, if coverage is written on a claims made basis, such insurance shall be maintained in force at all times during the term of this Agreement and for a period of three (3) years thereafter for Services completed during the term of this Agreement. Additionally, if a sub-limit applies to any elements of coverage, the policy endorsement evidencing the coverage above must specify the coverage section and the amount of the sub-limit.

Providing and maintaining adequate insurance coverage described herein is a material obligation of the Contractor and is of the essence of this Contract. The limits of coverage under each insurance policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract.

Subcontractors Insurance: The Contractor shall either require each Subcontractor to obtain and maintain Workers' Compensation Insurance, Commercial General Liability, Business Automobile Liability and Professional Liability coverage similar to those required above in this section for the Contractor, or any other coverage deemed necessary to the successful performance of the Contract, or cover Subcontractors under the Contractor's policies. Such coverage shall be in effect at all times that a Subcontractor is performing Work under the Contract. The Contractor shall have responsibility to enforce Subcontractor compliance with these or similar insurance requirements; however, the Contractor shall upon request provide NCTA acceptable evidenced of insurance for any Subcontractor. The Contractor shall assume all reasonability for risks or casualties of every description, for any and all damage, loss or injury, to persons or property arising out of the nature of the Work, including but not limited to the negligence or failure of its Subcontractors (as well as Contractor's employees) to comply with Contract Documents.

1.28 Prevailing Wages

Contractor shall pay or cause to be paid to applicable workers employed by it or its Subcontractors to perform the Work not less than the prevailing rates of wages. Contractor shall comply and cause its Subcontractors to comply with all laws pertaining to prevailing wages. For the purpose of applying such laws, the Project shall be treated as a public work paid for in whole or in part with public funds (regardless of whether public funds are actually used to pay for the Project). It is the Contractor's sole responsibility to determine the wage rates required to be paid. In the event rates of wages and benefits change while this Contract is in effect, Contractor shall bear the cost of such changes and shall have no claim against NCTA on account of such changes.

2. Schedule

Below, **Table I-1: Procurement Schedule** provides a planned schedule for this RFP process, listed in the order of occurrence. NCTA reserves the right to change any or all of these dates as it deems necessary or convenient in its discretion. In the event of such a date change, Proposers will be notified in accordance with **Part I, Administrative**, Section 1.6 Information Posting.

Table I-1: Procurement Schedule

Milestone	Date
RFP Issued	February 8, 2024
Mandatory Pre-Proposal Scope of Services Meeting	February 19, 2024 (11:00 a.m. to 12:00 p.m. EDT) <u>Interested parties are required to email the NCTA contact noted in Part I, Administrative, Section 1.5, to register for the meeting.</u> The meeting will be held online via web conference. The meeting may be recorded by NCTA and all attendees must state name so the company may be counted present. See further details below.
Proposer Questions Due <u>(Round 1)</u>	February 23, 2024 (4:00 p.m. EDT)
NCTA Response to Questions <u>(Round 1)</u>	<u>March 1, 2024</u> March 4, 2024
<u>Proposer Questions Due (Round 2)</u>	<u>March 11, 2024 (4:00 p.m. EDT)</u>
Technical Proposals Due	March <u>April</u> 15, 2024 (4:00 p.m. EDT)
Oral Interviews & Presentations (<i>Proposers to be notified as to the specific schedule within the time identified</i>)	<u>May 13 – May 14, 2024</u> Week of April 15, 2024
Notification of Proposers Shortlisted	<u>May 21, 2024</u> April 22, 2024
Price Proposals Due (<i>Only Shortlisted Proposers will submit a Price Proposal</i>)	April <u>May</u> 29, 2024 (4:00 p.m. EDT)
Ranking of Proposers for Negotiations	<u>Week of June 4, 2024</u> May 6, 2024
BAFO (<i>if needed</i>)	<u>Week of June 10, 2024</u> Week of May 13, 2024
Notice of Award	<u>Week of June 10, 2024</u> Week of May 13, 2024

Mandatory Pre-Proposal Scope of Services Meeting: NCTA will convene a **MANDATORY** Pre-Proposal **Virtual** Scope of Services meeting for interested firms on the date and time presented in **Table I-1** above. Interested parties are requested to email the NCTA Contact Person noted in **Part I, Administrative**, Section 1.5 Contact Person to receive additional information. NCTA has elected to host the meeting online via web conference only. The purpose of the meeting is to present details of the RFP, discuss the approach to the procurement, and provide attendees with an opportunity to ask questions about the RFP, the procurement approach, or NCTA requirements.

Attendance at the meeting is required for all Proposers who will submit Proposals for the Project.

3. Technical Proposal Response and Submission Instructions

3.1 Content of Technical Proposal

Proposals shall be prepared simply and economically, providing a straightforward, concise description of the Proposer's ability to meet the requirements of the RFP. To that end, Technical Proposal Sections 1 through 5 shall be limited to a combined total of 28 pages. Portions of the Proposal that are excluded from these page limitations are shown below in **Table I-2: Technical Proposal Page Limitations**.

Table I-2: Technical Proposal Page Limitations

Proposal Sections to be Completed by a Proposer	Page Count Limitations
Cover Letter	Up to 1 page
Executive Summary	Up to 1 page
Section 1: Firm Qualifications	Limited to a combined total of 5 pages (excluding all table of contents, list of tables, or list of figures) and a font of 12 points.
Section 2: Previous Experience and Deployed Solutions	
Section 3: Key Team Qualifications	
Section 4: Approach to Operations Implementation	Limited to 15 pages (excluding all tables of contents, lists of tables, or lists of figures) and a font of 12 points.
Section 5: Approach to Managing Program Growth, Quality, Continuous Improvement, Cost Control, and Innovation	Limited to 8 pages (excluding all table of contents, list of tables, or list of figures) and a font of 12 points.
Section 6: Adherence to Part IV, Terms and Conditions	No limitations
Section 7: Forms & Submittals	No limitations

The Technical Proposal shall be submitted in the format shown below. The cover sheet for the completed Proposal, provided as **Exhibit C-1, Proposal Cover Sheet**, shall be included at the front of the Technical Proposal package submitted to NCTA, as directed in Section 3.1 below. The cover sheet is not subject to the page limitations.

Each lettered item designates a specific and separate section to be included in the Proposal:

A. Cover Letter –

The Proposal shall include a cover letter signed by an officer of the firm with signature authority to enter into the proposed Contract with NCTA. This letter should be very brief and provide the corporate commitment that the Proposal meets the scope, schedule, and requirements of the RFP. The letter shall also include the name of the Project Principal and Operations Manager.

B. Executive Summary

The executive summary shall be a brief overview, summarizing the contents of the proposal and explaining how the proposal being offered best addresses the evaluation criteria listed in this RFP. The summary shall describe the Proposer's qualifications, understanding of NCTA's needs and proposed approach to partnering with NCTA.

C. Proposal Section I: Firm Qualifications

Provide the following information regarding the Proposer's qualifications. Please number and provide the information in the specific format provided below.

- 1) Describe the Proposer's composition, including the following information:
 - a. Prime firm organizational structure (individual, partnership, corporation);
 - b. Years in business;
 - c. Number of employees;
 - d. Areas of operation
 - e. Total annual revenues; and
 - f. Roles and any Subcontractors, their specific responsibilities, percentage of Work on the contract, and how their work will be supervised.
- 2) A copy of the Proposer's audited financial statements for the past two consecutive years as Appendix I. Include in Proposal Section 7 and note in your response to this item that it has been provided in Proposal Section 7. If a Proposer does not produce audited financial statements, the Proposer shall submit any financial statements that it does have (e.g. lines of credit, statements compiled by an outside accounting firm, etc.) and any other information Proposer feels is pertinent in establishing the financial stability of its business/organization. NCTA reserves the right to review other publicly available information with regard to the Proposer's financial stability, as part of the evaluation. If a Proposer has questions about what evidence of the Proposer's financial stability will be acceptable to NCTA, the Proposer should communicate with NCTA as set forth in **Part I, Administrative**, Section I.14 Written Clarifications.
- 3) A detailed statement providing the Proposer background information relative to the following:
 - a. Any criminal felony conviction, or conviction of any crime involving moral turpitude, including, but not limited to fraud, misappropriation or deception, of the Proposer, its officers or directors, or any of its employees or other personnel to provide Services on this Project, of which the Proposer has knowledge or a statement that it is aware of none;
 - b. Any criminal investigation for any offense involving moral turpitude, including, but not limited to fraud, misappropriation, falsification or deception pending against the Proposer of which it has knowledge or a statement it is aware of none;

- c. Any regulatory sanctions levied against the Proposer or any of its officers, directors or its professional employees expected to provide Services on this Project by any state or federal regulatory agencies within the past three years or a statement that there are none. As used herein, the term “regulatory sanctions” includes the revocation or suspension of any license or certification, the levying of any monetary penalties or fines, and the issuance of any written warnings;
- d. Any regulatory investigations pending against the Proposer or any of its officers, directors or its professional employees expected to provide Services on this Project by any state or federal regulatory agencies of which the Proposer has knowledge or a statement that there are none;
- e. Any civil litigation, arbitration, proceeding, or judgments pending against the Proposer during the three (3) years preceding submission of its proposal herein or a statement that there are none.

The Proposer’s responses to these requests shall be considered to be continuing representations, and the Proposer’s failure to notify NCTA within thirty (30) Calendar Days of any criminal litigation, investigation or proceeding involving the Proposer or its then current officers, directors or persons providing Services under this contract during its term shall constitute a material breach of contract. The provisions of this paragraph shall also apply to any Subcontractor utilized by Proposer to perform Services under this Agreement.

D. Proposal Section 2: Previous Experience and Deployed Solutions

Provide responses to the items below regarding the Proposer’s previous experience and deployed solutions. Please number and provide the information in the specific format below.

- 1) Provide examples of a previous project, or projects, with similar project delivery conditions and Retailer program management. Detail how each project is the same, or similar to, what is proposed for this Project and specify any significant differences. Detail the outcome for each project, challenges experienced, and how they were overcome. Provide contacts for each project referenced.
- 2) Provide the current status of the referenced project(s) (i.e., in development, in operations, etc.).
- 3) A recent Client List using **Exhibit C-3**, including a detailed description of the size, total dollar value, and specific services provided for each client to which the Proposer provided similar services within the past five (5) calendar years. Specify the name, address, and telephone number of the individual responsible at the client organization for the supervision of such services. Include in Proposal Section 7 and note in your response to this item that it has been provided in Proposal Section 7.

E. Proposal Section 3: Key Team Qualifications

Provide responses to the items below regarding the Key Team experience. Please number and provide the information in the specific format below.

- 1) Identify the following Key Team Personnel on this Project. Please refer to position descriptions in **Part III, Scope of Work and Requirements**, Section 2.2 Key Personnel.
 - a. Project Principal; and
 - b. Operations Manager
- 2) Describe the experience of each Key Team Member and how it related specifically to this Project. The resources will be available throughout the Term of the Agreement. Any changes in Key Personnel shall be presented in writing to NCTA for review and approval prior to making such changes.
- 3) Provide resumes (not to exceed two (2) pages per team member), for each of the Key Team Members. (Include in Proposal Section 7 and note in your response to this item that it has been provided in Proposal Section 7.)
- 4) Complete the List of Subcontractors Form using **Exhibit C-2** which includes Subcontractor name, address, Work to be performed, and expected percentage of total Work value to be performed. Also complete the RS-2 Form for each Subcontractor as further instructed in **Part I, Administrative**, Section 1.25.4 Listing of Subconsultants or Subcontractors. Include both the completed list of Subcontractors and the RS-2 Form in Proposal Section 7 and note in your response to this item that they have been provided in Proposal Section 7.

F. Proposal Section 4: Approach to Operations Implementation

Provide the following information regarding the Proposer's approach to supporting Operations Implementation. Please number and provide the information in the specific format provided below.

- 1) Outline approach to each of the following items:
 - a. Mobilization and program establishment, including facility acquisition and outfit;
 - b. Transponder inventory takeover;
 - c. Developing the Standard Operating Procedures (SOPs), including familiarization with operations and CBOS functionality;
 - d. Staff hiring, training, and management;
 - e. Coordinating with existing NC Quick Pass Operations contractor to transition work in progress;
 - f. Development of packaging materials for Retail Distribution programs;
 - g. Go-Live, including risk identification and mitigation; and
 - h. Managing the post Go-Live backlog while handling day-to-day operations.
- 2) Discuss the Proposer's ability to interface with a NCTA CBOS using Rest API. The Proposer shall use the ICD provided in **Attachment I: NCTA CBOS Transponder Fulfillment ICD** as a reference to discuss how it would integrate into an NCTA CBOS. The Proposer

shall describe its solution, architecture, and approach to integrating with APIs, testing, and validating such new systems or services.

G. Proposal Section 5: Approach to Managing Program Growth, Quality, Continuous Improvement, Cost Control, and Innovation

- 1) Provide responses to the items below. Please number and provide the information in the specific format below.
 - a. Describe the Proposer's approach to preparing for the launch of new roadways and adjusting to the corresponding growth in transponder requests.
 - b. Describe the Proposer's approach to Retailer program development, marketing, onboarding new Retailers, and an innovative alternative to the two (2) retail packaging format styles outlined in **Part III, Scope of Work and Requirements**, Section 6.
 - c. Describe the Proposer's approach to quality including reliability, accuracy, responsiveness, and efficiency.
 - d. Describe the Proposer's approach to identifying and fostering continuous improvement opportunities in expanding and changing operations environment.
 - e. Describe the Proposer's approach to minimizing operational costs such as warehousing, packaging materials, and postage and shipping costs.
 - f. Describe the Proposer's approach to ensuring innovation and adaption to newer technology.

H. Proposal Section 6: Adherence to Part IV, Terms and Conditions

- 1) The Proposer must submit its Proposal on the basis of the terms and conditions set out in **Part IV, Terms and Conditions**. NCTA may reject any Proposal that is conditioned on the negation of Terms and Conditions set out in **Part IV, Terms and Conditions** or to other provisions of the RFP as specifically identified above.
- 2) The Proposer must clearly identify any proposed exceptions to the Terms and Conditions in this Proposal Section 6, which will be considered in accordance **with Part I, Administrative**, Section 1.22 Contractual Obligations. The Contractor waives the right to raise new exceptions and alternatives during and after negotiations, however, any details not yet defined in the documents by NCTA may still be negotiated.

I. Proposal Section 7: Forms and Submittals

Proposers shall provide all Proposal forms required to be submitted as part of the RFP in Section 7 of the Proposal, unless otherwise specifically directed. Proposers shall submit properly completed forms that have been provided in **Exhibit C, Forms**. Please refer to **Table I-3** below for a Technical Proposal Forms and Submittal checklist. The checklist identifies the location of the form or the Submittal requirement in the RFP and also where the form or Submittal is to be included in the Proposal.

Proposers shall not modify any of the forms unless specifically instructed by NCTA to do so. Completion of forms will be checked during the initial Pass/Fail screening of the submitted Proposals. Proposals not adhering to this requirement may be considered as non-compliant.

Table I-3: Technical Proposal Forms and Submittal Checklist

Form #	Form/Submittal Name	Location in RFP	Location of Form/Submittal in Proposal
Technical Proposal Forms to be Submitted			
C-1	Proposal Cover Sheet	Exhibit C-1	Technical Proposal
C-2	List of Subcontractors and RS-2 Form	Exhibit C-2	Technical Proposal Section 7
C-3	Recent Client List	Exhibit C-3	Technical Proposal Section 7
C-4	Proposer Questions Form	Exhibit C-4	N/A: To be used for submission of Proposer questions to NCTA
C-5	Non-Collusion Forms	Exhibit C-5	Technical Proposal Section 7
C-6	Surety Commitment Letter	Exhibit C-6	Technical Proposal Section 7
C-7	Acknowledgment of Receipt of Addenda	Exhibit C-7	Technical Proposal Section 7
Other Technical Proposal Submittals			
N/A	Appendix I: Audited Financial Statements (Two Years)	See Part I – Section 3.1.C	Technical Proposal Section 7
N/A	Resumes	Section Part I – Section 3.1.E	Technical Proposal Section 7

3.2 Format of Technical Proposal

- I. **Form of Technical Proposal.** Submit Technical Proposals only electronically on a USB flash drive.
 - a. The electronic copy shall be provided in a **searchable (NOT SCANNED)** *.pdf format. All Sections listed in **Table I-2** (Cover Letter, Executive Summary, Proposal Sections 1 – 7) shall be a separate *.pdf file. Any Proposal Exhibits or information prepared either as graphics or with other programs such as scheduling programs shall be viewable in a *.pdf file without any other software required for Proposal review.
 - b. On a separate USB flash drive, Proposers shall also submit a redacted electronic copy of the Technical Proposal (Proprietary and Confidential Information Excluded). Any proprietary information identified as confidential and proprietary in accordance with G.S. § 132-1.2 and the Terms and Conditions of this RFP, should be excluded.
2. **Number of Copies.** One (1) USB flash drive containing all portions of the Technical Proposal shall be provided and one (1) USB flash drive containing a redacted copy of the Technical Proposal shall be provided. Two (2) USB flash drives in total shall be submitted.

3. **Page Presentation.** Technical Proposal text shall be single-spaced, a minimum of 12-point Times New Roman font. Each page header and/or footer should include the Proposer's name and Technical Proposal section, along with page numbers and date of the Proposal.

NCTA will not be responsible for reviewing portions of proposals with illegible text. Headers and footers may be in different size font from that specified but no less than 9-point font.

4. **Easy to Read and Cross-Reference.** The Proposers need not duplicate or quote in detail from attached reference materials provided that a summary is included in the technical section and a clear and easy means to locate references to the information is provided. The reference shall include the document name, page number(s) in the document, and paragraph number(s) or line number(s) where the referenced information is located. Underlining, boxing, highlighting, etc. that will call attention to referenced information in a manner that will assist in locating it is recommended.
5. **Writing Style.** Proposal Documentation should provide an example of what project design documentation will look like. NCTA prefers economy of words, direct writing, active voice, and minimum of marketing superlatives. NCTA also prefers facts and written evidence with references or data that supports Proposers statements or assertions in the document.
6. **Trade Secrets and Confidential Information.** NCTA is a public agency of the State of North Carolina, subject to the North Carolina Public Records Act, Chapter 132 of the North Carolina General Statutes. NCTA may maintain confidential information, including any designated as trade secrets or otherwise proprietary, only in accordance applicable Federal and State laws or regulations. NCTA, therefore, expects that Proposers will keep confidential information designations to a minimum.

A Proposer, having formed a good faith opinion, upon consultation with legal or other knowledgeable advisors that information submitted may contain a trade secret as defined in G.S. § 66-152 or other information exempted from the North Carolina Public Records Act pursuant to G.S. § 132-1.2, may so designate appropriate portions of its Proposal by marking the top and bottom of pages containing confidential information in boldface type "CONFIDENTIAL." NCTA, however, may serve only as a custodian of information a Proposer deems confidential. NCTA shall not act as an arbiter or defender of any claims related to assertions of confidential information. If a request is made for disclosure of information submitted, or an action is brought to compel NCTA to disclose information marked confidential pursuant to G.S. § 132-1 et seq. NCTA will notify the affected Proposer of such request or action.

In submitting a Proposal in response to this RFP, a Proposer agrees to: (i) defend its assertions of confidentiality by instituting appropriate legal proceedings, at its own expense and through its counsel, or intervening in an action brought against NCTA to compel disclosure, to defend its assertions of confidentiality; and (ii) hold the State and NCTA, and any officials or employees thereof harmless from any and all damages, costs, and attorney's fees awarded against the State and NCTA arising out of any such actions. Nothing in this section shall preclude the State or NCTA from participating in the defense of such actions, at its option and expense through its counsel. NCTA shall have no liability to a Proposer with respect to the disclosure of any

information, including confidential information, subject to an order by a court of competent jurisdiction pursuant to G.S. § 132-9 or any other applicable law.

In accordance with G.S. § 136-28.5, bids and documents submitted in response to an advertisement, or this RFP shall not be public record until the NCTA issues a decision to award or not to award the Contract.

3.3 Submission of Technical Proposal

All Technical Proposal USB flash drives shall be submitted in a sealed envelope, bearing on the outside the following information:

Technical Proposal:

TRANSPONDER MANAGEMENT & FULFILLMENT RFP

Submitted By:

PROPOSER'S NAME

PROPOSER'S ADDRESS

CITY, STATE, ZIP CODE

PROPOSER'S PHONE NUMBER

The USB flash drives for the Technical Proposals shall be delivered to the address provided below. If hand delivering, please reach out to the NCTA Contact Person to coordinate the receipt.

Physical Delivery Address

NC Quick Pass

200 Sorrell Grove Church Rd, Suite A

Morrisville, NC 27560

Attn: Eliza Davis

4. Price Proposal Submission Instructions

4.1 Content of Price Proposal

All Short-listed Proposers shall complete the below form as their Price Proposal submission.

- I. **Exhibit B: Pricing Forms & Instructions** in accordance with the instructions outlined within it.
 - a. Any costs for Work that is not provided in the Price Proposal will be assumed as no charge to NCTA.
 - b. Proposers shall not include any assumptions in their Price Proposals. If the Proposer includes assumptions in its Price Proposal, NCTA may reject the Proposal.

4.2 Format of Price Proposal

All Short-listed Proposers shall submit Price Proposals following the below format.

1. **Form of Price Proposal.** Submit Price Proposals only electronically on a USB flash drive.
 - a. The file format for the electronic copy of the Price Proposal shall be Microsoft Excel and PDF.
2. **Number of Copies.** One (1) USB flash drive containing the Price Proposal shall be submitted.

4.3 Submission of Price Proposal

All Price Proposal USB flash drives shall be submitted in a sealed envelope, bearing on the outside the following information:

Price Proposal:

TRANSPONDER MANAGEMENT & FULFILLMENT RFP

Submitted By:

PROPOSER'S NAME

PROPOSER'S ADDRESS

CITY, STATE, ZIP CODE

PROPOSER'S PHONE NUMBER

The USB flash drives for the Price Proposals shall be delivered to the address provided below. If hand delivering, please reach out to the NCTA Contact Person to coordinate the receipt.

Physical Delivery Address

NC Quick Pass

200 Sorrell Grove Church Rd, Suite A

Morrisville, NC 27560

Attn: Eliza Davis

5. Procurement Evaluation Process

An evaluation and negotiation process will be conducted as set forth in this Section 5 using a Best Value process to allow NCTA to award the Contract to the Proposer providing the Best Value and recognizing that Best Value may result in award to other than the lowest price or highest technically qualified Proposal. By using this method, the overall ranking may be adjusted up or down by the Evaluation Committee when considered with or traded-off against other non-price factors. "Best Value" procurement methods are authorized by G.S. §143-135.9 and in accordance with NCTA Policies and Procedures adopted by the NCTA Board February 18, 2009.

Pursuant to G.S. §143-135.9, the award decision is made based on multiple factors, including: total cost of ownership, meaning the cost of acquiring, operating, maintaining, and supporting a product or service over its projected lifetime; the evaluated technical merit of the Contractor's offer; the Contractor's past performance; and the evaluated probability of performing the specifications stated in the solicitation on time, with high quality, and in manner that accomplishes the stated business objectives and maintains

industry standards compliance. The intent of “Best Value” Information Technology procurement is to enable Contractors to offer and the Agency to select the most appropriate solution to meet the business objectives defined in the solicitation and to keep all parties focused on the desired outcome of procurement.

5.1 Technical Proposal Pass/Fail Screening

In response to this RFP, each Proposer shall submit a Technical Proposal in strict compliance with the requirements outlined herein. Immediately following the Technical Proposal due date, as detailed in **Table I-1**, the Compliance Committee shall validate the completeness of each Technical Proposal, including all Technical Proposal sections, correctly completed forms and required information. Technical Proposals which are incomplete may be rejected.

Note: Proposers are advised that NCTA is not obligated to ask for, or accept after the Technical Proposal due date, data that is essential for a complete and thorough evaluation of the Technical Proposal.

5.2 Technical Proposal Evaluation

1. The evaluation process will consist of a quantitative scoring and ranking of the Technical Proposals in order to ascertain which Proposer best meets NCTA's needs for the project. The Proposals will be evaluated on their material content and their responsiveness and degree of adherence to **Part III, Scope of Work and Requirements** set forth in this document. The Evaluation Committee will review and evaluate the Technical Proposals and the other related Contract information submitted to ensure that the Proposer understands the **Part III, Scope of Work and Requirements** and has clearly expressed its intent to meet the requirements of the Contract.
2. **Preliminary Technical Scoring.** Following Technical Proposal review, the Evaluation Committee will score the Technical Proposals with maximum potential technical score points for each Technical Proposal as shown in **Table I-4** below.
3. **Non-Compliant.** Any Technical Proposals scored below 70 out of 100 possible total points on the preliminary evaluation will be considered non-compliant and will not be considered further. Only Proposers that meet the minimum score of 70 will be considered compliant and asked to participate in Oral Interviews.
4. **Oral Presentations and Interviews.** NCTA may invite compliant Proposers to participate in oral presentations and interviews. The oral presentations and interviews and any required demonstrations will provide the Evaluation Committee an opportunity to further its understanding of the Technical Proposals.
5. **Updated Technical Scoring.** After the oral presentations and interviews, the Evaluation Committee may update its preliminary technical scoring. The updated scoring will consider both the Technical Proposal and the results of the oral presentations and interviews and demonstrations if conducted, with maximum potential technical score points for each Technical Proposal as shown in **Table I-4** below.

6. **Shortlist of Proposers.** After updated technical scoring is finalized, the Evaluation Committee will develop a shortlist of Proposers who will be invited to participate in Price Proposal submission.

5.3 Technical Proposal Scoring

- I. The overall Technical Proposals are scored as shown in **Table I-4** below:

Table I-4: Technical Proposal Elements and Maximum Possible Points Breakdown

Technical Proposal Elements	Maximum Possible Points
Proposal Section 1: Firm Qualifications	5
Proposal Section 2: Previous Experience and Deployed Solutions	15
Proposal Section 3: Key Team Qualifications	10
Proposal Section 4: Approach to Operations Implementation	40
Proposal Section 5: Approach to Managing Program Growth, Quality, Continuous Improvement, Cost Control, and Innovation.	30
Maximum Possible Technical Points	100

5.4 Price Proposal Submission

The Evaluation Committee will open the Price Proposals received from the Shortlisted Proposers.

5.5 Price Review and Scoring

The Price Proposals will be reviewed and scored as outlined below.

- a) The Evaluation Committee will use a table based on the maximum quality credit percentage to assign a Quality Credit Percentage to each Technical Proposal based on that proposal’s final technical score. The maximum quality credit percentage for this project will be 25%. The Evaluation Committee may assign point values to the nearest one-tenth of a point (e.g., 90.3). In this event, the Quality Credit Percentage will be determined by linearly interpolating within **Table I-5** shown below.

Table I-5: Quality Credit Percentage for Technical Proposals

Technical Score	Quality Credit (%)	Technical Score	Quality Credit (%)	Technical Score	Quality Credit (%)
100	25.00%	90	16.67%	80	8.33%
99	24.17%	89	15.83%	79	7.50%
98	23.33%	88	15.00%	78	6.67%
97	22.50%	87	14.17%	77	5.83%
96	21.67%	86	13.33%	76	5.00%
95	20.83%	85	12.50%	75	4.17%
94	20.00%	84	11.67%	74	3.33%
93	19.17%	83	10.83%	73	2.50%
92	18.33%	82	10.00%	72	1.67%
91	17.50%	81	9.17%	71	0.83%
				70	0.00%

b) The Evaluation Committee will review the Price Proposals and apply the quality credit as defined above. If the Price Proposal is within the acceptable range of the Engineer’s Estimate or NCTA’s Plan of Finance budget the Proposer with the lowest adjusted price will be selected.

i. **Table I-6** below shows an example of the calculation involved in this process. In this example, Contractor D is the successful Contractor and Contractor E failed to qualify as their Technical Score was below 70.

Table I-6: Example of Quality Adjusted Price Ranking

	Technical Score	Quality Credit %	Price Proposal (\$)	Quality Value (\$)	Adjusted Price (\$)
Vendor A	94.0	20.00%	\$325,000.00	\$65,000.00	\$260,000.00
Vendor B	90.0	16.67%	\$290,000.00	\$48,333.33	\$241,666.67
Vendor C	92.0	18.33%	\$280,000.00	\$51,333.33	\$228,666.67
Vendor D	80.0	8.33%	\$200,000.00	\$16,666.67	\$183,333.33
Vendor E	69.0	0.00%			
Note 1: Maximum Technical Score Percentage is 25%					
Note 2: Minimum Technical Score to Qualify is 70					

c) NCTA reserves the right to request Proposer to confirm or withdraw the Price Proposal which deviates from the average of all other qualified Price Proposals by more than 15%.

5.6 Best and Final Offers (BAFOs)

NCTA may elect to enter the BAFO process with all Finalist Proposers if Price Proposals exceed an acceptable range of the Engineer’s Estimate or NCTA’s Plan of Finance budget, or if the NCTA feels it is necessary, for any reason. NCTA may choose to make amendments to the details of the RFP and request a Best and Final Offer from all Finalist Proposers. Finalist Proposers may be requested to

provide Best and Final Offers (BAFOs) in response. If BAFOs are requested, NCTA will evaluate the BAFOs and adjust its evaluation of the Proposer's respective Proposal accordingly.

5.7 Notification of Award

Following evaluation and negotiations, NCTA may execute a Contract with the successful Proposer. NCTA will notify the successful Proposer in writing via a Notification of Award letter via email.

The successful Proposer will have fourteen (14) Calendar Days after receipt of the Notification of Award to furnish the performance and payment bonds and insurance required in the Notification of Award letter. If the successful Proposer defaults or otherwise is unable to enter into a Contract with NCTA, then NCTA may execute the Contract with the next highest ranked Proposer or Proposers as further set forth in this document.

NCTA will issue an original Contract for execution by the successful Proposer. After the Contract is executed by NCTA, a duplicate copy will be mailed back to the Contractor.

Originals. The original copy will be retained in the NCTA Office. On Federal-Aid projects, a true copy will be sent to the Federal Highway Administration.

Bonding Requirements. All payment and performance bonds will be handled using the following procedures.

Payment and Performance Bonds:

- a) Within 14 days of Notification of Award, the selected Contractor shall obtain Payment and Performance bonds each in the amount of the year one Contract price, as finalized by the Contractor and NCTA, which will include the year one operations annual sum of the On-going Operations Phase. All bonds shall be in conformance with G.S. § 44A-33. The corporate surety furnishing the bonds shall be authorized to do business in the State.
- b) After successful Go-Live and provided that no outstanding claims are then pending or threatened against the Contractor hereunder, and upon proof of compliance for satisfying the Contractor's payment obligations during the Operations Implementation Phase, the initial bond amounts shall be reduced to represent only the year one operations annual sum of the On-going Operations Phase.
- c) The bonds shall be automatically renewed each year at the anniversary of Contract execution and the bond amount shall represent the estimated annual value of the Contract for the upcoming year using projected volumes and staffing cost.
- d) The Contractor or its Surety must provide NCTA with written notice of the cancellation of any bonds required under this Section, at least ninety (90) days prior to the date the cancellation shall take effect. The Contractor or the new Surety must provide NCTA with a replacement bond(s) in the amount and for the duration required under this Section, and which is fully compliant with all other provisions of this Section. Any replacement bond shall take effect within thirty (30) Days of the written notice of cancellation of the prior bond being replaced. Cancellation of a bond shall neither be the basis of a Change Order, nor prohibit NCTA from making a claim against the bond being cancelled.
- e) Performance by a Surety or a Guarantor of any of the obligations of the Contractor shall not relieve the Contractor of any of its obligations hereunder.

6. Proposer Debrief

Once a Contract has been awarded, all Proposers will be afforded the opportunity for a debriefing with NCTA regarding the relative merits of their Technical and Price Proposal Submittals.

7. Protest Procedure

Each Proposer, by submitting its Proposal, expressly recognizes the limitation on its rights to protest contained herein, expressly waives all other rights and remedies, and agrees that the decision on any protest, as provided herein, shall be final and conclusive. These provisions are included in these RFP documents expressly in consideration for such waiver and agreement by the Proposers. If a Proposer disregards, disputes, or does not follow the exclusive protest remedies set forth in these RFP documents, it shall indemnify, defend, and hold NCTA and NCDOT, and their respective Board members, directors, officials, employees, Agents, representative, and consultants, harmless from and against all liabilities, expenses, costs, fees, and damages incurred or suffered as a result of such Proposer actions. The submission of a Proposal shall be deemed the Proposer's irrevocable and unconditional agreement with such indemnification obligation.

1. Any request for a protest meeting shall be in writing and filed with the NCTA Executive Director at the address specified below and shall be received within thirty (30) consecutive Calendar Days from the date of the Contract award. Any protest not set forth in writing, including oral objections, is not a protest and shall be null and void.

NCTA Executive Director

1578 Mail Service Center

Raleigh, NC 27699-1578

2. All protests shall include the following: 1) Name and Address of Protestor; 2) RFP Name and date of issuance; 3) Specific reasons for protest; and 4) Supporting exhibits, evidence or documents to support the protest.
3. If the protest does not contain this information or if the Executive Director determines that a meeting would serve no purpose, the Executive Director may, within ten (10) consecutive Calendar Days from the date of receipt of the letter, respond in writing to the Proposer and refuse the protest meeting request.
4. If the protest meeting is granted, the Executive Director shall attempt to schedule the meeting within thirty (30) consecutive Calendar Days after receipt of the letter, or as soon as possible thereafter. Within ten (10) consecutive Calendar Days from the date of the protest meeting, the Executive Director shall respond to the Proposer in writing with the Executive Director's decision.
5. The Executive Director may appoint a designee to act on the Executive Director's behalf with regard to these protest procedures.
6. All Proposals shall be irrevocable until final administrative and judicial disposition of a protest.

Part II

Defined Terms & Acronyms

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I. Defined Terms

Term	Definition
Account	A customer Account in the NCTA CSC Commercial Back Office System (CBOS).
Account Update	The process whereby any data associated with an account is changed.
Addendum or Addenda	A document created to capture any clarification, update, amendment, addition, deletion or modification made to the RFP during the procurement process.
Agreement	Also referred to as the “Contract”. It is the written Contract between NCTA and the respective Contractor covering all parts of this Project.
Agreement Term	The duration of the Agreement, including any authorized renewals and extensions. Also referred to as “Contract Term”.
Amendment	Change in the Agreement executed in writing made by adding, altering, or omitting a certain part or terms.
Appendix	A collection of supplementary material for reference purposes only.
Approve	The term “Approve” and its variations (e.g., “Approval” or “Approved”), when capitalized in this Agreement refer to acceptance of a process, vendor, document, condition, action or Deliverable in writing by NCTA. Approval by NCTA shall not be construed to mean endorsement or assumption of liability by the NCTA nor shall it relieve the Contractor of its responsibilities under the Agreement.
Attachment	Any documentation, appended to this Contract, which does not establish a requirement for Deliverables.
Business Day	A day, excluding NCTA observed Holidays, Saturdays, and Sundays.
Calendar Day	Every day, including weekends and Holidays, beginning at 12:00:00 a.m. and ending at 11:59:59 p.m.
Commercial Back Office System (CBOS)	<p>Hardware and software provided by the CBOS contractor to support toll collection and customer service operations, including but not limited to: business interfaces to process payments for prepaid accounts, invoice customers, process payments for post-paid customers, and maintain customer accounts.</p> <p>The CBOS also interfaces with Interoperable Agencies in participating programs, mail house, transponder order fulfillment, retail management, and to specialized third-</p>

Term	Definition
	party aggregators such as mobile applications, fleet, or commercial drivers.
Contract	See “Agreement”.
Contract Documents	<p>All of the documents that make up the Contract, including but not limited to:</p> <ul style="list-style-type: none"> • Executed Agreement, including RFP, all executed RFP Addenda, BAFO, and Amendments; • Part I, Administrative; • Part II, Defined Terms and Acronyms; • Part III, Scope of Work and Requirements, as conformed; • Part IV, Terms and Conditions; • Contractor’s Technical Proposal • Contractor’s Price Proposal • Other Proposer Materials
Contract Term	See “Agreement Term”.
Contractor	The person, firm, corporation or entity undertaking the execution of the Work with whom NCTA has entered into an Agreement.
Customer Service Center (CSC)	The area in the lobby of the NC Quick Pass Operations Center, or other remote, stand-alone building where Customer Service Representatives service walk-in customers.
Customer Service Representative (CSR)	An individual performing a customer interface position in the CSC, providing assistance such as account creation, payment processing, dispute resolution and correspondence to NCTA customers.
Deliverable(s)	All Documentation and any items of any nature submitted by the Contractor to the NCTA’s Contractor Project Manager for review and approval pursuant to the terms of this Agreement. See “Submittal”.
Department/Division of Motor Vehicles (DMV)	An authority responsible for motor vehicles registrations and provides ownership data to NCTA for vehicle owner identification. See “NCDMV”
Evaluation Committee	The Committee NCTA will use to evaluate Proposer Materials as described in this RFP, to determine the Best Value Proposer.
Exhibit	A supplement to this Contract that establishes requirements for Deliverables.
Express Lane	A limited access expressway lanes or roadways separated from adjacent general-purpose lanes and employing payment of tolls to manage demand.
Extra Work Orders	Changes resulting in additions or deletions to the type or value of Services provided pursuant to this Agreement as directed by NCTA.

Term	Definition
Go-Live	The date in which live operations commence.
Holidays	Days that are designated by NCTA as Holidays for purposes of this Agreement.
Interface	A point of interaction between two systems for the exchange of data.
Interface Control Document (ICD)	The document that defines the file formats and related business policies for processing data or transactions between the CBOS contractor's system and third-party systems.
Invoice Adjustment	A reduction in the Contractor's invoice for services resulting from penalties caused by the Contractor's failure to comply with Key Performance Indicators.
Key Performance Indicators (KPIs)	Technical performance measurements or metrics used to evaluate Contractor performance.
Liquidated Damages	Damages, whose amount the parties designate during the formation of a contract, for the injured party to collect as compensation upon a specific breach.
Maintenance	Services performed by the Contractor pursuant to Part III, Scope of Work and Requirements . May also be referred to as "Maintenance Services".
NCTA Designated Representatives	Person or persons authorized by NCTA to represent NCTA in all dealings with the Contractor.
North Carolina Department of Transportation (NCDOT)	A governmental agency in North Carolina responsible for building, repairing, and operating highways, bridges, and other modes of transportation, including ferries in the U.S. state of North Carolina.
North Carolina Division of Motor Vehicles (NCDMV)	See "Department/Division of Motor Vehicles (DMV)".
North Carolina Turnpike Authority (NCTA)	A Business Unit of NCDOT, responsible for supplementing the traditional non-toll transportation system serving the citizens of North Carolina by accelerating the delivery of roadway projects using alternative financing options and facilitating the development, delivery and operation of an integrated, creative system of toll roads.
NC Quick Pass Operations Center	The facility that houses the equipment, software, and personnel required to establish, manage, and maintain customer accounts; provide customer service; process transactions and prepare customer notifications and all

Term	Definition
	other processing in accordance with NCTA’s Business Policies.
NC Quick Pass Transponder Account	Pre-paid toll accounts collected through electronic toll collection. These accounts require the purchase and installation of a transponder that is detectable when a vehicle travels through a toll zone. The appropriate toll amount due for the transaction is automatically deducted from the customer’s account.
Notice	A formal communication addressing legal and Contractual matters, not applicable to daily Implementation and Operation and Maintenance communications.
Notice to Proceed (NTP)	The written authorization by NCTA designating the date and time for the Contractor to commence Work. There are two Notice to Proceed phases, a Implementation Phase Notice to Proceed and an Installation and System Acceptance Notice to Proceed.
Order of Precedence	The order in which Agreement documents control in the event of a conflict or ambiguity in such documents.
Performance Requirements	The required level of performance standards for this Contract as set forth in Part IV, Terms and Conditions and Part III, Scope of Work and Requirements .
Plan(s)	Contractor Deliverable that identifies approach to a particular aspect of the Work submitted for Approval in accordance with Part III, Scope of Work and Requirements .
Price Proposal	Contractor pricing provided in response to this RFP and in accordance with the instructions provided herein.
Production Day(s)	A working day, excluding NCTA observed Holidays and Sundays.
Project	The total Work set forth in Part III, Scope of Work and Requirements and as further set forth and detailed in the Agreement Documents.
Proposal	See “Proposer Materials”.
Proposer	An entity that has submitted Proposer Materials in response to this RFP.
Proposer Materials	Documentation submitted by the Proposer in response to this RFP.
Quality Assurance (QA)	A process which occurs after the final Work product is complete, to ensure the Work was completed as expected and required.
Quality Control (QC)	A process which occurs before a final product is produced or presented, to ensure the Work product is accurate.

Term	Definition
Retailer	Sales venues for customers to purchase transponders.
Request for Proposal	Also referred to as the “RFP”, this document describes the procurement process and provides the scope of services. The RFP forms the basis for the Agreement.
Requirements	Each of the required Work activities in numbered form as set for in Part III, Scope of Work and Requirements that the Contractor shall perform, including but not limited to technical, functional, Project management, Operations and Maintenance and Performance.
Services	The duties and obligations undertaken by the Contractor to fulfill, the Part III, Scope of Work and Requirements , terms and conditions of the Agreement.
Subconsultant	See “Subcontractor”.
Subcontractor	Any person, firm or corporation, other than the Contractor’s employees, who contracts to furnish labor, or labor and materials, at the Site(s) or in connection with the Services, whether directly or indirectly, on the Contractor’s behalf and whether or not in privity with the Contractor. Also referred to as “Subconsultant”.
Submittal	See “Deliverable”.
Technical Proposal	A Proposer’s written response to the RFP, which provides a straightforward, concise description of the Proposer’s ability to meet the Requirements of the RFP.
Toll Zone	A single Tolling Location covering one direction of traffic.
Updates	Generally, refers to a patch released for existing Software to fix any identified bugs, errors or security issues; may also include providing support for new Hardware, as well as performance tuning.
Upgrade	Generally, refers to transforming existing Software to a new version; provides new features and functionalities rather than fixing existing bugs, errors or security issues but does not include significant new functionality.
Work	See “Services”.

2. Acronyms

Acronym	Meaning
BOS	Back Office System
CBOS	Commercial Back Office System
CO	Change Order
CSC	Customer Service Center

Acronym	Meaning
CSR	Customer Service Representative
DB	Database
DBE	Disadvantaged Business Enterprises
EL	Express Lanes
ETC	Electronic Toll Collection
FHWA	Federal Highway Administration
GUI	Graphical User Interface
IAG	Inter-Agency Group (E-ZPass governing group)
ICD	Interface Control Document
IP	Internet Protocol
ITS	Intelligent Transportation Systems
KPI	Key Performance Indicator
LOV	Low Occupancy Vehicle
MRTMC	Metrolina Regional Transportation Management Center
NC	North Carolina
NCDIT	North Carolina Department of Information Technology
NCDOT	North Carolina Department of Transportation
NCTA	North Carolina Turnpike Authority
NDA	Non-Disclosure Agreement
NTP	Notice to Proceed
PDF	Portable Document Format
PM	Project Manager
PMP	Program Management Plan
QA	Quality Assurance
QC	Quality Control
QMP	Quality Management Plan
RFI	Request for Information
RFP	Request for Proposal
SOP	Standard Operating Procedure
SOW	Scope of Work
STIP	Statewide Transportation Improvement Project
STOC	Statewide Transportation Operations Center
TMC	Transportation Management Center
UPS	United Parcel Service
US	United States
USB	Universal Serial Bus
USPS	United States Postal Service

Part III

Scope of Work and Requirements

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I. Summary of Scope of Work

NCTA currently uses transponders that use the TDM, 6C protocol and technology. About 600 transponders are purchased per day by NCTA customers to open and maintain NC Quick Pass Accounts, with most of the customers requiring transponders for two-axle passenger vehicles (currently identified as IAG Class 72). The vast majority of transponders issued are of a single type requiring no programming. Vehicles with more axles, special windshields, or other special circumstances require different transponders and may require that the transponder be programmed for vehicle types.

Over the life of the Contract, it is likely that transponder types in inventory will also include other transponders, either in sticker form, or in hard case, or both. It is also possible that additional quantities of switchable transponders will be used in the future or that technology permits the introduction of an entirely new transponder type.

As these changes occur and as the volumes of transponders increase over time, modifications to inventory receiving, storage, management, and fulfillment will need to be accommodated by the Contractor. Current transponder types, NC Quick Pass customer pricing, and monthly sales statistics for the NCTA are provided in **Table 1** below.


Table 1: Monthly Sales Statistics for NC Quick Pass Transponder Types


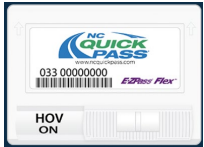

	June 2023	July 2023	Aug. 2023	Sept. 2023	Oct. 2023	Nov. 2023	Dec. 2023
Transponder Types							
NC Quick Pass - \$6.69	6,948	7,107	6,871	5,627	5,396	4,997	4,774
NC Quick Pass Exterior - \$13.49	238	258	279	177	207	333	291
NC Quick Pass Flex - \$16.49	2,479	2,734	2,609	2,105	1,965	1,953	1,957
NC Quick Pass Sticker - Free	19,418	19,924	20,033	17,371	15,960	16,409	14,773
Monthly Grand Total	29,083	30,023	29,792	25,280	23,528	23,692	21,795

Table 2 below provides a description of the types of transponders the Contractor can expect to handle over the term of this Contract, given today’s known technology and standards.

Note: Transponders are purchased and ordered by the NCTA under a separate contract(s) with the transponder manufacturer(s) and will be shipped to the Contractor.

Table 2: Transponder Types Potentially in Inventory

Transponder Type	Description
NC Quick Pass Sticker 	Adheres to the inside of a vehicle’s windshield. These transponders cannot be moved between vehicles and have the largest distribution. In conjunction with the NC Quick Pass APP, customers can declare HOV status.

Transponder Type	Description
<p data-bbox="289 239 475 270">NC Quick Pass</p> 	<p data-bbox="586 270 1458 380">Mounted on the inside of a vehicle’s windshield with mounting strips. These transponders can be moved between vehicles and have the second largest distribution.</p>
<p data-bbox="261 438 503 506">NC Quick Pass Flex (Switchable)</p> 	<p data-bbox="586 506 1471 615">Mounted on the inside of a vehicle’s windshield with mounting strips. These transponders can be moved between vehicles. This transponder has a switch for use in declaring number of occupants in a vehicle.</p>
<p data-bbox="237 728 527 760">NC Quick Pass Exterior</p> 	<p data-bbox="586 749 1468 821">Mounted to the vehicle exterior for customers who have a motorcycle or an enhanced windshield.</p> <p data-bbox="586 867 1365 898">*No Contractor Services is required for this type of transponder.</p>

I.1 Scope of Work Phases

The Scope of Work includes the phases shown below.

I.1.1 Operations Implementation Phase

This phase of Work is from NTP through transition to operations ('Go-Live'), and includes all Work required to develop operational policies and establish Transponder Management & Fulfillment operations, including:

- Project management;
- Facility establishment and outfitting;
- CBOS Interface development and testing;
- Development and Approval of SOPs;
- Staff hiring and training;
- Subcontractor contracting and onboarding;
- Coordination with the CBOS contractor for implementation support; and
- Operations transition from existing operations.

I.1.2 On-Going Operations Phase

This phase of Work commences after the transition of Transponder Management & Fulfillment operations from existing NC Quick Pass Operations contractor to the Contractor. This phase goes through the term of the Contract and all Work described herein shall be conducted in compliance with the Requirements and Approved SOPs.

2. General Scope of Work Requirements

These General Scope of Work Requirements apply to all phases of the Contract, from NTP through the term of the Contract.

2.1 General Project Requirements

1.	The Contractor shall provide all Services in accordance with applicable Laws and Regulations and in compliance with all NCTA policies and the Terms and Conditions of the Contract.
2.	The Contractor shall execute the Work in accordance with the PMP Approved by NCTA, and other Approved plans developed pursuant to the Contract in order to deliver the required Services throughout the entire term of the Contract.

2.2 Key Personnel

3.	The Contractor is required to always provide sufficient staff to meet the Project Requirements and Contract. The following Key Personnel shall be provided for the duration of the Project. <ul style="list-style-type: none"> a) Project Principal and b) Operations Manager.
4.	The Contractor shall staff the following positions as Key Personnel, ensuring individuals meet the required qualifications throughout the term of the Contract: <ul style="list-style-type: none"> • Project Principal: <ul style="list-style-type: none"> ○ Five (5) years of experience in managing a project in a leadership position and program development or similar functions; and ○ Three (3) years of experience in Retail environment, marketing and communications. • Operations Manager: <ul style="list-style-type: none"> ○ Three (3) years of experience in fulfillment and shipment operations, package management, and similar functions; and ○ One (1) year of experience in a leadership position in a high-volume back-office environment or Retail environment.
5.	Project Principal shall serve as the single point of contact (SPOC) for all contractual Notices and discussions with and between NCTA and the Contractor.
6.	Project Principal shall be responsible for managing all Project risks, meeting or exceeding required performance standards, and ensuring satisfactory compliance with all scope of work requirements.
7.	Operations Manager Reports to NCTA Management and is responsible for hiring, training, and evaluating Contractor staff as well as successfully accomplishing all technical, operational, and performance requirements of the Contract.
8.	Operations Manager shall be responsible for Contractor's day-to-day operations and logistics required by the Project including collaboration with other entities such as CSC operations personnel, CBOS provider staff, transponder manufacturers, shipping vendors, and other third parties necessary to carry out the work.
9.	The Contractor shall obtain written NCTA Approval for any proposed Key Personnel prior to service.
10.	NCTA shall have the right to reject, in its sole discretion, any Key Personnel proposed by the Contractor.

11.	The Contractor shall immediately remove any individual employed or contracted by the Contractor from Services under the Contract that in NCTA's sole determination, is not performing the Work in a proper and skillful manner or is otherwise unsuitable for their position.
12.	At any time should it be necessary to replace Contractor Key Personnel, the Contractor shall propose substitutions and shall submit the names and qualifications of the proposed replacement(s), in writing.
13.	The replaced Key Personnel shall be backfilled within 60 Calendar Days. NCTA reserves the right to reduce the Contractor's monthly invoiced amount until such vacant position is filled.

2.3 Project Documentation Requirements

The Contractor shall be required to develop and update Project documentation for the term of the Contract.

2.3.1 General Documentation Requirements

14.	The Contractor shall use an NCTA-provided online, electronic document management system (such as SharePoint) that is accessible to both NCTA and the Contractor by username and password, to control all project-related documents.
15.	All documentation shall be maintained utilizing Microsoft Office tools.
16.	Document Retention - The Contractor shall maintain current versions of all required documentation electronically. The Contractor shall keep the documentation per the NCTA retention requirements, in a secure location, backed up nightly and provide electronic/online access to NCTA. The state records retention schedule can be found at Functional Schedule NC Archives (ncdcr.gov) .
17.	The content of all documentation shall become property of NCTA, who shall have the right to reproduce any portion of the documentation in part or in whole.
18.	The Contractor shall maintain a Deliverable tracking list that accurately tracks all Contractor submissions, NCTA's review comments, resubmissions, and NCTA final Approval.
19.	For each Deliverable, the Contractor shall correct, improve, and resubmit documentation until NCTA provides final Approval.
20.	For each Deliverable, the Contractor shall provide NCTA with an empty comment matrix to organize NCTA comments back to the Contractor. The comment matrix shall be used to track all open comments, as well as document final resolutions to comments until the Deliverable is Approved.
21.	The Contractor shall be responsible for coordinating with NCTA to schedule a final document review and comment resolution meeting, if necessary, when the Contractor has addressed all NCTA comments and produced a new version of the document. The Contractor shall ensure all key decision-makers and subject matter experts are available during the meeting to resolve all remaining open comments. The Contractor shall then be responsible for producing and submitting a final document for NCTA's review and Approval.
22.	The Contractor shall review the interface control document provided by the CBOS contractor and provide supplemental documentation, procedures, and manuals as required.

2.3.2 Documentation Updates

23.	The Contractor shall be required to develop and provide updates (as necessary) to Project documentation at least annually, or as requested by NCTA, throughout the term of the Contract or as specified below in the documentation requirements.
24.	The Contractor shall be required to submit all newly developed documents or updates to documents for NCTA's review and Approval.

2.3.3 Project Management Plan

The Project Management Plan (PMP) describes the Contractor's approach to carrying out the Project as required through the completion of the Contract.

25.	The Contractor shall develop and submit a PMP for NCTA's review and Approval per the Implementation schedule.
26.	The Contractor shall be responsible for keeping the PMP up to date after material changes or as directed by NCTA. Unless directed otherwise by NCTA, the Contractor shall update the PMP annually for NCTA's review and Approval.
27.	The Contractor shall ensure the PMP describes their approach to management, including but not limited to: <ul style="list-style-type: none"> • Change management; • Change control; • Deliverable management; • Risk management; • Inventory management; • Staffing management; • Interdisciplinary communication and coordination planning; and • Subcontractor management (if applicable).
28.	The Contractor shall provide and maintain, as part of the PMP, an overall organizational chart of the Contractor's staff and subcontractors contributing to the management of the Project. The organizational chart shall include: <ul style="list-style-type: none"> • Key Personnel, including their name, Project title, and contact information. • For non-key personnel, the Contractor's organization chart shall identify the Supervisory level staff names and titles and the counts of staff/labor for each role assigned to the Contract.
29.	The Contractor shall ensure their PMP describes the Contractor's approach to schedule management throughout the duration of the Project implementation, including schedule updates, Project look ahead, and identifying schedule changes, as well as during the ongoing operations phase whenever changes warrant scheduling, as determined by NCTA.

2.3.4 Operations Plan

The purpose of the Contractor's Operations Plan is to document the relationship between the Contractor and NCTA, and the Contractor's execution and management of Services throughout the term of this Project.

30.	The Contractor shall develop an Operations Plan for NCTA's review and Approval.
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31.	The Contractor shall be responsible for keeping the Operations Plan up to date after material changes or as directed by NCTA. Unless directed otherwise by NCTA, the Contractor shall update the Operations Plan annually for NCTA’s review and Approval.
32.	<p>The Contractor shall ensure their Operations Plan includes, but is not limited to:</p> <ul style="list-style-type: none"> • A high-level list of the daily functions and Services required by the Work along with references to detailed SOPs further describing these processes. • A description of the operating environment including, but not limited to: <ul style="list-style-type: none"> ○ CSR resources and tools; ○ Exception management such as fulfillment packages completed by the Contractor but not received by the intended recipient; and ○ Identification of other issues and how they will be addressed. • A description of activities the Contractor shall be required to perform monthly, including, but not limited to: <ul style="list-style-type: none"> ○ Transponder inventory analysis; ○ Risk analysis; and ○ KPI results and analysis reporting. • A description of activities the Contractor shall be required to perform annually, including, but not limited to: <ul style="list-style-type: none"> ○ SOP and training documentation updates, or as required by NCTA. • As-needed activities including, but not limited to: <ul style="list-style-type: none"> ○ Planning for new toll projects, service offerings, or policy changes (as necessary).

2.3.5 Transition Plan

The Contractor shall develop a Transition Plan that describes the coordination necessary, and identify detailed steps the Contractor shall follow, along with realistic durations, to ensure a successful transition from the current NCTA operations to the operations described in this RFP, as well as document other details important to transition or operations. All material steps within the Transition Plan shall be included in the Project Implementation Schedule.

33.	The Contractor shall prepare and submit a comprehensive Transition Plan for NCTA’s review and Approval.
34.	The Contractor shall ensure their Transition Plan describes, in detail, all activities that are required to be performed in order to ensure a seamless transition to Operations Go-live and shall include the assignment of the resource lead responsible for each activity. The Transition Plan shall include all Contractor activities from NTP through Operations Go-live completion.
35.	<p>The Contractor shall ensure their Transition Plan includes, but is not limited to, the following transition activities:</p> <ul style="list-style-type: none"> • Transition checklist; • Coordination with NCTA and current contractors, including schedule dependencies and responsibilities; • Review of existing transponder fulfillment operations; • Coordination with existing NC Quick Pass Operations contractor to accept custody of materials and assets; • Customer communications, if any; • Operational readiness demonstration approach; and • Transition closeout activities.

36.	The Contractor shall identify all potential risks associated with the transition and mitigation strategies to minimize exposure in their Transition Plan.
37.	The Contractor shall describe all steps, procedures, and controls in their Transition Plan that shall be employed by the Contractor to ensure that all transition activities cause no adverse impact on NCTA customers.
38.	The Contractor shall satisfactorily demonstrate the Contractor's Operational Readiness for NCTA's review and Approval before the commencement of cutover and progression to Operations Go-Live.

2.3.6 Quality Management Plan

The Contractor shall develop a QMP that describes the Contractor's Quality Management Program and reporting on Quality Assurance activities.

39.	The Contractor shall develop a QMP that describes the Contractor's Quality Management Program for NCTA's review and Approval.
40.	The Contractor shall be responsible for keeping the Quality Management Plan up to date after material changes or as directed by NCTA. Unless directed otherwise by NCTA, the Contractor shall update the Quality Management Plan annually for NCTA's review and Approval.
41.	<p>The Contractor's QMP shall provide detailed descriptions of the following:</p> <ul style="list-style-type: none"> • Key Project Deliverables and processes to be reviewed for satisfactory quality level; • Quality management standards to be implemented and followed; • Description of how the quality assessments will be performed including the selection of representative Work samples and additional tests and retests whenever warranted; • Quality Assurance and control activities (including schedule for conducting these activities); • Quality management roles and responsibilities; • Quality management tools, including NCTA provided surveys, phone surveys, focus groups and other methods; • Procedures to ensure that all Requirements are performed completely and accurately; • Validation routines that test the accuracy of the reports that measure all performance objectives; • Procedures to review reported performance and correct any reporting inaccuracies as well as any area of performance that is below standard; • Procedures regarding the prevention, detection, notification, and correction of defects and/or errors that impact NCTA, customers and/or Transponder Management & Fulfillment operations; and • A process for periodic monitoring of all Transponder Management & Fulfillment tasks as identified in this RFP, based on the schedule identified in the QMP.
42.	<p>The Contractor's QMP shall address quality evaluations for all Transponder Management & Fulfillment functions and customer correspondence including but not limited to:</p> <ul style="list-style-type: none"> • Transponder Management & Fulfillment activities; and • System generated customer communications printed by the Contractor and mailed with fulfillment packages.

43.	As part of the Contractor’s QMP, the Contractor shall coordinate with NCTA on the design of a monthly Quality Management Report. The format and content of the report shall be jointly determined by the Contractor and NCTA however at a minimum the monthly Quality Management Reports shall address all Contractor quality management activities and results for the preceding month.
44.	The Contractor shall ensure the QMP addresses how the Contractor will ensure the monthly Quality Management Reports are complete, accurate, and submitted to NCTA by the tenth (10 th) Business Day of each month.

2.3.7 Standard Operating Procedures

The Contractor is responsible for developing SOPs that describe the steps required to complete all Transponder Management & Fulfillment functions and activities necessary to comply with the Contract and any amendments thereto. The SOPs shall follow the NCTA Business Policies and North Carolina State laws. All SOPs shall be complete before staff training and are prerequisites for the Operational Readiness assessment.

45.	The Contractor shall develop and submit SOPs for NCTA review and Approval. The SOPs shall address all procedures required to provide all aspects of Transponder Management & Fulfillment Services in accordance with the requirements of this RFP, NCTA’s Business Policies, and the functionality of the CBOS and/or other supporting systems and tools. The SOPs shall be detailed sufficiently so that Contractor staff can easily understand and follow the steps necessary to complete a function fully and accurately. The SOPs shall also include procedures for problem escalation and protocols for communicating with third parties
46.	The Contractor shall be responsible for keeping the SOPs up to date after material changes or as directed by NCTA. Unless directed otherwise by NCTA, the Contractor shall update the SOPs annually for NCTA’s review and Approval.

2.3.8 Physical Inventory Reconciliation Report

The Contractor is responsible for the transponder and transponder fulfillment-related supplies and equipment. As such, the Contractor shall develop a Physical Inventory Reconciliation Report quarterly, which shall meet the following Requirements.

47.	The Contractor shall be required to develop a Physical Inventory Reconciliation Report for NCTA’s review and Approval. A sample report is provided in Attachment 5 – Report Samples.
48.	The Contractor shall be responsible for keeping the Physical Inventory Reconciliation Report up to date after material changes or as directed by NCTA. Unless directed otherwise by NCTA, the Contractor shall submit the updated Physical Inventory Reconciliation Report quarterly for NCTA’s review and Approval.
49.	The NC Quick Pass Operations contractor shall be responsible for the physical inventory at each Walk-In facility by inventory item and providing monthly reports. The Contractor shall use the monthly report to provide a complete physical inventory report.

50.	<p>The Contractor shall ensure the Physical Inventory Reconciliation Report includes, but is not limited to:</p> <ul style="list-style-type: none"> • Procedures performed to reconcile inventory, including but not limited to: <ul style="list-style-type: none"> ○ Transponder programmer & reader equipment. ○ Transponders; and ○ Monthly and average transponders fulfilled (last X months); • Results of physical transponder inventory counts in comparison to CBOS records; • Investigative actions taken to identify and correct differences between physical counts and system records, if any; • Provide final reconciliation comments and recommendations, and • Implement corrective actions and/or additional controls, if required, as Approved by NCTA, to ensure inventory records are accurate and transponders are accounted for.
51.	<p>The Contractor shall submit a Transponder Inventory Reconciliation Report to NCTA, no later than ten (10) Business Days after the completion of the inventory.</p>

2.3.9 Succession Plan

Should a transition of Services be necessary during, or at the end of, the Contract term, the Contractor is responsible for assisting NCTA with an orderly transition to a new transponder contractor.

52.	<p>The Contractor shall develop and submit a Succession Plan for NCTA review and Approval within three (3) months of Operations Go-Live.</p>
53.	<p>The Contractor shall be responsible for keeping the Succession Plan up to date after material changes or as directed by NCTA. Unless directed otherwise by NCTA, the Contractor shall submit the updated Succession Plan annually for NCTA’s review and Approval.</p>
54.	<p>The Contractor shall develop a plan that describes how the Contractor will work with NCTA and the Successor to determine the activities required to transition Transponder Management & Fulfillment operations in an orderly manner. The Succession Plan shall include procedures and activities that will minimize disruption to NC Quick Pass Operations and NC Quick Pass customers including but not limited to:</p> <ul style="list-style-type: none"> • Coordinating with successor for the orderly transfer of operations; • Coordinating with NCTA and the successor to enable the successor to conduct onsite inspections of the fulfillment facilities, the CSCs and other NC Quick Pass facilities prior to and during the transition of operations; • Assisting with access to third-party contacts in use by the Contractor such as transponder manufacturers and mail house, shipping, and expeditor services for the purposes of redirecting and logistics; • Managing the development of a schedule containing all necessary transition items based on mutually agreeable dates between NCTA, the Contractor and the successor; • Maintain quantity and quality of Contractor operations staff sufficient to continue conducting quality Services as required by the Contract during the transition of operations; • Developing an issue tracking log for the transition of operations; • Working with NCTA to manage any issues that come up during the transition of operations; and • Providing weekly updates on the progress of the transition to the successor.

3. Transponder Management & Fulfillment Implementation Requirements

The Contractor is responsible for planning, implementing, documenting, and reporting all aspects of the Project.

3.1 General Implementation Requirements

55.	The Contractor shall provide overall Project management for implementation.
56.	The Contractor shall be responsible for coordinating its activities with NCTA, its contractors, consultants, and other entities as necessary.
57.	The Contractor shall be responsible for documenting and reporting on all aspects of the Implementation.
58.	The Contractor shall conform to the activities and dates shown on the Approved Project Implementation Schedule.
59.	The Contractor shall coordinate with NCTA to schedule, plan and conduct a Kick-off conference with NCTA and other representatives as designated by NCTA.

3.2 Project and Coordination Meetings

60.	The Contractor shall attend meetings with the NCTA as required by NCTA.
61.	The Contractor shall attend coordination and status meetings with the CBOS contractor and/or the CSC operator as required, and/or requested by the NCTA.
62.	The Contractor shall also attend various workshops and comment review meetings as required herein.

3.3 Monthly Implementation Phase Project Meetings

63.	The Contractor shall submit a monthly report by the 10 th of each month during the Implementation Phase. The format of the monthly report shall be agreed upon as one of the initial Project tasks upon Notice to Proceed (NTP) and shall be incorporated by the Contractor into the Project Management Plan and Project Implementation Schedule. The report shall contain the following elements:
	a) A summary, outlining progress, and status and percentage of Work completed for each task, as compared to planned activities in the Project Implementation Schedule. Comments shall be included where appropriate. The summary also shall identify key milestones met and missed in the period;
	b) An updated action items list that tracks the status of all outstanding activities, any actions to be taken to recover any schedule delays, and issues that need decision/ resolution; and
	c) A payment request/invoice for completed and Approved milestones (payment requests will only be considered as a part of the monthly report package).

3.4 Project Implementation Schedule

64.	The Contractor shall develop and deliver a comprehensive Project Implementation Schedule, in coordination with NCTA, within ten (10) Calendar Days of NTP using Microsoft Project. The Contractor shall submit all files in native Microsoft Project (.mpp) and PDF formats.
65.	The approved Project Implementation Schedule for the Project shall list all activities, milestones, dependencies, and tasks required for the Implementation Phase, including items such as set-up, mobilization, design, testing, Go-Live and all other material steps identified in the Contractor’s Transition Plan.
66.	The Contractor shall continually maintain and update the Project Implementation Schedule throughout the Project Implementation Phase. The contractor shall not change any dates from the Approved schedule unless expressly authorized by NCTA. Any authorized changes to the schedule shall be clearly identified during the monthly implementation phase project.

3.5 Operational Readiness

The Contractor is responsible for reporting and demonstrating to NCTA’s satisfaction the Contractor’s operational readiness to transition to On-Going Operations.

67.	<p>The Contractor shall be responsible for tracking and continually reporting to NCTA all activities necessary to staff and operate Transponder Management & Fulfillment activities in accordance with the Contract.</p> <p>Activities include, but are not limited to:</p> <ul style="list-style-type: none"> • Staff recruitment, hiring and training; • Obtaining NCTA’s Approval on all SOPs, training documentation, and other operational documentation as required by NCTA; • Contractor-developed checklist of all milestones, as well as all Implementation Phase Requirements, as Approved by NCTA; • Plan and conduct operational training; • Obtaining Approval on the Contractor’s Transition Plan; • Obtaining Approval for the transponder storage facility; • The Contractor shall coordinate with NCTA and the existing operations contractor to identify for pre-transfer of operations activities required to transition operations in an orderly manner, minimizing impacts on NC Quick Pass operations; and • The Contractor shall coordinate with NCTA and the existing operations contractor to complete pre-transfer of operations activities.
68.	Prior to transition to Ongoing Operations, the Contractor shall coordinate with the CBOS contractor to conduct an Operational Readiness exercise that satisfactorily demonstrates to NCTA that the Contractor is ready to transition to On-Going Operations.
69.	As part of the Operational Readiness exercise, the Contractor shall demonstrate all major functions for NCTA evaluation.
70.	The Contractor shall provide and meet the contractual obligations that are required for Operations Go-live.

4. Transponder Management & Fulfillment Functional Requirements

4.1 Transponder Fulfillment

The Contractor is responsible for receiving NC Quick Pass customer requests (via Web or CSR) for transponders (via NCTA CBOS) and processing those requests accurately and timely so that customers receive the correct transponders.

ID #	Requirement
71.	The Contractor shall use the CBOS ICD details (see Attachment I: NCTA CBOS Transponder Fulfillment ICD) to assign all transponder types and IAG vehicle classes to customer Accounts and issuing to customers based on orders received.
72.	The Contractor shall use transponder programming equipment, procured by the Contractor from transponder manufacturer(s), to encode transponders with the correct IAG vehicle class as applicable, where necessary. (<u>Note</u> : historically less than 10% of current transponders require programming).
73.	The Contractor shall utilize a process that minimizes transponder mailing costs, which may require the use of a third-party pre-sort service shipping directly to customers via USPS, and other means Approved by the NCTA.
74.	The Contractor shall ensure all mailed transponders are sent with a NC Quick Pass Customer Welcome Kit.
75.	The NC Quick Pass Customer Welcome Kit shall include the following: <ul style="list-style-type: none"> a) NC Quick Pass order summary; b) Transponder(s); and c) NCTA Approved packaging.
76.	The Contractor shall manage and reconcile postage associated with mailing transponders. Postage will be pre-funded by NCTA and the Contractor shall monitor the account balance at all times and provide NCTA with sufficient advanced notice when the postage account will need replenishment.
77.	The Contractor shall be reimbursed for all distribution costs between NC Quick Pass storefronts and Retailers, including postage, as pass-through costs.
78.	The Contractor shall develop procedures for the receipt of transponder packages returned by the USPS or other shippers as undeliverable.
79.	The Contractor shall develop procedures for the receipt of transponder packages returned by the USPS or other shippers as undeliverable and inform CBOS via interface.

4.2 Transponder Inventory Management

The Contractor is responsible for managing transponder inventory and other packaging and mailing materials to fulfill transponders and transponder supply orders received. The Contractor shall be responsible for maintaining accurate records as to the status and assignment of all NCTA transponders.

80.	<p>The Contractor shall manage all aspects of the transponder fulfillment lifecycle in accordance with the Contract, any manufacturer standards Approved NCTA Business Rules and applicable laws. Work is summarized as, but not limited to the following (see Requirement sections below for additional details):</p> <ul style="list-style-type: none"> a. Recommend quantities for each transponder type and prepare orders for purchase by the NCTA from the transponder manufacturer; b. Receiving transponder into inventory; c. performing periodic physical inventories; and d. warranty return and replacement.
81.	<p>The Contractor shall receive and coordinate with NCTA CBOS operator to enter all transponders shipped by the manufacturer(s) into the CBOS inventory.</p>
82.	<p>The Contractor shall provide, receive, and fulfill transponder orders in accordance with the Approved SOPs and associated key performance indicators (KPIs).</p>
83.	<p>The Contractor shall support NCTA when/if a new transponder type is implemented.</p>
84.	<p>The Contractor shall manage the NC Quick Pass Customer Welcome Kit inventory and other packaging (dual lock strips and read prevention bags for transponders through third party Contractors) used to mail transponders to customers, as well as report on inventory-related activities and fulfill transponder orders.</p>
85.	<p>The Contractor shall maintain transponder inventory in a secured manner and shall develop written internal control policies for managing transponder inventory to ensure safeguarding including, but not limited to:</p> <ul style="list-style-type: none"> a. Providing and maintaining secure storage area; b. Ensuring limited and authorized access; c. Security surveillance; d. Separation of duties; and e. No less than quarterly reconciliation of physical count to system inventory records.
86.	<p>The Contractor shall provide training to ensure proper inventory handling procedures.</p>
87.	<p>The Contractor shall consistently monitor transponder inventory levels, transponder issuance rate, and manufacturer lead times, by transponder type and shall report these to NCTA monthly along with recommendations to NCTA for transponder purchases to prevent lapse in transponder availability.</p>
88.	<p>The Contractor shall, upon receipt of the shipment from the manufacturer, perform an inventory and reconcile to shipping records and purchase orders to verify the accuracy and completeness of the order.</p>
89.	<p>The Contractor shall document any exceptions or variances, including shortages, overages, damage to shipping containers, etc. to support possible claims.</p>
90.	<p>The Contractor shall randomly test ten percent (10%) of the transponders in each box (smallest grouping of transponders contained in a shipment) after the transponders are received from the manufacturer and inventoried. This testing shall verify that the sampled transponders function and that they are programmed with the correct agency code, transponder number and transponder class. Transponders which fail the testing shall be returned to the manufacturer in accordance with the Approved SOPs. Failure of any transponder in the sample will cause the entire box to be tested.</p>
91.	<p>The Contractor shall communicate inventory receipt, including any variances or exceptions, to NCTA toll operations to support invoice payment.</p>

92.	The Contractor shall provide received inventory details within two (2) Business Days of inventory receipt to the NC Quick Pass CSC operator to load transponders into the CBOS.
93.	The Contractor may track transponder inventory warranty status, manage, and resolve all warranty issues with the transponder manufacturer.
94.	The Contractor may test any transponder a customer reports and returns as defective and shall replace defective transponders in accordance with NC Quick Pass Business Policies and set aside the defective transponder for disposal or return to manufacturer if still in warranty period.
95.	The Contractor may return all inventory found to be defective or damaged and still under the manufacturer's warranty to the manufacturer, according to the manufacturer's return process/policy. The Contractor shall be required to process transponder returns every quarter, at a minimum.
96.	The Contractor shall package and ship the transponder inventory identified for return to the manufacturer (if applicable).
97.	The Contractor shall track the warranty returns for all returned transponders and confirm that NCTA receives replacement transponders or credit for any inventory returned under warranty in accordance with NCTA's agreements with manufacturer.
98.	The Contractor shall investigate, reconcile, and document all variances between CBOS reported inventory count, and physical inventory balance.
99.	The Contractor shall support the NCTA in their periodic transponder audits.
100.	The Contractor shall be financially responsible for lost or unaccounted inventory that was under the Contractor's control.
101.	The Contractor shall develop procedures for proper disposal of scrap inventory, and provide NCTA with evidence of proper disposal.
102.	The Contractor shall manage, coordinate and perform the scrap inventory disposal process utilizing a disposal service certified for transponder disposal.
103.	The Contractor shall coordinate with NCTA in case of a manufacturer-initiated transponder recall.
104.	The Contractor shall assist with identifying inventory items subject to recall, collect recalled inventory items, document items collected for recall, and prepare for shipment.

4.3 Transponder Supplies and Equipment

105.	The Contractor shall procure and provide the necessary equipment, supplies and consumables to support the transponder distribution Work. Supplies include but are not limited to:
	a. transponder mailing envelopes and packaging: Contractor printed CBOS generated Profile Letters, and user manual/mounting instructions;
	b. read prevention bags for transponders (manufactured of conductive material suitable to prevent radio frequency energy from egress and ingress);
	c. replacement dual lock strips for recycled transponders (each transponder is initially equipped with the necessary dual lock strips mounted) or upon customer requests for additional strips; and
	d. all other consumables.

106.	The Contractor shall procure and provide the required transponder testing/programming machines. These machines can be purchased from the transponder manufacturer through the existing NCTA transponder manufacturer contract.
107.	The Contractor shall be responsible for printing, packaging and distributing printed information that is provided with transponders, as directed by the NCTA. The NCTA shall provide print-ready electronic files of the terms and conditions as well as other materials from time to time that may be included in transponder packages for the Contractor's use.
108.	The Contractor shall provide scanning and bar code reading equipment for functions as reading and recording transponder bar codes to minimize input errors.

5. Retail Distribution of Transponders

Transponders can be obtained by customers at select retail locations where transponders can be offered for sale and distributed. The Retailers that resell/distribute transponders utilize the NC Quick Pass website or call CSC to order transponders, view their NCTA invoices, make payments on those invoices, and perform other activities related to managing their retail transponder distribution. The Contractor will perform fulfillment to the retailers and inform CBOS via interface about the shipment details.

Further details of the Retail distribution program will be finalized during the Transponder Management & Fulfillment Operations Implementation Phase.

109.	The Contractor shall be responsible for all contract management and/or contract development required for any partner or entity selected to issue NC Quick Pass transponders. Entity or partners such as the selected grocery chain, department store, gas station, or online retailer.
110.	The Contractor shall support the Retailer program in areas including but not limited to inventory ordering, tracking and management, inventory fulfillment, and return processing.
111.	The Contractor shall monitor Retailer transponders demand and maintain sufficient quantities of transponders on hand to ensure there are no lapses in available transponders.
112.	The Contractor shall receive Retailer transponder orders from Retailers via the CBOS interface, fulfill the orders and ship them to the Retailer's designated location for that particular order.
113.	The Contractor shall be responsible for the shipped transponders until the Retailer receives them.
114.	The Contractor shall be responsible for tracking the transponder inventory at Retailer locations.
115.	The Contractor shall manage lost shipments and process returned transponders from Retailers.
116.	The Contractor shall track and report transponder inventory of each transponder type by fulfillment location and fulfillment channel during shipping to/from a destination (manufacturer, retailers, customers) and keep track of the entire physical inventory on-hand.

6. Retail Transponder Packaging

Transponders to be distributed via the retail distribution program will require special packaging for individual transponder sales. The Contractor will be responsible for the design and procurement of

various packaging forms for the different types of transponders being offered such as NC Quick Pass hard case and sticker transponders. Transponders will be delivered to Retailers inactivated; end-user purchasers of the transponders will activate the transponders on the CBOS or via a CSR using special codes contained within the packaging.

117.	All packaging and printed items shall be available in multiple types of materials that include but are not limited to: recyclable materials, bio-degradable materials, environmentally friendly materials or others as requested.
118.	The Contractor shall offer retail packaging in the below two (2) format styles: <u>Note:</u> Reference Attachment 4: Retail Transponder Packaging – Generic Mockups for sample images.
	a) Retail bag and box for Interior Portable and Interior Sticker transponders; and
	b) Gift Card style packaging for Interior Sticker transponders stackable.
119.	The retail bag and box shall consist of a sealed, radio frequency shielded pouch/lining that prevents transponders from being read.
120.	The contents of the retail bag and box will be determined by the NCTA in coordination with the Contractor during the Operations Implementation Phase.
121.	The Retail bag and box will typically contain:
	a) A single Interior Portable non-Switchable, Interior Switchable, or Interior Sticker transponder.
	b) A corresponding transponder ID validation code label for transponders.
	i. This label shall be produced and affixed to the reverse side of the transponder (such that it is not visible from the package window).
	ii. The transponder ID validation code shall be a separate check code, different from the transponder number that is entered by the customer or the CSR when registering and activating the transponder to ensure that the correct transponder number is entered.
	iii. NCTA will provide the logic to be used for the creation of the transponder ID validation code when the Contract is awarded.
	c) Mounting accessories (if applicable).
	d) Printed documentation or links/QR codes to NC Quick Pass Website, e.g. terms & conditions.
	e) Instructions for transponder mounting/installation document or links/QR codes to NC Quick Pass Website.
	f) Instructions for transponder registration document or links/QR codes to NC Quick Pass Website.
122.	The exterior labeling of the retail bag and box will be designed by the Contractor under the guidance and Approval of NCTA.
123.	The exterior labeling on the bag will typically include:
	a) NC Quick Pass logos.
	b) Website link or QR codes for mounting instructions, account registration, and terms & conditions.

	c) An Image of the applicable transponder.
	d) An approved UPC code.
	e) Other graphics / text as defined by the NCTA.
124.	The Gift Card style packaging shall consist of an Interior Sticker transponder in radio frequency shielded packaging that is designed for placing on retail hangers or stacked in a shelving display.
125.	The exterior labeling of the Gift Card style packaging will be designed by the Contractor under the guidance and Approval of the NCTA.
126.	The exterior labeling on the Gift Card style packaging will typically include:
	a) NC Quick Pass logos.
	b) Website link or QR codes for mounting instructions, account registration, and terms & conditions.
	c) An Image of the applicable transponder.
	d) An approved UPC code.
	e) Other graphics / text as defined by the NCTA.
127.	The Proposer shall describe the customization capability for the exterior labeling and for any printed documentation and instructions to be included in the retail packaging. This shall include the size of printable areas for common bag sizes used for the offered transponders, the number of colors for the materials, and key factors affecting the pricing of retail packaging.
128.	The Contractor shall, upon design Approval from NCTA, work with packaging vendors and provide a quote to NCTA for packaging production, including the sealing of packaging with all necessary contents, prior to ordering retail packaging.

7. General Technical Requirements

The Contractor shall use their own systems to meet the requirements and interface with the NCTA CBOS using **Attachment I - NCTA CBOS Transponder Fulfillment ICD**.

7.1 Location, Security and Equipment

129.	The Contractor system shall be capable of providing transponder distribution Services for the term of the Agreement, including accommodation of expansion of roads at the NCTA facilities and associated growth in transponder demand.
130.	The Contractor shall securely store the transponders until they are issued.
131.	The Contractor shall provide transponder storage <u>within the state of North Carolina</u> .
132.	The Contractor shall be responsible for the storage and overall security of a minimum of six (6) months' worth of transponder inventory.
133.	The Contractor shall provide all equipment, desktops, workstations, inventory storage and handling capacity, labor, office space, utilities, occupancy services, internal control, and management systems, software, including third-party software, supplies, and materials required to perform the Transponder Management & Fulfillment Services described within these Requirements.
134.	The Contractor shall provide all network and internet connections and communications required for the Contractor to perform the transponder distribution Services.

135.	The Contractor shall ensure that no unauthorized personnel will have access to individual facilities, cabinets, data and records, payment histories, or any personal information of existing or potential NCTA toll customers. Paper records shall be locked when not in use; Systems shall have secure password and ID controls for any data access. Contractor shall comply with the North Carolina Statewide Information Security Manual as provided in Attachment 3 . Also, currently found at http://it.nc.gov/document/statewide-information-security-manual , as may be amended from time to time throughout the term of the Contract.
136.	The Contractor shall be responsible for performing an attestation engagement annually to report on controls based on the Statement on Standards for Attestation Engagements (SSAE) No. 16 (SSAE16; or most recent version) utilizing Service Organization Control No. 2 (SOC2; or most recent version) Type II reporting standards throughout the term of the contract. The Contractor shall be responsible for all costs related to the annual assessment audits and all costs associated with SSAE16 (or the most recent version) validation and reporting.
137.	The CBOS contractor shall have primary responsibility for the development of the ICDs between the CBOS and the Contractor. The Contractor shall work cooperatively with the CBOS contractor to support the development of any required ICDs and shall have responsibility for development of the transponder distribution side of the Interface.
138.	The Interface may include the exchange of all transponder inventory, distribution, management and status information, as well as information related to transponder testing, programming and bar-code reading equipment, and Interface to the equipment and required System access as an authorized User.

7.2 General Maintenance

139.	The Contractor shall be fully responsible for the Maintenance of its system and equipment, including communications and networks necessary for the performance of its Work, and for the ongoing Maintenance of all security Requirements.
140.	The Contractor shall not cease operations without Approval from the NCTA and coordination with the CBOS contractor and NC Quick Pass Operations contractor (for example, for emergency or weather conditions).
141.	The Contractor shall immediately notify the NCTA, the CBOS contractor, and the NC Quick Pass Operations contractor of any issues or problems that impact its ability to access and use the System and/or perform its ongoing responsibilities under the Agreement.
142.	The Contractor shall support the testing of any CBOS changes related to transponder distribution during the Operations and Maintenance Phase.

8. Quality Assurance Program

143.	The Contractor shall establish and maintain an effective Quality Assurance (QA) program that ensures adequate QA and Quality Control (QC) throughout all areas of Contract performance.
144.	All Hardware, Software, and Services provided under this Contract, whether Designed, developed or performed within the Contractor's facilities or other location or by a Subcontractor, shall be controlled by the Contractor at all points necessary to ensure conformance with the Quality Requirements of the Contract.
145.	The QA program shall provide for the prevention and ready detection of discrepancies and for timely and positive corrective action.

146.	The Contractor shall make objective evidence of quality conformance readily available to NCTA, and NCTA shall have the right to review and verify the Contractor’s compliance to the process.
147.	The Contractor shall review a minimum of 10% of daily fulfillment for accuracy.
148.	Quality-related records and data to be maintained by Contractor subject to NCTA review shall include but are not limited to: <ul style="list-style-type: none"> a) inspection and test results; b) inventory records; c) transponder distribution and shipping and associated mailing and postage costs; d) transponder receipt and handling; and e) results of internal and Contractor audits.

9. System and Operational Testing Requirements

149.	As a part of the testing program, the Contractor shall perform testing of the transponder distribution Services. During this testing, the Contractor shall be required to process a sampling of transponder receiving, tracking, control, management, and fulfillment functions, as required by NCTA and/or the CBOS contractor.
150.	The Contractor shall coordinate with NCTA and the CBOS contractor in testing the readiness of the Contractor’s transponder distribution (“Readiness for Cutover”) prior to Cutover. This testing may take up to ten (10) continuous Days and shall be conducted at the Contractor facility or another Approved location. Additional days of retesting may be required depending on the test results and performance. This testing will be subject to NCTA Approval.

10. Performance Requirements Overview

The Contractor shall be required to meet all Performance Requirements detailed herein; and as part of their Monthly Invoice, provide reports that show compliance to the defined Performance Requirements including details of failures that resulted in the non-compliance. The calculation of Actual Damages resulting from failure to meet Performance Requirements is impractical to calculate. The reduction in compensation identified below for such non-compliance are a reasonable estimate of damages resulting from a failure to meet the Performance Requirements set forth in the RFP. Therefore, the Contractor shall be subject to Invoice Adjustments, as described below, as Liquidated Damages but not as a penalty, for such non-compliance.

10.1 Performance Measurement and Liquidated Damages

The NCTA values high quality Services and operations and this Contract emphasizes the importance of serving the NCTA Quick Pass customers with quality, care, and efficiency in a cost-effective manner. To help ensure the Contractor strives for consistent, timely, and accurate operations at a reasonable cost to NCTA, Key Performance Indicators (KPIs) have been established for monitoring and evaluating the Contractor’s performance throughout the term of this Contract. These KPIs were developed to stress the importance of meeting or exceeding performance levels in several important operational areas and therefore some KPIs are weighed more heavily than others.

As part of the KPI assessment process, the Contractor shall establish an ongoing method to monitor, measure, calculate, and report compliance with all KPI areas listed in **Table 3: Transponder Fulfillment**

Performance Requirements below, and any additions thereto that may be agreed upon throughout the On-going Operations Phase of the Contract. The frequency and format of KPI reporting will be jointly developed between the Contractor and NCTA during the Implementation Phase of the Contract.

For a given monitoring period, if the Contractor is unable to at least meet one or more KPIs, a point assessment system has been devised that culminates in a monthly point total that may negatively impact the Contractor's compensation via an Invoice Adjustment process. Invoice Adjustments are reductions in the amounts to be paid from NCTA for Services invoiced by the Contractor. Please refer to **Table 4: KPI Invoice Adjustments** for additional details. In addition, there are other Liquidated Damages that may be assessed on a daily basis if certain KPIs are not met. Please refer to **Table 3: Transponder Fulfillment Performance Requirements** below for the applicable KPIs and related Liquidated Damages.

Below is an example, using the Transponder Fulfillment Response Time (PI) KPI, of the two levels of non-compliance assessment:

- PI KPI Requirements:
 - a. 95% of all transponder orders shall be fully processed within 2 Production Days (Daily & Monthly)
 - b. 100% of all transponder orders shall be fully processed within 3 Production Days (Daily & Monthly)
- Daily Liquidated Damage Assessment: For each day where 2-day performance is below 95% a \$100 Invoice Adjustment is assessed and shall be deducted from the Transponder Fulfillment Invoice payment request(s) submitted by the Contractor.
- Monthly Point Assessment: If the monthly average for fulfillment is less than 95% but no less than 94%, one (1) non-compliance point is assessed for the month.
- Higher points will be assessed depending on the actual average monthly fulfillment performance:
 - Less than 94% but no less than 92% = 3-point assessment for the month
 - Less than 92% but no less than 90% = 5-point assessment for the month
 - Less than 90% but no less than 88% = 10-point assessment for the month
 - Less than 88% = 15-point assessment for the month

For all KPIs subject to monthly point assessments, the point assessments are totaled for the entire month. Depending on the total number of points, the Contractor may be subject to Liquidated Damages in the form of a reduced payment amount by NCTA.

The Contractor is required to report Contractor's performance and results of the KPI analysis as part of the Monthly Report. If during a given month the Contractor's performance has resulted in either Liquidated Damages or point assessments triggering an invoice adjustment, the Contractor shall calculate the required Invoice Adjustments (e.g.: total of invoice adjustments due to point assessments plus any liquidated damages).

As part of the Contractor's invoicing process to NCTA for Contractor Services performed, the Contractor shall clearly identify the Invoice Adjustments for that month's invoice that are due to performance shortfalls for that same month (e.g.: the February monthly KPI results impact the February invoice). All such adjustment shall be subject to NCTA review.

At all times the Contractor is expected to perform the Services identified in this Contract, and any Amendments thereto, in a fashion that meets or exceed the KPIs. However, it is understood that certain

conditions, Back Office System availability, environmental factors, and other unforeseen issues may prevent the Contractor from meeting a particular KPI. These exception situations are expected to be rare occurrences and should not be considered normal operations. In such exception situations the Contractor may request an exception to the KPIs and shall fully document any request for waiver in writing to NCTA and provide all supporting information. NCTA will not unreasonably withhold Approval of exception requests however NCTA, in its sole discretion, shall have the right to reject any request.

Performance standards in the form of KPIs are identified below in **Table 3: Transponder Fulfillment Performance Requirements**.

Note: When the term “shipped” is used in these KPIs, it means the point at which the shipment has been picked up by the shipper (e.g., USPS) or dropped off at a shipper location (e.g. a USPS location). When the term “order” is used below it means customer order requests.

Table 3: Transponder Fulfillment Performance Requirements

KPI No.	KPI Category	KPI Definition	KPI Measurement	Invoice Adjustment	Reporting
P1	Transponder Fulfillment Response Time	Amount of time from when a fulfillment request enters the fulfillment queue until the Transponder is processed and removed from the fulfillment queue for shipment to the customer	A) 95% of all transponder orders shall be fully processed within 2 Production Days	<u>Daily:</u> A \$100.00 Liquidated Damage will be assessed for each day where 2-day performance is below 95%.	\$100 Liquidated Damage measured daily, Percentage measured monthly; Maximum measured monthly; Points assessed monthly.
				<u>Monthly Percentage:</u> Less than 95% but no less than 94% = 1-point assessment Less than 94% but no less than 92% = 3-point assessment Less than 92% but no less than 90% = 5-point assessment Less than 90% but no less than 88% = 10-point assessment Less than 88% = 15-point assessment	
			B) 100% within 3 Production Days	<u>Daily:</u> A \$100.00 Liquidated Damage will be assessed for each day where 3-day performance is below 100%.	
				<u>Oldest Transponder Processed:</u> Greater than 3 Production Days = 5-point assessment Greater than 4 Production Days = 10-point assessment Greater than 5 Production Days = 15-point assessment	
P2	Transponder Order Shipment Accuracy	Accuracy of Transponders shipped correctly per Customer Order, meaning that: <ul style="list-style-type: none"> The correct number of transponders have been sent; The correct transponder type(s) has been sent; 	100%	<u>Daily:</u> A \$100.00 Liquidated Damage will be assessed for each day when KPI is not met.	Self-reported (customer complaint/dispute log and reason codes for Transponder error) \$100 Liquidated Damage measured daily, Occurrences measured monthly; Points assessed monthly.
				<u>Per Occurrence:</u> 1-point assessment per occurrence for each transponder package shipped inaccurately.	

KPI No.	KPI Category	KPI Definition	KPI Measurement	Invoice Adjustment	Reporting
		<ul style="list-style-type: none"> The correct transponder class has been programmed; All required associated materials have been included in the shipment and; The transponder issuance and shipment has been properly recorded in the CBOS. The transponder package was mailed/shipped to the correct address as identified by the CBOS. 			
P3	Inventory Receiving	Provide manifest to the NC Quick Pass CSC operator to upload into CBOS system upon receipt of inventory from the manufacturer. Entering the manifest into the CBOS results in adding transponders to the inventory.	All inventory manifests shall be provided to the NC Quick Pass CSC operator within two (2) Business Days of receipt.	<u>Daily:</u> A \$100.00 Liquidated Damage will be assessed for each day when KPI is not met.	\$100 Liquidated Damage measured daily, Occurrences measured monthly; Points assessed monthly
P4	Inventory Forecast & Reconciliation Report	Provide the following accurate reports: <ul style="list-style-type: none"> Inventory reconciliation and forecast reports by transponder type using last 6 months of fulfillment data. 	Inventory reconciliation & forecast report shall be available within ten (10) Business Days after the month end.	<u>Daily:</u> A \$100.00 Liquidated Damage will be assessed for each day when KPI is not met.	\$100 Liquidated Damage measured daily, Occurrences measured monthly; Points assessed monthly

KPI No.	KPI Category	KPI Definition	KPI Measurement	Invoice Adjustment	Reporting
P5	Fulfill Retailer Order (including packaging)	The amount of time from when a Retailer fulfillment order is received until the transponders are packaged and shipped to the Retailer.	100% within ten (10) Business days	<u>Daily:</u> A \$100.00 Liquidated Damage will be assessed for each day when KPI is not met.	\$100 Liquidated Damage measured daily, Occurrences measured monthly; Points assessed monthly
P6	Undeliverable Transponders	The amount of time from when a transponder package returned as undeliverable is received at the Contractor Facility to final disposition of the return (reshipping or return of item to inventory).	100% completed within five (5) Production days	Assessed monthly. Oldest Transponder Processed: Greater than 5 Production Days = 5-point assessment Greater than 7 Production Days = 10-point assessment Greater than 10 Production Days = 15-point assessment	Self-reported, mail logs, Cases initiated by Contractor

10.2 Contractor KPI Invoice Adjustments

Table 4 below indicates the amount that will be assessed as Liquidated Damages and applied as an Invoice Adjustment to the monthly invoice(s) submitted by the Contractor to NCTA, depending on the number of monthly points assessed.

Table 4: KPI Invoice Adjustments

Total Points	Invoice Adjustment
0-15 points assessed	0%
16-25 point assessed	1% Invoice deduction
26-35 points assessed	3% Invoice deduction
36-50 points assessed	5% Invoice deduction
51-75 points assessed	10% Invoice deduction
>75 points assessed	20% Invoice deduction

Part IV

Terms and Conditions

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I

I. Contract Terms and Conditions

I.1 Term of Contract

The term of the Contract shall commence on NTP and end five (5) years after Transponder Management & Fulfillment Go-Live, unless terminated, canceled or extended as otherwise provided herein. The phases are further described as follows:

- Operations Implementation Phase – The Operations Implementation shall begin on NTP and continue until transition of operations ('Go-Live') and transponder custody and management from existing operations to the Contractor.
- On-Going Operations Phase – The On-Going Operations Phase shall begin after the transition of operations ('Go-Live') from existing operations to the Contractor and shall continue through the end of the base Contract.
- Options to Extend Phase – The Optional Extension Phase includes two (2) three (3)-year optional Transponder Management & Fulfillment extensions to be executed at the sole discretion of NCTA, with the first extension commencing upon the end of the base Contract Term.
- NCTA will provide a minimum of ninety (90) Calendar Days-notice if NCTA elects to exercise the extension option.

NCTA shall fix the Effective Date after the Contract has been fully executed by the Contractor and by NCTA, and all Approvals required by NCTA contracting procedures have been obtained. NCTA shall not be responsible for reimbursing the Contractor for goods provided nor Services rendered prior to the appropriate signatures and the arrival of the Effective Date of the Agreement.

I.2 Payment Terms and Conditions

1. Payment terms are net thirty (30) Calendar Days after receipt of a correct invoice. NCTA is responsible for all payments under the Contract. A "correct" invoice is one that contains an accurate description of the amounts due, is in the Approved format, has no errors, includes all required supporting information including payment Approvals, and meets all other Requirements for invoicing set forth in **Part III, Scope of Work and Requirements**.
2. The Contractor shall invoice NCTA in accordance with the amounts set forth in the Price Proposal.
3. NCTA may exercise any and all rights of set off as permitted in the Set Off Debt Collection Act (Chapter 105A-1 et. seq. of the N.C. General Statutes) and applicable Administrative Rules. Upon Contractor's written request of not less than thirty (30) Calendar Days and Approval by NCTA, NCTA may:
 - a. Forward the Contractor's payment check(s) or other mutually acceptable means directly to any person or entity designated by the Contractor, or
 - b. Include any person or entity designated in writing by Contractor as a joint payee on the Contractor's payment check(s), however

- c. In no event shall such Approval and action obligate NCTA to anyone other than the Contractor and the Contractor shall remain responsible for fulfillment of all Contract obligations.

1.2.1 Operations Implementation

NCTA and the Contractor have agreed to a lump sum compensation amount as set forth in the final Contract documents for Implementation Work to achieve Operations Go-Live, as described in **Part III Scope of Work and Requirements**. Such compensation shall be paid upon receipt and be based on the prices shown in the Contractor's Operations Implementation Price Proposal. The Contractor shall not be entitled to receive more than the established lump sum amount for Implementation, except as may be modified in accordance with Section 2, Contract Changes and Termination, of these Terms and Conditions.

1.2.2 Ongoing Operations

The Ongoing Operations compensation for each month shall commence upon Operations Go-Live and be based on the prices shown in the Contractor's Ongoing Operations Price Proposal.

1.3 Key Performance Indicators and Invoice Adjustments

The Contractor shall track its performance against the Key Performance Indicators (KPIs) shown in **Part III, Scope of Work and Requirements**. The Contractor shall report its performance against the KPIs to NCTA on a monthly basis.

1.3.1 Liquidated Damages (Invoice Adjustments)

Contractor shall be subject to Liquidated Damages, in the form of Invoice Adjustments, for its failure to meet Performance Requirements as provided in **Part III, Scope of Work and Requirements**, Section 10.

1.3.2 Actual Damages

1. The Contractor acknowledges that its performance during the On-Going Operations Phase is critical to NCTA in so much as the Services to be provided pursuant to this Agreement directly involve NCTA's revenue and customer service. The Contractor agrees that the actual damages set forth below are fair and reasonable and shall be incurred by the Contractor in the event of unsatisfactory performance.
2. The Contractor shall reimburse NCTA for any revenue, which NCTA identifies as having been lost due to the fault of the Contractor. NCTA may choose, in its sole discretion, to recover such lost revenue from the Contractor by deducting such amounts from payments otherwise due and owing from NCTA to the Contractor. Lost revenue includes, but is not limited to, such events as Contractor-caused delays in escalation or customer notifications that exceed statutory Requirements; incorrect information being mailed to customers after Contractor QC review processes; employee theft or Contractor is short of funds in its daily reconciliation; incorrect/unnecessary reversal of tolls.
3. The Contractor shall be responsible for any other costs incurred, which are the results of its improper handling of these Services, including such things as special mailings to customers to

notify them of a mistake in their monthly statements due to transaction gathering and processing failures and inaccuracies.

I.3.3 Risk of Loss

The Contractor assumes the following distinct and several risks without limitation, whether they arise from acts or omissions (whether negligent or not) of the Contractor or of any of its Subcontractors and suppliers, excepting those risks which arise from negligent acts or omissions of the NCTA:

- I. The risk of loss or damage to any property of the NCTA arising out of or alleged to have arisen out of or in connection with the performance of Services pursuant to this Agreement; the risk of loss or damage to any property of the Contractor's agents, employees, and Subcontractors arising out of, or alleged to have arisen out of, or in connection with the performance of Services pursuant to this Agreement.

I.4 Audits and Financial Reporting

I.4.1 Annual Audited Financial Statements

The Contractor shall submit on an annual basis its current audited financial report, financial statements, and any associated notes for the term of the Contract.

I.4.2 Audit and Examination of Records

- I. Definition of Records
 - a. Contract Records shall include, but not be limited to, all information, communications and data, whether in writing or stored on a computer, external hard drive, computer disks, microfilm, writings, working papers, drafts, computer printouts, charts or any other data compilations, books of account, photographs, videotapes and audiotapes supporting documents, any other papers or preserved data in whatever form, related to the Contract or the Contractor's performance of the Contract determined necessary or desirable by the NCTA for any purpose.
 - b. Proposal Records shall include, but not be limited to, the Proposal Materials, preliminary design document, any material relating to the determination or application of equipment rates, related time schedules, labor rates, efficiency or productivity factors, arithmetic extensions, quotations from Subcontractors, or material suppliers, profit contingencies and any manuals standard in the industry that may be used by the Contractor in determining a price.
2. Pursuant to G.S. § 147-64.7, NCTA, the State Auditor, appropriate Federal officials, and their respective authorized employees or Agents are authorized to examine all books, records, and accounts of the Contractor insofar as they relate to transactions with any department, board, officer, commission, institution, or other authority of the State of North Carolina pursuant to the performance of this Contract or to costs charged to this Contract. Additional audit or reporting Requirements may be required by any authority, if in NCTA's opinion, such requirement is imposed by Federal or State law or regulation. The State Auditor and internal auditors of NCTA

may audit the records of the Contractor during and after the term of the Contract to verify accounts and data affecting fees and performance.

3. NCTA reserves and is granted the right (at any time and from time to time, for any reason whatsoever) to review, audit, copy, examine and investigate in any manner, any Contract Records (as herein defined) or Proposal Records (as herein defined) of the Contractor or any Subcontractor. By submitting a response to the Request for Proposal (RFP), Contractor or any Subcontractor submits to and agrees to comply with the provisions of this section.
4. If NCTA requests access to or review of any Contract Records and Contractor refuses such access or review, Contractor shall be in default under its Contract with NCTA, and such refusal shall, without any other or additional actions or omissions, constitute grounds for suspension, termination or disqualification of Contractor. These provisions shall not be limited in any manner by the existence of any Contractor claims or pending litigation relating to the Contract. Disqualification or suspension of the Contractor for failure to comply with this section shall also preclude the Contractor from acting in the future as a subcontractor of another contractor doing Work for NCTA during the period of disqualification or suspension. Disqualification shall mean the Contractor is not eligible for and shall be precluded from doing future Work for NCTA until reinstated by NCTA.
5. Final Audit for Project Closeout: The Contractor shall permit NCTA, at NCTA's option, to perform or have performed an audit of the records of the Contractor and any or all Subcontractors to support the compensation paid the Contractor. The audit will be performed as soon as practical after completion and Acceptance of the contracted Services. In the event funds paid to the Contractor under the Contract are subsequently determined to have been inadvertently paid by NCTA because of accounting errors or charges not in conformity with the Contract, the Contractor agrees that such amounts are due to NCTA upon demand. Final payment to the Contractor shall be adjusted for audit results
6. Contractor shall preserve all Contract Records for the entire term of the Contract and for a period of three (3) years after the later of: (i) completion of the Contract (ii) until all claims (if any) regarding the Contract are resolved, or (iii) expiration of the Qualification Package Records and Contract Records' status as public records.

I.5 Contractor Cooperation

1. During the course of this Agreement, NCTA may undertake or award other agreements for additional Work, including but not limited to separate agreements with different contractors, vendors and or internal/external agencies related to **Part III, Scope of Work and Requirements**. It is critical that close coordination with interfacing contractors, vendors and/or other agencies as directed by NCTA occurs throughout the term of this Agreement. Contractor shall fully cooperate with NCTA and the parties to all other contracts and carefully integrate and schedule its own Work with said parties.
2. NCTA will expect all contractors to comply with all Requirements, special provisions and other terms and conditions applicable to the Contract(s) at all times during the performance of the Contract(s). In the event of a dispute between contractors, clarifications may be sought from NCTA; provided Contract Terms, conditions or obligations shall remain in effect, excepting in instances wherein a Change Order or other Contract modification is duly executed in writing

in accordance with this **Part IV, Terms and Conditions**; however, contractors shall engage in all efforts to resolve disputes prior to participation of NCTA and further, such participation by NCTA does not imply or represent a NCTA responsibility for resolution or payment of claims that arise out of a dispute between two contractors.

3. Should problems in coordination with other contractors occur, the Contractor shall make NCTA aware of these problems immediately and shall take steps to address the problems and mitigate any delays or additional costs. Contractor shall not commit or permit any act that will interfere with the performance of Work by any other contractor or by NCTA.
4. Additional Coordination and Cooperation Requirements
 - a. The Contractor shall work closely with NCTA and any other contractors who will be working for NCTA for the purpose of coordinating any activity which may affect both contractors.
 - b. Should problems in coordination with other contractors occur, the Contractor shall make NCTA aware of these problems immediately, and shall take steps to address the problems and mitigate any delays or additional costs. Contractor shall not commit or permit any act that will interfere with the performance of Work by any other contractor or by NCTA.
 - c. The Contractor shall cooperate with all other contractors to avoid any delay or hindrance to the other contractors or forces. NCTA reserves the right to perform other or additional Work (including material sources) at any time, by the use of other forces.

Each contractor shall be responsible to the other for all damage to Work, to persons or property caused to the other by their operations, and for loss caused the other due to unnecessary delays or failure to finish the Work within the time specified for completion.

1.6 Warranties

1.6.1 Warranties

~~1. Contractor warrants to NCTA that all items furnished will be new (unless otherwise specifically requested in this RFP), of good material and workmanship, and Contractor agrees to replace any items which fail to comply with the specifications by reason of defective material or workmanship under normal use, free of NCTA's negligence or accident for a minimum of 90 days from date of acceptance. Such replacement shall include transportation costs free of any charge to NCTA. This statement is not intended to limit any additional coverage, which may normally be associated with a product. Contractor shall assign to NCTA all third-party warranties applicable to such Deliverables. Contractor warrants that NCTA has all rights necessary to utilize all Deliverables for their intended purpose free from all third-party claims.~~

2.1. The Contractor warrants that all Services shall be performed in a high-quality, professional manner by qualified and skilled personnel in compliance with NCTA's Requirements as set forth in Section III, Scope of Work and Requirements. In the event NCTA determines that any Services do not conform to the foregoing ~~warranty~~, NCTA shall be entitled to elect one of the following remedies: (i) revision of the Services by the Contractor until NCTA deems them to be in conformity with the warranty in this section, at no charge to NCTA; (ii) refund from the

Contractor for all fees paid in connection with the Services, which NCTA deems were not as warranted, subject to the provisions of Section IV, Terms and Conditions, such that the Contractor is not required to refund fees for non-provision of Services for which Liquidated Damages have been assessed, (iii) reimbursement by the Contractor for NCTA's costs and expenses incurred in having the Services re-performed by NCTA or someone other than the Contractor. Notwithstanding the foregoing, nothing in this Section shall be construed to limit NCTA's rights pursuant to Section IV, Terms and Conditions, Section 2.6.2 Termination for Cause.

~~3. UNLESS MODIFIED BY AMENDMENT OR THE SOLICITATION DOCUMENTS, THE WARRANTIES IN THIS SECTION 1.6 ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, OR WHETHER ARISING BY COURSE OF DEALING OR PERFORMANCE, CUSTOM, USAGE IN THE TRADE OR PROFESSION OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND NO OTHER REPRESENTATIONS OR WARRANTIES HAVE FORMED THE BASIS OF THE BARGAIN HEREUNDER.~~

~~1.6.2 Intellectual Property Warranty and Indemnity:~~

~~Contractor shall hold and save the State, its officers, agents and employees, harmless from liability of any kind, including costs and expenses, resulting from infringement of the rights of any third party in any copyrighted material, patented or patent pending invention, article, device or appliance delivered in connection with the Contract.~~

- ~~1. Contractor warrants to the best of its knowledge that:
 - ~~a. Performance under the Contract does not infringe upon any intellectual property rights of any third party; and~~
 - ~~b. There are no actual or threatened actions arising from, or alleged under, any intellectual property rights of any third party;~~~~
- ~~2. Should any Deliverables supplied by Contractor become the subject of a claim of infringement of a patent, copyright, trademark or a trade secret in the United States, the Contractor, shall at its option and expense, either procure for the State the right to continue using the Deliverables, or replace or modify the same to become non-infringing. If neither of these options can reasonably be taken in Contractor's judgment, or if further use shall be prevented by injunction, the Contractor agrees to cease provision of any affected Deliverables and refund any sums the State has paid Contractor and make every reasonable effort to assist the State in procuring substitute Deliverables. If, in the sole opinion of the State, the cessation of use by the State of any such Deliverables due to infringement issues makes the retention of other items acquired from the Contractor under this Agreement impractical, the State shall then have the option of terminating the Agreement, or applicable portions thereof, without penalty or termination charge; and
Contractor agrees to refund any sums the State paid for unused Services or Deliverables.~~
- ~~3. The Contractor, at its own expense, shall defend any action brought against the State to the extent that such action is based upon a claim that the Deliverables supplied by the Contractor, their use or operation, infringes on a patent, copyright, trademark or violates a trade secret~~

~~in the United States. The Contractor shall pay those costs and damages finally awarded or agreed in a settlement against the State in any such action. Such defense and payment shall be conditioned on the following:~~

- ~~a. That the Contractor shall be notified within a reasonable time in writing by the State of any such claim; and~~
 - ~~b. That the Contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise provided, however, that the State shall have the option to participate in such action at its own expense.~~
- ~~4. Contractor will not be required to defend or indemnify the State if any claim by a third party against the State for infringement or misappropriation results from the State's material alteration of any Contractor-branded Deliverables or services, or from the continued use of the Deliverable(s) or Services after receiving notice of infringement on a trade secret of a third party.~~

1.6.3.1.6.2 Data Accuracy

The Contractor acknowledges and understands that the data and/or information it provides to NCTA will be relied upon by to NCTA and other persons or entities that are now or will in the future be under Agreement with NCTA. Should information derived and provided by Contractor be inaccurate and cause NCTA to incur damages or additional expenses, NCTA shall notify Contractor and the Contractor shall immediately place any applicable insurance carrier on Notice of a potential claim. This provision shall survive termination of this Agreement, and the Contractor agrees to waive any applicable limitation periods consistent with enforcement of this provision.

1.6.4 Pervasive Defects

~~The Contractor agrees to promptly remedy, at no cost to NCTA, any defects determined by NCTA to be pervasive, such that if NCTA determines that any equipment, component, sub-component or Software is experiencing continued or repetitive failure that requires constant replacement or repair, the Contractor agrees that a "Pervasive Defect" shall be deemed to be present in such affected types of equipment or Software. The Contractor shall perform an investigation of the issues and prepare a report that includes a reason for the failure and their Plan for remedy. Such correction shall be in a manner satisfactory to NCTA and that permanently addresses the problem and corrects the defect so that such defect does not continue to occur.~~

~~The obligations set forth in this section shall be in addition to any warranty obligations set forth in this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement.~~

1.6.5 General Guaranty

~~Neither Acceptance of the Project, System and/or Services or payment thereto, nor any provision in this Agreement, nor partial or entire use of the System and Services by NCTA shall constitute an Acceptance of System and Services not performed in accordance with this Agreement or relieve the Contractor of liability for any express or implied warranties or responsibility for faulty materials or workmanship.~~

I.7 Authority of the NCTA Project Manager

1. For purposes of this Contract the Manager of Customer Service is deemed the NCTA Project Manager. The Contractor hereby authorizes the NCTA Project Manager to determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including, without limitation: questions as to the value, acceptability and of the Services; questions as to either party's fulfillment of its obligations under this Agreement; negligence, fraud or misrepresentation before or subsequent to execution of this Agreement; questions as to the interpretation of **Part III, Scope of Work and Requirements**; and claims for damages, compensation and losses.
2. The NCTA Project Manager shall act as the designated representative of NCTA in all matters relating to this Agreement.
3. The NCTA Project Manager may give orders to the Contractor to do Work that they determine to be necessary for the Contractor to fulfill the Contractor's obligations under this Agreement.
4. If requested by the Contractor, the NCTA Project Manager will promptly provide appropriate explanations and reasons for his determinations and orders hereunder.
5. The Contractor shall be bound by all determinations or orders and shall promptly obey and follow every order of the NCTA Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the NCTA Project Manager's determination or order. Orders shall be in writing, unless not practicable, in which event any oral order must be confirmed in writing by the Project Manager as soon thereafter as practicable.

I.8 Implementation Phase

The Contractor shall proceed with the Operations Implementation Phase upon receiving the Notice to Proceed, and progress through Operations Go-Live as defined and required in the **Part III, Scope of Work and Requirements**.

I.9 Ongoing Operations Phase

The Contractor's On-Going Operations responsibilities shall begin upon completion of the Operations Implementation Phase, and shall continue until the expiration of the Initial Contract Term, and also shall include any Contract renewals or extensions thereof. Commencement of the On-Going Operations Phase shall not relieve the Contractor of any of its responsibilities to complete all Requirements set forth in **Part III, Scope of Work and Requirements**, and does not waive any of the rights of NCTA in this regard.

I.10 Project Completion

Project Completion shall be deemed to have occurred when all obligations under this Agreement have been successfully performed by the Contractor, including but not limited to all retentions owed to the Contractor have been released by NCTA and, when NCTA has delivered a Notice of Project completion to the effect of the foregoing.

Note: NCTA’s beneficial use of the Customer Service and Facility Deliverables during any phase prior to Project Completion shall not constitute Acceptance of any Deliverable, nor shall such use give rise to equitable claim for adjustment.

1.11 Order of Precedence

The Contract is subject to the terms and conditions of this solicitation, which, in case of conflict, shall have the following Order of Precedence:

1. Executed Agreement, including RFP, all executed RFP addenda, BAFO (if applicable), and Amendments.
2. **Part III, Scope of Work and Requirements**, including Addenda.
3. **Part IV, Terms and Conditions**, including Addenda.
4. Contractor’s Price Proposal.
5. Contractor’s Technical Proposal, including Exhibits and Appendices.

2. Contract Changes and Termination

2.1 General

The following Contract changes are allowable within the scope of this Contract:

1. Change Orders – The NCTA anticipates issuing Change Orders for Work required to modify, enhance or otherwise improve the Transponder Management & Fulfillment operations associated with NCTA’s program.
2. Extra Work Orders – The NCTA anticipates issuing Extra Work Orders to address variances in the specifications or **Part III, Scope of Work and Requirements** beyond that of the Approved Operational Concept and for which there is no appropriate pay item or category. Extra Work Orders will be issued within the sole discretion of the NCTA, and such additional Work may be subject to a new competitive procurement as deemed to be in the best interest of the NCTA.
3. Task Orders – The NCTA anticipates issuing Task Orders for Work required to enhance Ongoing Operational Services in accordance with labor rates proposed and set forth in the Price Proposal.
4. Time Extensions – The NCTA anticipates issuing Time Extensions, as necessary, to modify Transponder Management & Fulfillment Operations Implementation milestones for reasons out of the control of the Contractor. Unless otherwise agreed to by the NCTA in writing, the Contractor’s Payment Schedule and Price Proposal, including labor rates identified in the Price Proposal, shall apply to all of the above Contract changes. If cost for additional Work and/or Services cannot be established on the basis of the Price Proposal or the Payment Schedule, a catalog or market price of a commercial product sold in substantial quantities, or on the basis of prices set by law or regulation, the Contractor is required to submit to the NCTA detailed cost

breakdowns, including information on labor and materials costs, overhead and other indirect costs.

2.2 Change Orders

1. NCTA may elect to have the Contractor perform the Change Order Work. In this case, the Contractor shall provide a detailed Operational Proposal and Price Proposal for the order, and await Approval and Notice to Proceed from NCTA before incurring any expenses for which the Contractor expects reimbursement.
2. If NCTA advertises the Change Order Work, NCTA may elect to use the Contractor to assist NCTA in the procurement of additional Hardware, Software or Services, and/or integrate the Change Order Work into the Back Office System or operations workflow. In this case, NCTA would obtain these Services through a negotiated and Approved Task Order.

2.3 Extra Work Orders

An Extra Work Order will ONLY be a change in the Scope of Work and Requirements requiring different operational services than that covered by the existing Contract or a change to a Contract Term and condition with an impact. Some examples include:

1. Large-scale changes the Contractor's scope of Work;
2. Changes to insurance or legal Requirements.

2.4 Task Orders

The Task Order process may be utilized by NCTA to request services from the Contractor to assist the NCTA with specific tasks or services related to the operations. Prices for Task Orders shall be prepared in accordance with the hourly labor rates contained in the applicable operations staffing price sheets. While NCTA makes no guarantee that Task Order Work will be requested, the Contractor should be prepared to provide assistance and support to NCTA for tasks that may include but not be limited to:

1. Temporary changes in approved operational procedures materially impacting staffing or processes;
2. Attendance, participation, and/or representation at meetings outside of the Work described in this RFP;
3. Assistance and support related to tasks directly related to toll collection such as expanded Interoperability Work efforts, and;
4. Additional or temporary staffing needed to assist NCTA with special projects.

2.5 Time Extensions, Schedule Changes and Submittals

2.5.1 Time Extensions and Schedule Changes

1. Within ten (10) Calendar Days of receiving NTP from NCTA, the Contractor shall update any schedules submitted with their Materials, and submit the updated schedule(s) to NCTA for approval.

2. The Contractor shall clearly label each update against the Approved Implementation Schedule, pursuant to the Requirements of the Approved Project Management Plan. Submission of the updates against the Approved Schedule shall not release or relieve the Contractor from full responsibility for completing the Work within the time set forth in the Approved Schedule. If the Contractor causes delays and fails or refuses to implement measures sufficient to bring its Work back into conformity with the current Approved Schedule, its right to proceed with any or all portions of the associated Work may be terminated under the provisions of the Contract. However, in the event that NCTA, in its sole determination, should permit the Contractor to proceed, the NCTA's permission shall in no way operate as a waiver of its rights nor shall it deprive NCTA of its rights under any other provisions of the Contract.
3. NCTA will Approve Time Extensions ONLY for Force Majeure causes, or acts by NCTA which have been documented to have impeded the Contractor's progress.
4. Any changes to the Approved Schedule require Approval and may require an Amendment to the Contract.
5. Unless otherwise expressly agreed to by NCTA, the Contractor shall not receive extra compensation or damages for any time extension Approved by NCTA for completion of additional and/or altered Work. However, the Contractor shall be fully compensated for such Work as agreed upon by NCTA and the Contractor in the Change Order or the supplemental agreements.

2.5.2 Submittals

Contractor's Submittal Requirements and Submittal schedule shall be as set out in Contractor's Approved Program Management Plan and Approved Project Implementation Schedule, as required in **Part III, Scope of Work and Requirements**. The baseline schedule Approved after Notice to Proceed shall establish accepted dates by which Contractor shall submit required documents and other items necessary for provision of Transponder Management & Fulfillment operations Services. NCTA's written Approval will be required for these Submittals. NCTA will Approve or reject such Submittals, providing an explanation of any reasons for rejection in a form agreed to in the Project Management Plan. In any instance where NCTA does not provide Approval, rejection or written notification of an extended review period by the due date specified in the Approved Baseline Schedule, the Contractor shall notify NCTA in writing that the NCTA response is due. NCTA's right to extend the review period is intended to allow flexibility in special circumstances where the nature of the Submittal requires more involved review, and not as a diminution of NCTA's obligation to promptly review Submittals. NCTA reserves the right to reject Submittals that are not complete or correct and to extend the review period accordingly.

Contractor shall not be held responsible for delays in schedule due to delays in Approvals and permits completely beyond the control of the Contractor. Notwithstanding the foregoing, Contractor shall make every effort to work around and mitigate the impact of delay.

2.6 Contract Termination

2.6.1 Termination General Requirements

1. The Contract issued for Transponder Management & Fulfillment will terminate at the end of the Contract Term(s) set forth above, inclusive of any On-Going Operations and/or extension periods as noted in **Part IV, Terms and Conditions**, Section 1.1 Term of Contract.
2. The NCTA may terminate the Contract(s), in whole or in part, for default subject to the default provisions set forth below.
3. Any required Notices of termination made under this Contract shall be transmitted via U.S. Mail, Certified Return Receipt Requested, or personal delivery to the Contractor's contract administrator. The period of Notice for termination shall begin on the day the return receipt is signed and dated or upon personal delivery to the Contractor(s) contract administrator.
4. The parties may mutually terminate this Contract by written agreement at any time.
5. NCTA may terminate this Contract, in whole or in part, pursuant to the Terms and Conditions in the Solicitation Documents.
6. NCTA will notify the Contractor(s) at least ninety (90) Calendar Days prior to the termination of the Contract in the absence of cause. This notification will require the Contractor(s) to initiate actions in preparation for leaving the NCTA Project site and handing off system operations to replacement entities. These actions shall include:
 - a. Acknowledgement of receipt of End of Contract notification, and
 - b. Act in accordance with **Part IV, Terms and Conditions**, Section 2.7 End of Contract and Transition.

2.6.2 Termination for Cause

1. In the event any Services furnished by the Contractor during performance of any Contract Term fails to conform to any material requirement of the Contract, and the failure is not cured within the specified time after providing written Notice thereof to Contractor, the NCTA may cancel and procure the Work or Services from other sources; holding Contractor liable for any excess costs occasioned thereby. The rights and remedies of NCTA provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract. The Contractor shall not be relieved of liability to NCTA for damages sustained by NCTA arising from Contractor's breach of this Contract; and the NCTA may, in its discretion, withhold any payment due as a setoff until such time as the damages are finally determined or as agreed by the parties. Voluntary or involuntary Bankruptcy or receivership by Contractor shall be cause for termination.
2. Cause shall mean a material breach of this Agreement by the Contractor. Without limiting the generality of the foregoing and in addition to those instances referred to elsewhere in this Agreement as a breach, a material breach shall include the following:
 - a. The Contractor failed to secure data and/or operate in accordance with this Agreement;
 - b. The Contractor materially inhibited NCTA's collection of toll revenue;
 - c. The Contractor has not submitted acceptable Deliverables to NCTA on a timely basis;
 - d. The Contractor proves incapable of meeting the Requirements set forth in **Part III, Scope of Work and Requirements**;

- e. The Contractor refused or failed, except in cases for which an extension of time is provided, to supply enough properly skilled workers or proper materials to properly perform the Services required under this Agreement;
- f. The Contractor failed to meet required PCI training Requirements;
- g. The Contractor failed to make prompt payment to Subcontractors or suppliers for materials or labor;
- h. The Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received from this Agreement for the benefit of its creditors, or it has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's property or affairs have been put in the hands of a receiver;
- i. Any case, proceeding or other action against the Contractor is commenced in bankruptcy, or seeking reorganization, liquidation or any relief under any bankruptcy, insolvency, reorganization, liquidation, dissolution or other similar act or law of any jurisdiction, which case, proceeding or other action remains undismissed, undischarged or unbonded for a period of thirty (30) Calendar Days;
- j. The Contractor fails to maintain insurance policies and coverages or fails to provide proof of insurance or copies of insurance policies as required by this Agreement;
- k. Any warranty, representation, certification, financial statement or other information made or furnished to induce NCTA to enter into this Agreement, or made or furnished, at any time, in or pursuant to the terms of this Agreement or otherwise by the Contractor, or by any person who guarantees or who is liable for any obligation of the Contractor under this Agreement, shall prove to have been false or misleading in any material respect when made;
- l. Any intentional violation by the Contractor of the ethics provisions, or applicable laws, rules or regulations;
- m. The Contractor has failed to obtain the Approval of NCTA where required by this Agreement;
- n. The Contractor's Audited Financial Statements or those of its parent company submitted to NCTA do not fairly represent the Contractor or its parent's true financial position;
- o. The Contractor has failed in the representation of any warranties stated herein;
- p. The Contractor makes a statement to any representative of NCTA indicating that the Contractor cannot or will not perform any one or more of its obligations under this Agreement;
- q. The Contractor fails to remedy Pervasive Defects;
- r. Any act or omission of the Contractor or any other occurrence which makes it improbable at the time that the Contractor will be able to perform any one or more of its obligations under this Agreement;

- s. Any suspension of or failure to proceed with any part of the Services by the Contractor which makes it improbable that the Contractor will be able to perform any one or more of its obligations under this Agreement;
 - t. A pattern of repeated failures to meet a Performance Requirement(s) as defined in **Part III, Scope of Work and Requirements**;
 - u. The suspension or revocation of any license, permit, or registration necessary for the performance of the Contractor's obligations under this Agreement, or
 - v. The default in the performance or observance of any of the Contractor's other obligations under this Agreement and the continuance thereof for a period of thirty (30) Calendar Days after Notice given to the Contractor by NCTA.
3. Cure/Warning Period. Prior to terminating the Contract(s) for cause, the NCTA will issue a Notice of cure/warning to the Contractor(s) thirty (30) Calendar Days prior to the termination date. The Notice will be transmitted via U.S. Mail Certified Return Receipt Requested or personal delivery to the Contractor(s) contract administrator, and the period of Notice for termination shall begin on the date the Return Receipt is signed and dated or upon personal delivery to the Contractor contract administrator. The Notice will specify the corrective actions/Work required to be taken by the Contractor to come into compliance with the terms and conditions of the Contract(s). If the corrective actions/Work is performed within the cure/warning period, in a manner acceptable to the NCTA, the Contract will remain in effect in accordance with the terms and conditions thereof.
4. Termination Without Notice of Cure/Warning. If the NCTA has issued two Notices of cure/warning to the Contractor, upon the issuance of the third or subsequent Notice the NCTA reserves the right to terminate the Contract without further Notice. The failure of the NCTA to exercise this right on any occasion shall not be deemed a waiver of any future right.

2.6.3 Termination for Convenience Without Cause

The NCTA may terminate the Contract(s) without cause, in whole or in part by giving ninety (90) Calendar Days prior Notice in writing to the Contractor. The Contractor shall be entitled to sums due as compensation for Deliverables provided and Services performed in conformance with the Contract. In the event the Contract is terminated for the convenience of the NCTA, the NCTA will pay for all Work performed and products delivered in conformance with the Contract up to the date of termination. This is an incidental item within **Part III, Scope of Work and Requirements**, but without separate compensation.

2.7 End of Contract Transition

The Contractor acknowledges that the Services it provides under the terms of the Contract are vital to the successful operation of the NCTA program, and that said Services shall be continued without interruption. In the event that this Agreement is terminated for convenience or default or upon the Agreement completion date or expiration of the Agreement Term or any extensions thereof, the Contractor shall cooperate with NCTA to facilitate a smooth succession to the NCTA's selected successor for the Services, whether the successor is NCTA or a third-party. The Requirements for this End of Contract Transition are contained in **Part III, Scope of Work and Requirements**. Costs for

such End of Contract Transition are included in the current Contract, and the Contractor shall perform such Work without additional compensation.

The Contractor acknowledges that the Services provided under the terms of this Contract are vital to the successful operation of NCTA's program, and that said Services shall be continued without interruption. If NCTA determines that additional Services by Contractor are necessary after the expiration of the Contract to facilitate a smooth succession, the Contractor must also provide for up to six (6) months after the expiration or cancellation of the Agreement additional transition assistance requested by NCTA, to allow for the expired or canceled portion of the Services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Services to the State or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of the Agreement, (notwithstanding this expiration or cancellation) except for those Contract terms or conditions that do not reasonably apply to such transition assistance. If additional Services are required and requested by NCTA, the State shall pay the Contractor for any resources utilized in performing such transition assistance at the most current rates provided by the Agreement for Contract performance. If the State cancels the Agreement for cause, then the State will be entitled to offset the cost of paying the Contractor for the additional resources the Contractor utilized in providing transition assistance with any damages the State may have otherwise accrued as a result of said cancellation.

3. General Terms and Conditions

3.1 Standards

Any Deliverables shall meet all applicable State and federal Requirements and regulations., Contractor will provide and maintain a Quality Assurance system or program that includes any Deliverables and will tender or provide to NCTA only those Deliverables that have been inspected and found to conform to the Requirements of this Contract. All Deliverables are subject to operation, certification, testing and inspection, and any accessibility specifications.

3.2 Acceptance Criteria

NCTA shall have the obligation to notify Contractor, in writing ten (10) Calendar Days following provision, performance (under a provided milestone or otherwise as agreed) or delivery of any Services or other Deliverables described in the Contract are not acceptable. The Notice shall specify in reasonable detail the reason(s) a given Deliverable is unacceptable. Acceptance by NCTA shall not be unreasonably withheld; but may be conditioned or delayed as required for installation, review and/or testing of Deliverables. Final Acceptance is expressly conditioned upon completion of any applicable inspection and testing procedures. Should a Deliverable fail to meet any specifications or Acceptance criteria, NCTA may exercise any and all rights hereunder. Deliverables discovered to be defective or failing to conform to the specifications may be rejected upon initial inspection or at any later time if the defects or errors contained in the Deliverables or non-compliance with the specifications were not reasonably ascertainable upon initial inspection. If Contractor fails to promptly cure or correct the defect or replace or re-perform the Deliverables, NCTA reserves the right to cancel the Contract, contract with a different contractor, and to invoice the original Contractor for any differential in price over the original Contract price.

3.3 Personnel

1. Contractor shall not substitute Key Personnel assigned to this Contract without prior written Approval by NCTA. Any desired substitution shall be noticed to NCTA, accompanied by the names and references of Contractor's recommended substitute personnel. NCTA will approve or disapprove the requested substitution in a timely manner. NCTA may, in its sole discretion, terminate the services of any person providing Services under this Contract. Upon such termination, NCTA may request acceptable substitute personnel or terminate the Contract Services provided by such personnel. The Contractor agrees to provide NCTA with resumes of the replacement, acceptable, substitute personnel within thirty (30) Calendar Days of receiving a request from NCTA to terminate the services of any person providing Services under this Contract and agree to make that person or persons available for interviews by NCTA.
2. Unless otherwise provided by NCTA, the Contractor shall furnish all necessary personnel, Services, and otherwise perform all acts, duties and responsibilities necessary or incidental to the accomplishment of the tasks specified in the Agreement. Contractor shall be legally and financially responsible for its personnel including, but not limited to, any deductions for social security and other withholding taxes required by state or federal law. Contractor shall be solely responsible for acquiring any equipment, furniture, and office space not furnished by the NCTA necessary for Contractor to comply with the Contract. Contractor personnel shall comply with any applicable State facilities or other security rules and regulations.

3.4 Subcontracting

The Contractor may subcontract the performance of required Services with other contractors or third-parties, or change Subcontractors, only with the prior written consent of NCTA. Contractor shall provide NCTA with complete copies of any agreements made by and between Contractor and all Subcontractors. The Contractor remains solely responsible for the performance of its Subcontractors. Subcontractors, if any, shall adhere to the same standards required of the Contractor. Any contracts made by the Contractor with a Subcontractor shall include an affirmative statement that NCTA is an intended third-party beneficiary of the contract; that the Subcontractor has no agreement with NCTA; and that NCTA shall be indemnified by the Contractor for any claim presented by the Subcontractor. Notwithstanding any other term herein, Contractor shall timely exercise its contractual remedies against any non-performing Subcontractor and, when appropriate, substitute another Subcontractor.

3.5 Contractor's Representation

1. Contractor warrants that qualified personnel shall provide Services in a professional manner. "Professional manner" means that the personnel performing the Services will possess the skill and competence consistent with the prevailing business standards in the information technology industry. Contractor agrees that it will not enter into any agreement with a third-party that might abridge any rights of NCTA under this Contract. Contractor will serve as the prime Contractor under this Contract. Should NCTA approve any Subcontractor(s), the Contractor shall be legally responsible for the performance and payment of the Subcontractor(s). Names of any third-party contractors or subcontractors of Contractor may appear for purposes of convenience in Contract Documents; and shall not limit Contractor's obligations hereunder. Third-party subcontractors, if approved, may serve as Subcontractors to Contractor. Contractor will retain

executive representation for functional and technical expertise as needed in order to incorporate any Work by third-party subcontractor(s).

2. Intellectual Property. Contractor represents that it has the right to provide the Services and other Deliverables without violating or infringing any law, rule, regulation, copyright, patent, trade secret or other proprietary right of any third-party. Contractor also represents that its Services and other Deliverables are not the subject of any actual or threatened actions arising from, or alleged under, any intellectual property rights of any third-party.
3. Inherent Services. If any Services or other Deliverables, functions, or responsibilities not specifically described in this Contract are required for Contractor's proper performance, provision and delivery of the Services and other Deliverables pursuant to this Contract, or are an inherent part of or necessary sub-task included within the Services, they will be deemed to be implied by and included within the scope of the Contract to the same extent and in the same manner as if specifically described in the Contract. Unless otherwise expressly provided herein, Vendor will furnish all of its own necessary management, supervision, labor, facilities, furniture, computer and telecommunications equipment, software, supplies and materials necessary for the Vendor to provide and deliver the Services and Deliverables.
4. Contractor warrants that it has the financial capacity to perform and to continue to perform its obligations under the Contract; that Contractor has no constructive or actual knowledge of an actual or potential legal proceeding being brought against Contractor that could materially adversely affect performance of this Contract; and that entering into this Contract is not prohibited by any Contract, or order by any court of competent jurisdiction.

3.6 STATE PROPERTY AND INTANGIBLE RIGHTS

~~The parties acknowledge and agree that NCTA shall own all right, title and interest in and to the copyright in any and all software, technical information, specifications, drawings, records, documentation, data and other Work products first originated and prepared by the Contractor for delivery to the State (the "Deliverables"). To the extent that any Contractor Technology is contained in any of the Deliverables, the Vendor hereby grants the State a royalty free, fully paid, worldwide, perpetual, non-exclusive license to use such Contractor Technology in connection with the Deliverables for NCTA's internal business purposes. Contractor shall not acquire any right, title and interest in and to the copyrights for goods, any and all software, technical information, specifications, drawings, records, documentation, data or derivative Works thereof, or other Work products provided by NCTA to the Contractor. NCTA hereby grants Contractor a royalty free, fully paid, worldwide, perpetual, non-exclusive license to non-confidential Deliverables first originated and prepared by the Contractor for delivery to NCTA.~~

~~3.6.1 Patent, Copyright, and Trade Secret Protection~~

- ~~1. Contractor has created, acquired or otherwise has rights in, and may, in connection with the performance of Services for NCTA, employ, provide, create, acquire or otherwise obtain rights in various concepts, ideas, methods, methodologies, procedures, processes, know-how, techniques, models, templates and general purpose consulting and Software tools, utilities and routines (collectively, the "Contractor Technology"). To the extent that any Contractor Technology is contained in any of the Deliverables including any derivative Works, the Contractor~~

~~hereby grants NCTA a royalty-free, fully paid, worldwide, perpetual, non-exclusive license to use such Contractor Technology in connection with the Deliverables for NCTA's purposes.~~

- ~~2. Contractor shall not acquire any right, title and interest in and to the copyrights for goods, any and all Software, technical information, specifications, drawings, records, Documentation, data or derivative Works thereof, or other Work products provided by NCTA to Contractor. NCTA hereby grants Contractor a royalty-free, fully paid, worldwide, perpetual, non-exclusive license for Contractor's internal use to non-confidential Deliverables originated and prepared by the Contractor for delivery to NCTA.~~
- ~~3. The Contractor, at its own expense, shall defend any action brought against the State to the extent that such action is based upon a claim that the services or Deliverables supplied by the Contractor, or the operation of such Deliverables pursuant to a current version of Contractor-supplied Software, infringes a patent, or copyright or violates a trade secret in the United States. The Contractor shall pay those costs and damages finally awarded against the State in any such action. Such defense and payment shall be conditioned on the following:
 - ~~a. That the Contractor shall be notified within a reasonable time in writing by NCTA of any such claim; and,~~
 - ~~b. That the Contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise provided, however, that NCTA shall have the option to participate in such action at its own expense.~~~~
- ~~4. Should any services or software supplied by Contractor, or the operation thereof become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement of a patent, copyright, or a trade secret in the United States, NCTA shall permit the Contractor, at its option and expense, either to procure for NCTA the right to continue using the goods/Hardware or Software, or to replace or modify the same to become non-infringing and continue to meet procurement specifications in all material respects. If neither of these options can reasonably be taken, or if the use of such goods/Hardware or Software by NCTA shall be prevented by injunction, the Contractor agrees to take back such goods/Hardware or Software, and refund any sums NCTA has paid Contractor less any reasonable amount for use or damage and make every reasonable effort to assist NCTA in procuring substitute Deliverables. If, in the sole opinion of NCTA, the return of such infringing Deliverables makes the retention of other items of Deliverables acquired from the Contractor under this Contract impractical, NCTA shall then have the option of terminating the Contract, or applicable portions thereof, without penalty or termination charge. The Contractor agrees to take back such Deliverables and refund any sums NCTA has paid Contractor less any reasonable amount for use or damage.~~
- ~~5. Contractor will not be required to defend or indemnify NCTA if any claim by a third party against NCTA for infringement or misappropriation (i) results from the NCTA's alteration of any Contractor-branded product or Deliverable, or (ii) results from the continued use of the good(s) or Services and Deliverables after receiving Notice they infringe a trade secret of a third party.~~
- ~~6. Nothing stated herein, however, shall affect Contractor's ownership in or rights to its preexisting intellectual property and proprietary rights.~~

3.6.23.6.1 Data Security

1. All data, records, and operations history information shall remain property of the NCTA at all times during the life of the Contract and after Contract termination.
2. The Contractor(s) shall ensure that no unauthorized personnel will have access to individual facilities, cabinets, data and records, payment histories, any personal information of existing or potential NCTA toll customers. Paper records shall be locked when not in use; Systems shall have secure password and ID controls for any data access. Contractor shall comply with the North Carolina Statewide Information Security Manual. Currently found at <http://it.nc.gov/document/statewide-information-security-manual>, as may be amended from time to time throughout the term of the Contract. Further, data, records, operations history, or customer account information shall be stored or housed in the continental United States.
3. Contractor shall notify NCTA of any security breaches immediately following discovery of the breach in accordance with the NC Identity Theft Act, G.S. § 75-60 *et seq.*
4. In accordance with G.S. § 136-89.213, customer account information is confidential and not subject to public disclosure.
5. Contractor shall ensure that all subcontractors and third parties performing tasks with respect to the Contract comply with the data security provisions contained in this section.

3.7 Other General Provisions

3.7.1 Governmental Restrictions

In the event any restrictions are imposed by governmental Requirements that necessitate alteration of the material, quality, workmanship, or performance of the Deliverables offered prior to delivery thereof, the Contractor shall provide written notification of the necessary alteration(s) to NCTA. NCTA reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Contract. NCTA may advise Contractor of any restrictions or changes in specifications required by North Carolina legislation, rule or regulatory authority that require compliance by the State. In such event, Contractor shall use its best efforts to comply with the required restrictions or changes. If compliance cannot be achieved by the date specified in the Contract, NCTA may terminate this Contract and compensate Contractor for sums due under the Contract.

3.7.2 Prohibition Against Contingent Fees and Gratuities

1. Contractor warrants that it has not paid, and agrees not to pay, any bonus, commission, fee, or gratuity to any employee or official of the State for the purpose of obtaining any contract or award issued by the State. Contractor further warrants that no commission or other payment was or will be received from or paid to any third-party contingent on the award of any contract by the State, except as shall be expressly communicated to NCTA in writing prior to Acceptance of the Contract or award in question. Each individual signing below warrants that he or she is duly authorized by their respective Party to sign this Contract and bind the Party to the terms and conditions of this Contract. Contractor and their authorized signatory further warrant that no officer or employee of the State has any direct or indirect financial or personal beneficial interest, in the subject matter of this Contract; obligation or contract for future award of compensation as an inducement or consideration for making this Contract. Subsequent discovery by the State of non-compliance with these provisions shall constitute sufficient cause for immediate

termination of all outstanding contracts. Violations of this provision may result in debarment of the bidder(s) or Contractor(s) as permitted by State or Federal law.

2. Gift Ban - By Executive Order 24, issued by Governor Perdue, and G.S. § 133-32, it is unlawful for any vendor or contractor (i.e., architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor’s cabinet agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who: (a) have a contract with a governmental agency; or (b) have performed under such a contract within the past year; or (c) anticipate bidding on such a contract in the future. For additional information regarding the specific Requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and G.S. § 133-32.

3.7.3 Equal Employment Opportunity

Contractor shall comply with all Federal and State Requirements concerning fair employment and employment of the disabled and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or physical disability.

3.7.4 Inspection at Contractor’s Site

NCTA reserves the right to inspect, during Contractor’s regular business hours at a reasonable time, upon Notice of not less than two (2) weeks, and at its own expense, the prospective Deliverables comprising equipment or other tangible goods, or the plant or other physical facilities of a prospective Contractor prior to Contract award, and during the Contract Term as necessary or proper to ensure conformance with the specifications/Requirements and their adequacy and suitability for the proper and effective performance of the Contract.

3.7.5 Advertising / Press Release

The Contractor absolutely shall not publicly disseminate any information concerning the Contract without prior written Approval from the State or its Agent. For the purpose of this provision of the Contract, the Agent is the NCTA Contract Administrator unless otherwise named in the solicitation documents.

3.7.6 Confidentiality

To promote maximum competition in the State competitive bidding process, the State may maintain the confidentiality of certain types of information described in G.S. § 132-1 et. seq. Such information may include trade secrets defined by G.S. § 66-152 and other information exempted from the Public Records Act pursuant to G.S. § 132-1.2. Contractor may designate appropriate portions of its response as confidential, consistent with and to the extent permitted under the Statutes and Rules set forth above, by marking the top and bottom of pages containing confidential information with a legend in boldface type “CONFIDENTIAL”. By so marking any page, the Contractor warrants that it has formed a good faith opinion, having received such necessary or proper review by counsel and other knowledgeable advisors that the portions marked confidential meet the Requirements of the Rules and Statutes set forth above. However, under no circumstances shall price information be designated as confidential. The State may

serve as custodian of Contractor's confidential information and not as an arbiter of claims against Contractor's assertion of confidentiality. If an action is brought pursuant to G.S. § 132-9 to compel the State to disclose information marked confidential, the Contractor agrees that it will intervene in the action through its counsel and participate in defending the State, including any public official(s) or public employee(s). The Contractor agrees that it shall hold the State and any official(s) and individual(s) harmless from any and all damages, costs, and attorneys' fees awarded against the State in the action. The State agrees to promptly notify the Contractor in writing of any action seeking to compel the disclosure of Contractor's confidential information. The State shall have the right, at its option and expense, to participate in the defense of the action through its counsel. The State shall have no liability to Contractor with respect to the disclosure of Contractor's confidential information ordered by a court of competent jurisdiction pursuant to G.S. § 132-9 or other applicable law.

- a. Care of Information: Contractor agrees to use commercial best efforts to safeguard and protect any data, documents, files, and other materials received from the State or NCTA during performance of any contractual obligation from loss, destruction or erasure.
- b. Contractor warrants that all its employees and any approved third-party contractors or subcontractors are subject to a non-disclosure and confidentiality agreement enforceable in North Carolina. Contractor will, upon request of the State, verify and produce true copies of any such agreements. Production of such agreements by Contractor may be made subject to applicable confidentiality, non-disclosure or privacy laws; provided that Contractor produces satisfactory evidence supporting exclusion of such agreements from disclosure under the N.C. Public Records laws in G.S. § 132-1 et. seq. The State may, in its sole discretion, provide a non-disclosure and confidentiality agreement satisfactory to the State for Contractor's execution. The State may exercise its rights under this subparagraph as necessary or proper, in its discretion, to comply
- c. with applicable security regulations or statutes including, but not limited to 26 USC 6103 and IRS Publication 1075, (Tax Information Security Guidelines for Federal, State, and Local Agencies), HIPAA, 42 USC 1320(d) (Health Insurance Portability and Accountability Act), any implementing regulations in the Code of Federal Regulations, and any future regulations imposed upon the Office of Information Technology Services or the N.C. Department of Revenue pursuant to future statutory or regulatory Requirements.
- d. Nondisclosure: Contractor agrees and specifically warrants that it, its officers, directors, principals and employees, and any Subcontractors, shall hold all information received during performance of this Contract in the strictest confidence and shall not disclose the same to any third-party without the express written approval of the State.
- e. Contractor shall protect the confidentiality of all information, data, instruments, studies, reports, records and other materials provided to it by NCTA or maintained or created in accordance with this Contract. No such information, data, instruments, studies, reports, records and other materials in the possession of Contractor shall be disclosed in any form without the prior written consent of the NCTA. Contractor will have written policies governing access to and duplication and dissemination of all such information, data, instruments, studies, reports, records and other materials.
- f. All Project materials, including Software, data, and Documentation created during the performance or provision of Services hereunder that are not licensed to the State or are not proprietary to the Contractor are the property of the State of North Carolina and must be kept confidential or returned

to the State, or destroyed. Proprietary Contractor materials shall be identified to the State by Contractor prior to use or provision of Services hereunder and shall remain the property of the Contractor. Derivative Works of any Contractor proprietary materials prepared or created during the performance of provision of Services hereunder shall be subject to a perpetual, royalty free, nonexclusive license to the State.

3.7.7 Deliverables

Deliverables, as used herein, shall comprise all Hardware, Contractor Services, professional services, Software and provided modifications to the Software, and incidental materials, including any goods, Software or Services access license, data, reports and Documentation provided or created during the performance or provision of Services hereunder. Deliverables not subject to owner licensing or leasing are the property of the State of North Carolina. Proprietary Contractor materials licensed to the State shall be identified to the State by Contractor prior to use or provision of Services hereunder and shall remain the property of the Contractor. Deliverables include "Work Product" and means any expression of Contractor's findings, analyses, conclusions, opinions, recommendations, ideas, techniques, know-how, Designs, programs, enhancements, and other technical information; but not source and object code or Software.

3.7.8 Late Delivery, Back Order

Contractor shall advise NCTA immediately upon determining that any Deliverable will not, or may not, be delivered at the time or place specified. Together with such Notice, Contractor shall state the projected delivery time and date. In the event the delay projected by Contractor is unsatisfactory, NCTA shall so advise Contractor and may proceed to procure substitute Deliverables or Services.

3.7.9 Assignment

Contractor may not assign this Contract or its obligations hereunder except as permitted by this paragraph. Contractor shall provide reasonable Notice of not less than thirty (30) Calendar Days prior to any consolidation, acquisition, or merger. Any assignee shall affirm this Contract atoning to the terms and conditions agreed, and that Contractor shall affirm that the assignee is fully capable of performing all obligations of Contractor under this Contract. An assignment may be made, if at all, in writing by the Contractor, Assignee and the State setting forth the foregoing obligation of Contractor and Assignee.

3.7.10 Insurance Coverage

During the term of the Contract, the Contractor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the Contract. As a minimum, the Contractor shall provide and maintain the coverage and limits, as set forth in **Part I, Administrative**, Section 1.27, Insurance Requirements.

3.7.11 Dispute Resolution

In the event of any dispute whatsoever arising out of or relating to the Contract Documents, the Work or the Project, the disputing party must furnish a written Notice to the other party, setting forth in detail the dispute. Such Notice must be addressed to the other party's Project Manager. Within five (5) Business Days after the receipt of the Notice by the receiving Project Manager, the two Project Managers shall

meet in NCTA's offices to attempt to resolve the dispute. If the Project Managers cannot resolve the dispute then, within fourteen (14) Calendar Days after the date of written Notice by either Project Manager to the Executive Director of NCTA and the Project Principal, the Executive Director of NCTA and the Project Principal shall meet in NCTA's offices to attempt to resolve the dispute. If the Executive Director of NCTA and the Project Principal cannot resolve the dispute or otherwise agree to extend the time within which to attempt to resolve the dispute, then either Party may pursue those remedies as allowed under this Contract.

3.7.12 Default

1. In the event any Services or Deliverable furnished by the Contractor during performance of any Contract Term fails to conform to any material requirement of the Contract specifications, Notice of the failure is provided by NCTA, and the failure is not cured within ten (10) Business Days, or Contractor fails to meet the Requirements of paragraph 3.2 Acceptance Criteria herein, NCTA may cancel and procure the articles or Services from other sources; holding Contractor liable for any excess costs occasioned thereby, subject only to the limitations provided in the Contract and the obligation to informally resolve disputes as provided in these Terms and Conditions. Default may be cause for debarment. NCTA reserves the right to require performance guaranties from the Contractor without expense to the State. The rights and remedies of NCTA provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract. NCTA allows for ten (10) Business Days to rectify a problem and thirty (30) Calendar Days to cure a termination.
2. If Contractor fails to deliver or provide correct Services or other Deliverables within the time required by this Contract, NCTA may provide written Notice of said failure to Contractor, and by such Notice may require payment of a penalty.
3. Contractor will use reasonable efforts to mitigate delays, costs or expenses arising from assumptions in the Contractor's offer documents that prove erroneous or are otherwise invalid.
4. Should NCTA fail to perform any of its obligations upon which Contractor's performance is conditioned, Contractor shall not be in default for any delay, cost increase or other consequences due to NCTA's failure. Any deadline that is affected by any such failure in assumptions or performance by NCTA shall be extended by an amount of time reasonably necessary to compensate for the effect of such failure.
5. Contractor shall provide a Plan to cure any default or delay if requested by NCTA. The Plan shall state the nature of the default, the time required for cure, any mitigating factors causing or tending to cause the default, and such other information as the Contractor may deem necessary or proper to provide.

3.7.13 Waiver of Default

Waiver by either party of any default or breach by the other Party shall not be deemed a waiver of any subsequent default or breach and shall not be construed to be a modification or novation of the terms of this Contract, unless so stated in a writing and signed by authorized representatives of NCTA and the Contractor and made as an Amendment in accordance with the terms of this Contract.

3.7.14 Limitation of Contractor's Liability

1. Where Deliverables have been approved by NCTA and are under NCTA's exclusive management and control, the Contractor shall not be liable for direct damages caused by NCTA's failure to fulfill any responsibilities of assuring the proper use, management and supervision of the Deliverables and programs, audit controls, operating methods, office procedures, or for establishing all proper checkpoints necessary for NCTA's intended use of the Deliverables.
2. The Contractor's liability for damages to NCTA for any cause whatsoever, and regardless of the form of action, whether in contract or in tort, shall be limited to two times the value of the Contract.
3. The foregoing limitation of liability shall not apply to the payment of costs and damage awards referred to in the paragraph entitled "Patent, Copyright, and Trade Secret Protection", to claims covered by other specific provisions calling for Liquidated Damages or specifying a different limit of liability to claims for injury to persons or damage to property caused by Contractor's negligence or willful or wanton conduct or for claims for losses relating to the loss of, unauthorized access to, or unauthorized disclosure of data. This limitation of liability does not apply to the receipt of court costs or attorney's fees that might be awarded by a court in addition to damages after litigation based on this Contract.

3.7.15 Contractor's Liability for Injury to persons or Damage to Property

1. The Contractor shall be liable for damages arising out of personal injuries and/or damage to real or tangible personal property of NCTA, employees of NCTA, persons designated by NCTA for training, or person(s) other than Agents or employees of the Contractor, designated by NCTA for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the Deliverables either at the Contractor's site or at NCTA's place of business, provided that the injury or damage was caused by the fault or negligence of the Contractor.
2. The Contractor agrees to indemnify, defend and hold NCTA and the State and its Officers, employees, Agents and assigns harmless from any liability relating to personal injury or injury to real or personal property of any kind, accruing or resulting to any other person, firm or corporation furnishing or supplying Work, Services, materials or supplies in connection with the performance of this Contract, whether tangible or intangible, arising out of the ordinary negligence, willful or wanton negligence, or intentional acts of the Contractor, its officers, employees, agents, assigns or Subcontractors, in the performance of this Contract.
3. Contractor shall not be liable for damages arising out of or caused by an alteration or an attachment not made or installed by the Contractor.

3.7.16 General Indemnity

1. The Contractor shall hold and save NCTA, its officers, Agents and employees, harmless from liability of any kind, including all claims and losses, with the exception of consequential damages, as normally construed, accruing or resulting to any other person, firm or corporation furnishing or supplying Work, Services, materials or supplies in connection with the performance of this Contract. The foregoing indemnification and defense by the Contractor shall be conditioned upon the following:
 - a. NCTA shall give Contractor written Notice within thirty (30) Calendar Days after it has actual knowledge of any such claim(s) or action(s) filed; and

- b. The Contractor shall have the sole control of the defense of any such claim(s) or action(s) filed and of all negotiations relating to settlement or compromise thereof, provided, however, that NCTA shall have the option to participate at their own expense in the defense of such claim(s) or action(s) filed.

3.7.17 Changes

The Contract is awarded subject to the provision of the specified Services and the provision of other Deliverables as specified herein. Any changes made to the Contract proposed by the Contractor are hereby rejected unless accepted in writing by NCTA. NCTA shall not be responsible for Services or other Deliverables provided other than those specified in the Contract.

3.7.18 Time is of the Essence

Time is of the essence in the performance of this Contract. Contractor and NCTA will mutually develop and agree to a schedule of implementation, operation, etc. Contractor and Subcontractors will be required to adhere to the Approved schedule.

3.7.19 Independent Contractors

Contractor and its employees, officers and executives, and Subcontractors, if any, shall be independent Contractors and not employees or Agents of the State. This Contract shall not operate as a joint venture, partnership, trust, authority or any other business relationship.

3.7.20 Transportation

Transportation of Deliverables shall be FOB Destination unless otherwise specified in this RFP. Freight, handling, hazardous material charges, and distribution and installation charges shall be included in the total price of each item. Any additional charges shall not be honored for payment unless authorized in writing by NCTA. In cases where parties, other than the Contractor ship materials against this Contract, the shipper shall be instructed to show the purchase order number on all packages and shipping manifests to ensure proper identification and payment of invoices. A complete packing list shall accompany each shipment.

3.7.21 Notices

Any Notices required under this Contract shall be delivered to the Contractor or NCTA be delivered in writing by U.S. Mail, Commercial Courier or by hand, unless otherwise specified in the Solicitation Documents.

3.7.22 Titles and Headings

Titles and Headings in this Contract are used for convenience only and do not define, limit or proscribe the language of terms identified by such Titles and Headings.

3.7.23 Amendment

This Contract may not be amended orally or by performance. Any Amendment must be made in written form and signed by duly authorized representatives of NCTA and Contractor in conformance with Contract Requirements.

3.7.24 Taxes

The State of North Carolina is exempt from Federal excise taxes and no payment will be made for any personal property taxes levied on the Contractor or for any taxes levied on employee wages. Agencies of the State may have additional exemptions or exclusions for Federal or State taxes. Evidence of such additional exemptions or exclusions may be provided to Contractor by Agencies, as applicable, during the term of this Contract. Applicable State or local sales taxes shall be invoiced as a separate item and not included in the Price Proposal.

3.7.25 Governing Laws, Jurisdiction and Venue

1. This Contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina. The place of this Contract or purchase order, its situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or in tort, relating to its validity, construction, interpretation and enforcement shall be determined. Contractor agrees and submits, solely for matters relating to this Contract, to the jurisdiction of the courts of the State of North Carolina, and stipulates that Wake County shall be the proper venue for all matters.
2. Except to the extent the provisions of the Contract are clearly inconsistent therewith, the applicable provisions of the Uniform Commercial Code as modified and adopted in North Carolina shall govern this Contract. To the extent the Contract entails both the supply of "goods" and "Services," such shall be deemed "goods" within the meaning of the Uniform Commercial Code, except when deeming such Services as "goods" would result in a clearly unreasonable interpretation.

3.7.26 Force Majeure

Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations as a result of events beyond its reasonable control, including without limitation, fire, power failures, any act of war, hostile foreign action, nuclear explosion, riot, strikes or failures or refusals to perform under subcontracts, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God. Force Majeure events shall not otherwise limit NCTA's rights to enforce contracts.

3.7.27 Compliance with Laws

The Contractor shall comply with all laws, ordinances, codes, rules, regulations, and licensing Requirements that are applicable to the conduct of its business, including those of Federal, State, and local agencies having jurisdiction and/or authority.

3.7.28 Severability

In the event that a court of competent jurisdiction holds that a provision or requirement of this Contract violates any applicable law, each such provision or requirement shall be enforced only to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and Requirements of this Contract shall remain in full force and effect. All promises, requirement, terms, conditions, provisions, representations, guarantees and warranties contained herein shall survive the expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statute, including statutes of repose or limitation.

3.7.29 Federal Intellectual Property Bankruptcy Protection Act

The Parties agree that NCTA shall be entitled to all rights and benefits of the Federal Intellectual Property Bankruptcy Protection Act, Public Law 100-506, codified at 11 U.S.C. 365(n) and any amendments thereto.

3.7.30 Ineligible Contractors

As provided in G.S. § 147-86.59 and G.S. § 147-86.82, the following companies are ineligible to contract with the State of North Carolina or any political subdivision of the State: a) any company identified as engaging in investment activities in Iran, as determined by appearing on the Final Divestment List created by the State Treasurer pursuant to G.S. § 147-86.58, and b) any company identified as engaged in a boycott of Israel as determined by appearing on the List of restricted companies created by the State Treasurer pursuant to G.S. § 147-86.81. A contract or subcontract with the State or any of its political subdivisions by any company identified in a) or b) above shall be void ab initio.

3.7.31 Availability of Funds

Any and all payments to Contractor are expressly contingent upon and subject to the appropriation, allocation and availability of funds to NCTA for the purposes set forth in this Contract. If this Contract is funded in whole or in part by Federal funds, the Agency's performance and payment shall be subject to and contingent upon the continuing availability of said Federal funds for the purposes of the Contract. If the term of this Contract extends into fiscal years subsequent to that in which it is approved, such continuation of the Contract is expressly contingent upon the appropriation, allocation and availability of funds by the N.C. Legislature for the purposes set forth in the Contract. If funds to effect payment are not available, the Agency will provide written notification to Contractor. If the Contract is terminated under this paragraph, Contractor agrees to take back any affected Deliverables and Software not yet delivered under this Contract, terminate any Services supplied to the Agency under this Contract, and relieve NCTA of any further obligation thereof. The State shall remit payment for Deliverables and Services accepted prior to the date of the aforesaid Notice in conformance with the payment terms.

3.7.32 E-Verify

Pursuant to G.S. § 143-133.3, the State shall not enter into a contract unless the awarded Contractor and each of its subcontractors comply with the E-Verify Requirements of N.C. General Statutes, Chapter 64, Article 2. Contractors are directed to review the foregoing laws. Any awarded Contractor must submit a certification of compliance with E-Verify to the awarding agency, and on a periodic basis thereafter as may be required by the State.

3.7.33 Historically Underutilized Businesses

Pursuant to N.C.G.S. §§ 143-48 and 143-128.4 and any applicable Executive Order, the State of North Carolina and NCTA invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled. Additional information may be found at: <http://ncadmin.nc.gov/businesses/hub/>.

3.7.34 No Waiver

Notwithstanding any other language or provision in the Contract, nothing herein is intended nor shall be interpreted as a waiver of any right or remedy otherwise available to NCTA under applicable law. The waiver by NCTA of any right or remedy on any one occasion or instance shall not constitute or be interpreted as a waiver of that or any other right or remedy on any other occasion or instance.

3.7.35 Entire Agreement

1. This RFP and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral or written statements or agreements. This RFP, any addenda hereto, and the Contractor's Proposal Documents are incorporated herein by reference as though set forth verbatim.
2. All promises, Requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

3.7.36 Sovereign Immunity

Notwithstanding any other term or provision in the Contract, nothing herein is intended nor shall be interpreted as waiving any claim or defense based on the principle of sovereign immunity or other State or federal constitutional provision or principle that otherwise would be available to the NCTA under applicable law.