

RIDER NO. 1
TO THE SALES ORDER AGREEMENT TITLED GENERAL TERMS, AND THE ES&S HARDWARE
MAINTENANCE AND SOFTWARE LICENSE, MAINTENANCE AND SUPPORT SERVICES BY AND BETWEEN
ELECTION SYSTEMS & SOFTWARE, INC. AND WILLIAMSON COUNTY, TENNESSEE

THIS RIDER NO. 1 is made by and between WILLIAMSON COUNTY, TENNESSEE ("Customer"), a county governmental entity of the State of Tennessee, and ELECTION SYSTEMS & SOFTWARE, INC. ("ES&S") for the purpose of amending the Sales Order Agreement titled "General Terms" and the ES&S Hardware Maintenance and Software License, Maintenance, and Support Services provided by ES&S concerning the purchase of voting systems, software licenses, and related services as evidenced by the undersigned. In the event of any conflict between this Rider No. 1 and the Sales Order Agreement titled "General Terms" and the ES&S Hardware Maintenance and Software License, Maintenance, and Support Services, or any other document provided by or on behalf of ES&S, this Rider shall take precedence and supersedes the conflicted language. For the purposes of this Rider, the Sales Order Agreement titled "General Terms" and the ES&S Hardware Maintenance and Software License, Maintenance, and Support Services and this Rider shall collectively be referred to as "the Agreement".

Purpose: the purpose of this Rider is to incorporate Customer's required terms and clarify the limitations placed on local Tennessee governmental entities in agreeing to certain contractual terms. The parties agree that any terms or conditions that contradict the terms and conditions of this Rider shall be void and of no effect.

NOW, THEREFORE, NOTWITHSTANDING ANY TERMS, CLAUSE, OBLIGATION OR CONDITIONS provided in ES&S's Agreements to the contrary or in any other document provided by or on behalf of ES&S, and for good and valuable consideration, Customer and ES&S agree as follows:

1. Neither ES&S nor Customer shall subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal, or laying off of any individual due to race, creed, color, national origin, age, sex or which is in violation of applicable laws concerning the employment of individuals with disabilities.
2. ES&S shall not knowingly hire any unauthorized employees or fail to comply with record keeping requirements set forth in the Federal Immigration Reform and Control Act of 1986, Chapter 878 of the 2006 Tennessee Public Acts and all other applicable laws. Failure to comply with the requirements of these immigration laws or other applicable laws is considered a material breach of the Agreement.
3. It shall be a breach of ethical standards for any person on behalf of ES&S to offer, give, or agree to give any Customer employee or former employee, or for any Customer employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therefore. It shall be a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of ES&S, a subcontractor under a contract or a person associated therewith, as an inducement for the award of a subcontract or order.
4. Customer is prohibited from entering into any contract with a party who is ineligible under the Iran Divestment Act. ES&S certifies under penalty of perjury that to the best of its knowledge and belief, ES&S is not on the list created pursuant to Tenn. Code Ann. § 12-12-106 that includes those entities doing business with Iran.

5. Customer is subject to the Tennessee Open Records Act. This may require Customer to provide requested documents to members of the public or press including, but not limited to, a copy of the Agreement or any other document provided by or on behalf of ES&S. Compliance by Customer with the Open Records Act shall not be a breach of the Agreement. Should Customer receive a public records request that includes the provision of any document provided by ES&S that is marked confidential information of ES&S, Customer shall give ES&S up to five (5) calendar days written notice to submit to Customer any objection to the provision of the documents, including the basis for the objection. Upon receipt of ES&S's written objection, Customer shall determine, in its sole discretion, whether the objection provides an exception to the Tennessee Open Records Act. If Customer determines that there is no exception to the Tennessee Open Records Act, Customer will furnish only that portion of ES&S's information that is legally required.

6. Each party shall be responsible for its own actions and the actions of its employees, subcontractors, and agents, conducted pursuant to the Agreement. Customer shall not be liable for claims against it unless liability is imposed under the Tennessee Governmental Tort Liability Act. Each party shall be responsible for its attorney fees and related legal costs.

7. ES&S shall not use any image, logo, name, or photograph of Customer or its personnel in any manner as to state or imply that Customer endorses the services or products provided of ES&S. ES&S shall hold harmless and indemnify Customer for any and all claims, damages, costs, and attorney fees for injuries or damages arising, in part or in whole, from the negligent or intentional acts or omissions of ES&S in connection with the use of any print, photographs, video, or other media.

8. Except as set forth in this paragraph, any failure or delay by a party in the performance of the obligations under the Agreement arising from fire, flood, earthquake, elements of nature or acts of God, wars, riots, pandemic, civil disorders, rebellions, or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the party ("Force Majeure Event") shall not be a default under the Agreement or grounds for termination except to the extent that the non-performing party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing party through the use of alternative sources, workaround plans, or other means. The occurrence of any event affecting ES&S's representatives, suppliers, subcontractors, customers, or business is not a Force Majeure Event under the Agreement. The non-performing party must notify the other party of any delay caused by a Force Majeure Event that a Force Majeure Event has occurred and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in the non-performing party's performance longer than forty-eight (48) hours, the performing party may, upon notice to the non-performing party: (a) cease payment of any fees until the non-performing party resumes performance; or (b) immediately terminate the Agreement, in whole or in part, without further payment or obligation to perform. The non-performing party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the non-performing party continues to use diligent, good faith efforts to resume performance without delay.

9. Customer is an arm of the Tennessee government that is prohibited in its capacity to agree to indemnify or hold harmless another person, party, or entity. Any terms or conditions contained in the Agreement that require Customer to indemnify or hold harmless any party is effective only to the degree permissible by applicable law.

10. ES&S shall maintain documentation for all charges against Customer. The books, records, and documents of ES&S, insofar as they relate to the Agreement, services performed, or money received under this Agreement, shall be maintained for a period of three (3) full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice, by Customer or its duly appointed representatives. The books and records shall be maintained in accordance with generally accepted accounting principles.

11. ES&S certifies that it is not currently engaged in and will not for the duration of the Agreement engage in, a boycott of Israel as defined by Tenn. Code Ann. § 12-4-119.

12. Customer does not agree to any terms which limit its rights or opportunities to legal recourse in any way in a court of competent jurisdiction, including but not limited to, modification of the statute of limitations or binding arbitration. The parties may agree to nonbinding mediation.

13. ES&S represents and warrants that the Voting System Ballots and the Ballot Marketing Device and related necessary components shall comply in all aspects with specifications and requirements contained in Tenn. Code Ann. § 2-5-201, et. seq.

14. Should funding for the services provided under the Agreement be discontinued for failure of Customer's legislative body to appropriate the funds for the goods and services, Customer shall have the right to terminate the Agreement upon providing written notice to ES&S to be effective on the last day of the then current fiscal year. ES&S shall be paid for all unpaid goods and services provided or conducted by ES&S which are required to fulfill ES&S's obligations up to the time of termination. Termination by Customer for lack of funding shall not in any way be considered a breach of the Agreement by Customer and no penalties shall be assessed against Customer.

15. The representative signing this Rider below on behalf of each party represents and warrants it has the full power and authority to agree to all terms and obligations contained in this Rider and that the signatory signing this Rider has been duly authorized to do so on behalf of their respective party.

16. The individuals executing this Rider and the Agreement represent the individual has the full power and authority to agree to all terms and obligations contained in this Rider No. 1 executed on behalf of each party and that the signatory signing this Rider on behalf of each party has been duly authorized to do so.

IN WITNESS WHEREOF, the parties hereto have caused this Rider to be executed by their duly authorized representatives on this the 27 day of June, 2023.

ELECTION SYSTEMS & SOFTWARE, INC.:

Jared Plam
Signature
Jared Plam VP of Finance
Name and Title
Date: 6/27/2023

WILLIAMSON COUNTY, TENNESSEE:

Jonathan Duda
Jonathan Duda, Chairman
Rogers Anderson
Rogers Anderson, Williamson County Mayor
Chad Gray
Chad Gray, Administrator of Elections
Leslie Mitchell
Leslie Mitchell, Purchasing Director
R. Cook
Williamson County Attorney

Date: _____



11208 JOHN GALT BLVD
 OMAHA, NE 68137-2364
 (402) 593-0101

Sales Order Agreement

Sales Quotation #: S2216

1st Election Date: To be Agreed Upon by the Parties

Estimated Delivery Date: To be Agreed Upon by the Parties

Customer Contact, Title: Chad Gray - Administrator of Elections

Phone Number: 615-790-5711

Customer Name: Williamson County, Tennessee

Fax Number: N/A

Type of Sale: **NEW**
 Type of Equip: **NEW** **REFURBISHED**

Bill To:
Williamson County, Tennessee
Chad Gray - Administrator of Elections
405 Downs Blvd.
Franklin, TN 37064

Ship To:
Williamson County, Tennessee
Chad Gray - Administrator of Elections
405 Downs Blvd.
Franklin, TN 37064

Item	Description	Qty	Price	Total
1 DS200	DS200 Poll Place Scanner and Tabulator: Model DS200 Scanner with Internal Backup Battery, Plastic Ballot Box with Removable Carrying Case, Paper Roll, and One (1) Standard 4GB Memory Device - Equipment is On-Site	70	\$6,820.00	\$477,400.00
2 DS200	DS200 Poll Place Scanner and Tabulator: Model DS200 Scanner with Internal Backup Battery, Paper Roll, and One (1) Standard 4GB Memory Device	5	\$5,665.00	\$28,325.00
3 DS200	Tote Bin - Equipment is On-Site	70	\$395.00	\$27,650.00
4 DS200	Soft-Sided Nylon Case - Equipment is On-Site	5	\$145.00	\$725.00
5 DS200	Standard 4GB Memory Device (Additional) - Equipment is On-Site	100	\$115.00	\$11,500.00
6 ExpressVote BMD	ExpressVote Universal Voting System: ExpressVote BMD with Internal Backup Battery, ADA Keypad, Headphones, Power Supply with AC Cord, and One (1) Standard 4GB Memory Device - Equipment is On-Site	200	\$3,660.00	\$732,000.00
7 ExpressVote BMD	Soft-Sided Case - Equipment is On-Site	200	\$250.00	\$50,000.00
8 ExpressVote BMD	ExpressVote Printer	145	\$800.00	\$116,000.00
9 DS450	Model DS450 High-Throughput Scanner and Tabulator: Model DS450 Scanner with Steel Table, Start-up Kit, Dust Cover, Reports Printer, Audit Printer, Battery Backup, Two (2) USB Cables, and Two (2) Standard 8GB Memory Devices Equipment is On-Site	1	\$56,595.00	\$56,595.00
10 DS450	Standard 8GB Memory Device (Additional) - Equipment is On-Site	2	\$230.00	\$460.00
11 Software	Electionware Software - Reporting Only	1	\$9,845.00	\$9,845.00
12 Software	ExpressLink Software	1	\$4,475.00	\$4,475.00
13 Software	Media Burn Capability	1	\$11,175.00	\$11,175.00
14 DS200	Equipment Installation	70	On-Site and Installed	On-Site and Installed
15 ExpressVote BMD	Equipment Installation	200	On-Site and Installed	On-Site and Installed

16	DS450	Equipment Installation	1	On-Site and Installed	On-Site and Installed
17	Services	Project Management Day	2	\$1,975.00	\$3,950.00
18	Rental Credit & Discount	Credit from Previous Rental Fees Paid and Additional Discount	1	(\$510,505.00)	(\$510,505.00)
19	Shipping	Shipping & Handling	1	\$1,235.00	\$1,235.00
				Order Total	\$ 1,020,830.00

Freight Billable: yes no

Cam Wilson
Regional Sales Manager

[Signature] _____ 6.29.23
Customer Signature Date

V.P. of Finance Date

County Mayor _____
Title

Trade-In Equipment:	
ES&S will coordinate and pay for the pickup and transportation of the trade-in equipment from Customer's site on a date to be mutually agreed upon by the parties. ES&S is responsible for preparing, packaging and palletizing the trade-in equipment for shipment.	
Payment Terms	100% of Order Total will be invoiced upon Contract Execution. Invoices are due net 45 from receipt of invoice. Note 1: Any applicable state and local taxes are not included, and are the responsibility of the Customer.
Warranty Period (Years):	Commences upon Agreement Execution through May 31, 2024
Hardware Maintenance and Software License, Maintenance and Support Services (Post-Warranty Period)	
The terms, conditions, and pricing for the Hardware Maintenance and Software License, Maintenance and Support Services (Post-Warranty Period) are set forth in Exhibit A attached hereto.	
SEE GENERAL TERMS	

16	DS450	Equipment Installation	1	On-Site and Installed	On-Site and Installed
17	Services	Project Management Day	2	\$1,975.00	\$3,950.00
18	Rental Credit & Discount	Credit from Previous Rental Fees Paid and Additional Discount	1	(\$510,505.00)	(\$510,505.00)
19	Shipping	Shipping & Handling	1	\$1,235.00	\$1,235.00
				Order Total	\$ 1,020,830.00

Freight Billable: yes no

Cam Wilson
Regional Sales Manager


V.P. of Finance


Date


Customer Signature

Date

Title

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SEE GENERAL TERMS	



Election Systems & Software, LLC

11208 John Galt Blvd

Omaha, NE 68137

EVS 6.1.1.0 Reporting Standard Standalone System Purchase Order

June 14, 2023

Williamson County, Tennessee

405 Downs Blvd

Franklin, TN 37064

Quantity	Part #	Description	Price	Ext. Price
		EMS WORKSTATION		
1	96099	DELL OPTIPLEX XE4	\$1,622.00	\$1,622.00
		DELL OPTIPLEX XE4 (Desktop) <ul style="list-style-type: none"> • OptiPlex XE4 Small Form Factor XCTO • 12th Generation Intel Core i5-12500 (6 Cores/18MB/12T/3.0GHz to 4.6GHz/65W) • 16GB (2x8GB) DDR4 Non-ECC Memory • M.2 2230 512GB PCIe NVMe Class 35 Solid State Drive • Intel Integrated Graphics • DVD+/-RW Bezel 8x DVD+/-RW 9.5mm Optical Disk Drive • Dell KB216 Wired Keyboard English • Dell Optical Mouse - MS116 (Black) • Trusted Platform Module (Discrete TPM Enabled) • No Anti-Virus Software • Intel vPro Enterprise • ProSupport and Next Business Day Onsite Service Initial, 36 Month(s) • ProSupport and Next Business Day Onsite Service Extension, 24 Month(s) 		
1	96032	MICROSOFT WIN10 IOT ENT 2019 LTSC VALUE	\$109.00	\$109.00
1	96071	DELL P2222H 22" MONITOR 3 YR HDMI VGA DISPLAYPORT	\$359.00	\$359.00
1	96015	UNINTERRUPTIBLE POWER SUPPLY (UPS) BATTERY BACKUP 850VA (WORKSTATIONS)	\$180.00	\$180.00
1	96008	*SYMANTEC ENDPOINT PROTECTION 14.2	\$61.00	\$61.00
		MISCELLANEOUS COMPONENTS		
1	97-10049-0	EMS REPORT PRINTER - BROTHER HL-L6400 B/W DUPLEX LASER PRINTER	\$570.00	\$570.00
1	96016	LD 6' USB 2.0 A-B CABLE,T,IVOTR,RTAL 6' USB CABLE	\$8.00	\$8.00

SERVICES				
1	510210	STANDALONE EMS INSTALL	\$1,540.00	\$1,540.00
		<ul style="list-style-type: none"> • Staging of EMS workstations at ES&S Technical Services lab. <ul style="list-style-type: none"> o Includes the installation, configuration, and testing of EMS workstation. • Equipment is shipped to customer location. <ul style="list-style-type: none"> o Physical installation of workstation and related hardware (Printer, UPS, etc.) performed by customer. • EMS installation summary documentation provided to customer upon completion of installation. 		
		Order Total		\$4,449.00

Invoicing and Payment Terms:

100% of Order Total Due Thirty (30) Calendar Days after the later of (a) Equipment Delivery, or (b) Receipt of corresponding ES&S Invoice.

Note 1: Pricing of purchase order is valid for 30 days due to fluctuating pricing in 3rd party hardware and software. Agreements will need to be updated if not executed within 30 days.

Note 2: In no event shall Customer's payment obligations hereunder, or the due dates for such payments, be contingent or conditional upon Customer's receipt of federal and/or state funds.

Note 3: Any applicable (City & State) sales taxes have not been included in pricing and are the responsibility of the customer.

Note 4: Shipping and Handling is not included in the Order Total and will be invoiced separately .

Note 5: Network Cabling is not included.

Customer acknowledges that ES&S is purchasing the third party items set forth herein ("Third Party Items") for resale to Customer, and that the proprietary and intellectual property rights to the Third Party Items are owned by parties other than ES & S ("Third Parties"). Customer further acknowledges that except for the payment to ES&S for the Third Party Items, all of its rights and obligations with respect thereto flow from and to the Third Parties . ES&S shall provide Customer with copies of all documentation and warranties for the Third Party Items which are provided to ES&S.

Rogaw C. Henderson

6-29-2023

Customer Signature

Date

ce County Mayor

Title



Maintaining voter confidence. Enhancing the voter experience.

Williamson County, TN
Purchase Proposal Quote
Submitted by Election Systems & Software

Purchase Solution Includes:

Quantity	Item Description	Unit Price	Extended Price
Tabulation Hardware			
DS200 Poll Place Scanner and Tabulator:			
70	DS200 (Includes Internal Backup Battery, Plastic Ballot Box with Removable Carrying Case, Paper Roll and One (1) Standard 4GB Memory Device)	\$6,820.00	\$477,400.00
5	DS200 WITHOUT Ballot Box or Carrying Case (Includes Internal Backup Battery, Paper Roll and One (1) Standard 4GB Memory Device)	\$5,665.00	\$28,325.00
70	Tote Bin	\$395.00	\$27,650.00
5	Soft-Sided Nylon Case	\$145.00	\$725.00
100	Standard 4GB Memory Device (Additional)	\$115.00	\$11,500.00
ExpressVote Universal Voting System:			
200	ExpressVote BMD (Includes Internal Backup Battery, ADA Keypad, Headphones, Power Supply with AC Cord, and One (1) Standard 4GB Memory Device)	\$3,660.00	\$732,000.00
200	ExpressVote Soft-Sided Case	\$250.00	\$50,000.00
DS450 High-Throughput Scanner and Tabulator:			
1	DS450 (Includes Steel Table/Cart, Start-up Kit, Dust Cover, Reports Printer, Audit Printer, Battery Backup, Two (2) USB Cables, and Two (2) Standard 8GB Memory Devices)	\$56,595.00	\$56,595.00
2	Standard 8GB Memory Device (Additional)	\$230.00	\$460.00
Third-Party Products:			
1	Election Management System (EMS) Third-Party Hardware	\$4,449.00	\$4,449.00
Software			
1	Electionware Election Management Software - Reporting Only Base Package	\$9,845.00	\$9,845.00
1	Media Burn Capability	\$11,175.00	\$11,175.00
Other			
X	Tabulation Equipment Installation		Equipment Is On-Site and Installed
X	Shipping & Handling		Equipment Is On-Site
X	Hardware and Software Warranty through June 1, 2024		Included
X	Pickup and Recycling of Dominion Equipment		Included
X	Credit For Rental Fees Paid and Additional Discount		(\$510,505.00)
Total Purchase Solution			\$899,619.00
Payment Terms			
Amount due within 45 calendar days of Contract Execution:			\$899,619.00
Annual Post-Warranty License and Maintenance and Support Fees			
(Fees are Based Upon a 1-Year Customer Commitment to Subscribe to the Following Services)			
Annual Post-Warranty Hardware Maintenance and Support Fees:			
75	HMA DS200 - Extended Warranty with Biennial Maintenance	\$160.00	\$12,000.00
200	HMA ExpressVote BMD - Extended Warranty with Biennial Maintenance	\$105.00	\$21,000.00
1	HMA DS450 - Extended Warranty with Biennial Maintenance	\$2,085.00	\$2,085.00
Annual Post-Warranty Firmware License and Maintenance and Support Fees:			
75	Firmware License - DS200	\$95.00	\$7,125.00
200	Firmware License - ExpressVote	\$75.00	\$15,000.00
1	Firmware License - DS450	\$1,795.00	\$1,795.00
Annual Post-Warranty Software License and Maintenance and Support Fees:			
1	Electionware Election Management Software - Reporting Only Base Package	\$9,845.00	\$9,845.00
1	Media Burn Capability	\$5,000.00	\$5,000.00
Total Annual Post-Warranty License and Maintenance and Support Fees			\$73,850.00



Maintaining voter confidence. Enhancing the voter experience.

**Williamson County, TN
Purchase Proposal Quote
Submitted by Election Systems & Software**

Purchase Solution Includes:

Quantity	Item Description	Unit Price	Extended Price
Additional and Optional Items			
1	ExpressVote Printer (For Printing of ExpressVote Activation Cards)		\$800.00
1	ExpressLink Software	\$4,475.00 Annual License Fee	
1	Compact Printer with Firmware (For use with BOD Laptop or EMS Server)		\$665.00
1	Laptop Computer without Router		\$1,630.00

Note: Pricing for installation and shipping & handling is not included in the per unit pricing.

Footnotes:

1. Any applicable (City & State) sales taxes have not been included in pricing and are the responsibility of the customer.
2. Subject to state, municipal, jurisdictional, provincial or territory laws to the contrary, the above pricing information is confidential, proprietary and trade secret information of ES&S and is intended only for the use of the individual or entity to which the document is directed to. This information may not be disclosed or reproduced either publicly or to any other individual or entity without the prior written authorization of ES&S.



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**Williamson County, TN
Purchase Proposal Quote
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Purchase Solution Includes:

Quantity	Item Description	Unit Price	Extended Price
Tabulation Hardware - Currently On-Site			
DS200 Poll Place Scanner and Tabulator:			
70	DS200 (Includes Internal Backup Battery, Plastic Ballot Box with Removable Carrying Case, Paper Roll and One (1) Standard 4GB Memory Device)	\$6,820.00	\$477,400.00
5	DS200 WITHOUT Ballot Box or Carrying Case (Includes Internal Backup Battery, Paper Roll and One (1) Standard 4GB Memory Device)	\$5,665.00	\$28,325.00
70	Tote Bin	\$395.00	\$27,650.00
5	Soft-Sided Nylon Case	\$145.00	\$725.00
100	Standard 4GB Memory Device (Additional)	\$115.00	\$11,500.00
ExpressVote Universal Voting System:			
200	ExpressVote BMD (Includes Internal Backup Battery, ADA Keypad, Headphones, Power Supply with AC Cord, and One (1) Standard 4GB Memory Device)	\$3,660.00	\$732,000.00
200	ExpressVote Soft-Sided Case	\$250.00	\$50,000.00
DS450 High-Throughput Scanner and Tabulator:			
1	DS450 (Includes Steel Table/Cart, Start-up Kit, Dust Cover, Reports Printer, Audit Printer, Battery Backup, Two (2) USB Cables, and Two (2) Standard 8GB Memory Devices)	\$56,595.00	\$56,595.00
2	Standard 8GB Memory Device (Additional)	\$230.00	\$460.00
Third Party Products:			
1	EMS 3rd Party Hardware	\$4,449.00	\$4,449.00
Tabulation Hardware - To Ship			
145	ExpressVote Printer (For Printing of ExpressVote Activation Cards)	\$800.00	\$116,000.00
Software			
1	Electionware Election Management Software - Reporting Only Base Package	\$9,845.00	\$9,845.00
1	ExpressLink Software	\$4,475.00	\$4,475.00
1	Media Burn Capability	\$11,175.00	\$11,175.00
Other			
2	Implementation Services	\$1,975.00	\$3,950.00
X	Project Management		
X	Tabulation Equipment Installation		Equipment is On-Site and Installed
X	Shipping & Handling (ExpressVote Printers)		\$1,235.00
X	Hardware and Software Warranty through June 1, 2024		Included
X	Pickup and Recycling of Dominion Equipment		Included
X	Credit For Rental Fees Paid and Additional Discount		(\$510,505.00)
Total Purchase Solution			\$1,025,279.00
Payment Terms			
Amount due within forty-five (45) calendar days of Contract Execution:			\$1,025,279.00
Annual Post-Warranty License and Maintenance and Support Fees (Fees are Based Upon a 1-Year Customer Commitment to Subscribe to the Following Services)			
Annual Post-Warranty Hardware Maintenance and Support Fees:			
75	HMA DS200 - Extended Warranty with Biennial Maintenance	\$160.00	\$12,000.00
200	HMA ExpressVote BMD - Extended Warranty with Biennial Maintenance	\$105.00	\$21,000.00
1	HMA DS450 - Extended Warranty with Biennial Maintenance	\$2,085.00	\$2,085.00
Annual Post-Warranty Firmware License and Maintenance and Support Fees:			
75	Firmware License - DS200	\$95.00	\$7,125.00
200	Firmware License - ExpressVote	\$75.00	\$15,000.00
1	Firmware License - DS450	\$1,795.00	\$1,795.00



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Williamson County, TN
Purchase Proposal Quote
Submitted by Election Systems & Software

Purchase Solution Includes:

Quantity	Item Description	Unit Price	Extended Price
Annual Post-Warranty Software License and Maintenance and Support Fees:			
1	Electionware Election Management Software - Reporting Only Base Package	\$9,845.00	\$9,845.00
1	ExpressLink Software	\$4,475.00	\$4,475.00
1	Media Burn Capability	\$5,000.00	\$5,000.00
Total Annual Post-Warranty License and Maintenance and Support Fees			\$78,325.00

Footnotes:

1. Any applicable (City & State) sales taxes have not been included in pricing and are the responsibility of the customer.
2. Subject to state, municipal, jurisdictional, provincial or territory laws to the contrary, the above pricing information is confidential, proprietary and trade secret information of ES&S and is intended only for the use of the individual or entity to which the document is directed to. This information may not be disclosed or reproduced either publicly or to any other individual or entity without the prior written authorization of ES&S.

GENERAL TERMS

1. Definitions

All capitalized terms used, but not otherwise defined, in these Hardware Purchase and Software License Terms ("General Terms") or in an Exhibit shall have the following meanings:

- a. "Documentation" means any and all written or electronic documentation furnished or generally made available to Customer by ES&S relating to the ES&S Hardware and ES&S Software, including any operating instructions, user manuals or training materials.
- b. "ES&S Firmware" means ES&S' proprietary software which is installed on the ES&S Hardware.
- c. "ES&S Hardware Maintenance Services" and "ES&S Software License, Maintenance and Support Services" means those services described on Exhibit A.
- d. "ES&S Software" means the ES&S Software and ES&S Firmware as set forth on the front side of this agreement.
- e. "ES&S Hardware" means ES&S's proprietary vote tabulation hardware set forth on the front side of this Agreement.
- f. "Software" means ES&S Software and Third-Party software.
- g. "Third-Party Items" means hardware, equipment and software manufactured and developed by parties other than ES&S.

2. **Hardware Purchase and Software License Terms.** Subject to the terms and conditions of this Sales Order Agreement ("Agreement"), ES&S agrees to sell and/or license, and Customer agrees to purchase and/or license, the ES&S Hardware and ES&S Software described on the front side of this Agreement. The payment terms for the ES&S Hardware and ES&S Software are set forth on the front side of this Agreement. The consideration for ES&S' grant of the license during the Initial License Term for the ES&S Firmware is included in the cost of the ES&S Hardware.

a. **Hardware Purchase.** Subject to the terms and conditions of this Agreement, ES&S agrees to sell, and Customer agrees to purchase, the ES&S Hardware. Title to the ES&S Hardware shall pass to Customer when Customer has paid ES&S the total amount set forth on the front side of this Agreement for the ES&S Hardware.

b. **Grant of Licenses.** Subject to the terms and conditions of this Agreement, ES&S hereby grants to Customer nonexclusive, nontransferable licenses for its bona fide full time, part time or temporary employees to use the ES&S Software and the Documentation in the Jurisdiction while Customer is using the ES&S Hardware and timely pays the applicable annual ES&S Software License, Maintenance and Support Fees set forth on Schedule A1. The licenses allow such bona fide employees to use and copy the ES&S Software (in object code only) and the Documentation, in the course of operating the ES&S Hardware and solely for the purposes of defining and conducting elections and tabulating and reporting election results in the Jurisdiction.

3. **Prohibited Uses.** Customer shall not take any of the following actions with respect to the ES&S Software or the Documentation.

- a. Reverse engineer, decompile, disassemble, re-engineer or otherwise create, attempt to create, or permit, allow or assist others to create, the source code or the structural framework for part or all of the ES&S Software;
- b. Cause or permit any use, display, loan, publication, transfer of possession, sublicensing or other dissemination of the ES&S Software or Documentation, in whole or in part, to or by any third party without ES&S' prior written consent; or
- c. Cause or permit any change to be made to the ES&S Software without ES&S' prior written consent;
- d. Cause or permit any review, testing, examination, or audit of the ES&S Software without ES&S' prior written consent; or
- e. Allow a third party to cause or permit any copying, reproduction or printing of any output generated by the ES&S Software (except finished ballots by ballot printers selected by Customer) in which ES&S owns or claims any proprietary intellectual property rights (e.g., copyright, trademark, patent pending or patent), including, but not limited to, any ballot shells or ballot code stock.

4. **Term of Licenses.** The licenses granted in Section 2(b) shall commence upon the delivery of the ES&S Software described in Section 2(b) and shall continue through **May 31, 2024** (the "Initial License Term"). Upon expiration of the Initial License Term, the licenses shall automatically renew for an unlimited number of successive one-year periods (each a "License Renewal Term") upon the payment by Customer of the annual software license and software maintenance and support fee as set forth on the front side of this Agreement. The license terms for any License Renewal Term shall be set forth on Exhibit A. ES&S may terminate any of the licenses granted hereunder if Customer fails to pay the consideration due for, or breaches Sections 2(b), 3, or 9 with respect to, such licenses. Upon the termination any of the licenses granted in Section 2(b) for ES&S Software or upon Customer's discontinuance of the use of any ES&S Software, Customer shall immediately return such ES&S Software and the related Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy such ES&S Software and Documentation and certify in writing to ES&S that such destruction has occurred.

5. **Updates.** During the Initial License Term or any License Renewal Term for which Customer has paid the associated renewal fees, ES&S may provide new releases, upgrades, or maintenance patches to the ES&S Software, together with appropriate Documentation ("Updates"), on a schedule solely defined by ES&S. Customer is solely responsible for obtaining and purchasing any upgrades or Third-Party Items required to operate the Updates, as well as the cost of any replacements, retrofits or modifications to the ES&S Hardware which may be necessary in order to operate the Updates. All Updates shall be deemed to be ES&S Software for purposes of this Agreement upon delivery. Updates

to the ES&S Firmware will be incorporated by ES&S into a regularly scheduled preventative maintenance event at no additional charge to Customer. If Customer requests installation of an Update at a time other than a regularly scheduled preventative maintenance event, then Customer shall execute and deliver to ES&S a purchase order therefor and ES&S shall charge Customer accordingly for such installation. ES&S shall also charge Customer at its then-current rates to: (i) train Customer on Updates, if such training is requested by Customer and (ii) if applicable, provide maintenance and support on the ES&S Software that is required as a result of Customer's failure to timely or properly install an Update. Notwithstanding the foregoing, Customer shall pay ES&S to install all ES&S Tabulation Software Updates. If applicable, Customer shall be responsible for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee which is caused by Customer's failure to install the most recent Update provided to it by ES&S. ES&S represents to Customer that the Updates will comply with all applicable state law requirements at the time of delivery. Customer shall be responsible to ensure that it has installed and is using only certified versions of ES&S Software in accordance with applicable law. In the event that any Updates are required due to changes in state law, ES&S reserves the right to charge Customer for the following:

- (i) the total cost of any Third-Party Items that are required in order to operate the Updates;
- (ii) the total cost of any replacements, retrofits or modifications to the ES&S Hardware contracted for herein that may be developed and offered by ES&S in order for such ES&S Hardware to remain compliant with applicable laws and regulations; and
- (iii) Customer's pro-rata share of the costs of designing, developing and/or certification by applicable federal and state authorities of such state mandated Updates.

Customer's pro-rata share of the costs included under subsection (iii) above shall be determined at the time by dividing the number of registered voters in Customer's jurisdiction by the total number of registered voters in all counties in Customer's state to which ES&S has sold and/or ES&S Hardware and/or ES&S Software purchased and licensed by Customer under this Agreement. Customer shall pay ES&S the entire costs incurred for design, development and certification of any Update which is required due to a change in local law or is otherwise requested or required by Customer.

6. **Delivery; Risk of Loss.** The Estimated Delivery Dates and First Election Use (if any) set forth on the front side of this Agreement are estimates and may only be established or revised, as applicable, by the parties, in a written amendment to this Agreement, because of delays in executing this Agreement, changes requested by Customer, product availability and other events. ES&S will notify Customer of such revisions as soon as ES&S becomes aware of such revisions. Risk of loss for the ES&S Hardware and ES&S Software shall pass to Customer when such items are delivered to Customer's designated location. Upon transfer of risk of loss to Customer, Customer shall be responsible for obtaining and maintaining sufficient casualty insurance on the ES&S Hardware and ES&S Software and shall name ES&S as an additional insured thereunder and, at ES&S' request, shall deliver written evidence thereof to ES&S until all amounts payable to ES&S under this Agreement have been paid by Customer.

7. **Warranty.**

a. **ES&S Hardware/ES&S Software.** ES&S warrants that during the period commencing upon the delivery of the equipment and software through **May 31, 2024** (the "Warranty Period"), it will repair or replace any component of the ES&S Hardware or ES&S Software which, while under normal use and service: (i) fails to perform in accordance with its Documentation in all material respects, or (ii) is defective in material or workmanship. The Warranty Period will commence upon delivery. The Warranty shall not include the repair or replacement of any ES&S Hardware components that are consumed in the normal course of operating the ES&S Hardware, including, but not limited to, headphones and headphone protective covers, protective coatings, printer cartridges or ribbons, paper, batteries, drums, toners, fusers, transfer belts, removable media storage devices, seals, keys, power supplies/cords, PCMCIA, Smart, or CF cards or marking devices (collectively, the "Consumables"). ES&S may modify and make available additional Consumables as they may become available from time to time. The Warranty shall not include the repair or replacement of any ES&S Hardware due to cosmetic damages, including, but not limited to, screen cracks, scratches, dents and broken plastic or any defects resulting from normal wear and tear. ES&S has no obligation under this Agreement to assume the obligations under any existing or expired warranty for a Third-Party Item. Any repaired or replaced item of ES&S Hardware or ES&S Software shall be warranted only for the unexpired term of the Warranty Period. All replaced components of the ES&S Hardware or ES&S Software will become the property of ES&S. This warranty is effective provided that (I) Customer notifies ES&S within three (3) business days of the discovery of the failure of performance or defect and is otherwise in compliance with its obligations hereunder, (II) the ES&S Hardware or ES&S Software to be repaired or replaced has not been repaired, changed, modified or altered except as authorized or approved by ES&S, (III) the ES&S Hardware or ES&S Software to be repaired or replaced has been maintained or repaired by an individual other than an authorized representative of ES&S (IV) the ES&S Hardware or ES&S Software to be repaired or replaced has not been used, displayed, disseminated, transferred, loaned, disassembled, dismantled, modified, and/or tampered with by a third party without ES&S prior written consent (V) the ES&S Hardware or ES&S Software to be repaired or replaced is not damaged as a result of accident, theft, vandalism, neglect, abuse, liquid contact, use of adhesive materials on ballots, use which is not in accordance with the Documentation or causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders, epidemics, pandemics or outbreak of communicable disease, quarantines, national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, and (VI) Customer has installed and is using the most recent Update provided to it by ES&S. This warranty is void for any units of hardware which: (i) have not been stored or operated in a temperature range according to their specifications, (ii) have been severely handled so as to cause mechanical damage to the unit, or (iii) have been operated or handled in a manner inconsistent with reasonable treatment of an electronic product. Upon expiration of the Warranty Period Customer shall be entitled to receive Hardware Maintenance and Software Maintenance and Support Services, the terms of which are set forth on Exhibit A.

b. **Exclusive Remedies/Disclaimer.** IN THE EVENT OF A BREACH OF SUBSECTION 7(a), ES&S' OBLIGATIONS, AS DESCRIBED IN SUCH SUBSECTION, ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES. ES&S EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WHICH ARE NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. FURTHER, IN THE EVENT CUSTOMER DECLINES ES&S' INSTALLATION AND ACCEPTANCE TESTING SERVICES OR IN ANY WAY AT ANY TIME ALTERS, MODIFIES OR CHANGES ANY HARDWARE, SOFTWARE, THIRD-PARTY ITEMS AND/OR NETWORK (COLLECTIVELY "SYSTEM") CONFIGURATIONS WHICH HAVE BEEN PREVIOUSLY INSTALLED BY ES&S OR WHICH ARE OTHERWISE REQUIRED IN ACCORDANCE WITH THE CERTIFIED VOTING SYSTEM CONFIGURATION, ALL WARRANTIES OTHERWISE PROVIDED HEREUNDER WITH RESPECT TO THE SYSTEM PURCHASED, LEASED, RENTED

AND/OR LICENSED UNDER THIS AGREEMENT SHALL BE VOID AND OF NO FURTHER FORCE AND EFFECT.

8. **Limitation Of Liability.** Neither party shall be liable for any indirect, incidental, punitive, exemplary, special, or consequential damages of any kind whatsoever arising out of or relating to this Agreement. Neither party shall be liable for the other party's negligent or willful misconduct. ES&S' total liability to Customer arising out of or relating to this Agreement shall not exceed the aggregate amount to be paid to ES&S hereunder. By entering into this Agreement, Customer agrees to accept responsibility for (a) the selection of, use of and results obtained from any equipment, software or services not provided by ES&S and used with the ES&S Hardware or ES&S Software; or (b) user errors, voter errors or problems encountered by any individual in voting that are not otherwise a result of the failure of ES&S to perform. ES&S shall not be liable under this Agreement for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee that is caused by (y) Customer's failure to timely or properly install and use the most recent update provided to it by ES&S or (z) Customer's election not to receive, or to terminate, the Hardware Maintenance Services or the ES&S Software Maintenance and Support.

9. **Proprietary Rights.** Customer acknowledges and agrees as follows.

ES&S owns the ES&S Software, all Documentation provided by ES&S, the design and configuration of the ES&S Hardware and the format, layout, measurements, design, and all other technical information associated with the ballots to be used with the ES&S Hardware. Customer has the right to use the aforementioned items to the extent specified in this Agreement. ES&S also owns all patents, trademarks, copyrights, trade names and other proprietary or intellectual property in, or used in connection with, the aforementioned items. The aforementioned items also contain confidential and proprietary trade secrets of ES&S that are protected by law and are of substantial value to ES&S. Customer shall keep the ES&S Software and related Documentation free and clear of all claims, liens and encumbrances and shall maintain all copyright, trademark, patent or other intellectual or proprietary rights notices that are set forth on the ES&S Hardware, the ES&S Software, the Documentation, and ballots that are provided, and all permitted copies of the foregoing.

10. **Termination.** This Agreement may be terminated, in writing, at any time by either party if the other party breaches any material provision hereof and does not cure such breach within 30 days after it receives written notification thereof from the non-breaching party.

11. **Excusable Nonperformance.** Except for obligations to make payments hereunder, if either party is delayed or prevented from performing its obligations under this Agreement as a result of any cause beyond its reasonable control, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease, quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, the delay shall be excused during the continuance of, and to the extent of, such cause, and the period of performance shall be extended to the extent necessary to allow performance after the cause of delay has been removed. ES&S agrees to work with Customer, at Customer's request, to develop mutually agreeable alternatives in order to minimize the negative impact of any such delay.

12. **Notice.** Any notice or other communication required or permitted hereunder shall be in writing and will be deemed given when (a) delivered personally, (b) sent by confirmed email, (c) sent by commercial overnight courier (with written verification of receipt) or (d) sent by registered or certified mail, return receipt requested, postage prepaid, when the return receipt is received. All communications shall be sent to the attention of the persons listed on the signature page to this Agreement and at the addresses or email address set forth on such signature page unless other names or addresses are provided by either or both parties in accordance herewith.

13. **Disputes.**

a. **Payment of Undisputed Amounts.** In the event of a dispute between the parties regarding (1) a product or service for which payment has not yet been made to ES&S, (2) the amount due ES&S for any product or service, or (3) the due date of any payment, Customer shall nevertheless pay to ES&S when due all undisputed amounts. Such payment shall not constitute a waiver by Customer or ES&S of any of its rights and remedies against the other party.

b. **Remedies for Past Due Undisputed Payments.** If any undisputed payment to ES&S is past due more than 30 days, ES&S may suspend performance under this Agreement until such amount is paid. Any disputed or undisputed payment not paid by Customer to ES&S when due shall bear interest from the due date at a rate equal to the lesser of one and one-half percent per month or the maximum amount permitted by applicable law for each month or portion thereof during which it remains unpaid.

14. **Assignment.** Except in the case of a reorganization of the assets or operations of ES&S with one or more affiliates of ES&S or the sale, transfer or assignment of all or substantially all of the assets of ES&S or any business operations thereof to a successor who has asserted its intent to continue the applicable business of ES&S, neither party may assign or transfer this Agreement or assign, subcontract or delegate any of its rights, duties or obligations hereunder without the prior written consent of the other party hereto, such consent not to be unreasonably withheld or conditioned, nor unduly delayed.

15. **Compliance with Laws.** ES&S warrants to Customer that, at the time of delivery, the ES&S Hardware and ES&S Software sold and licensed under this Agreement will comply with all applicable requirements of federal and state election laws and regulations that are mandatory and effective as of the Effective Date and will have been certified by the appropriate state authorities for use in Customer's state. The ES&S Hardware and ES&S Tabulation Software, including all components will be provided to Customer with a hardened network in accordance with the guidelines of the United States Election Assistance Commission. In the event Customer fails to maintain the ES&S Software in the hardened network or allows any internal or external access to the hardened network, Customer agrees to indemnify and hold harmless ES&S from and against any and all claims, damages, losses, liens, obligations, liabilities, judgments, assessed damages, costs, expenses (including reasonable attorney's fees) and the like arising out of or related to the Customer's breach of its obligations hereunder.

16. **Voting System Reviews.** In the event that the Jurisdiction or the State require any future reviews or examinations ("Reviews") of current or previous versions of state-certified ES&S voting systems or components thereof that are not otherwise required as a result of any changes or modifications voluntarily made by ES&S to the ES&S Software and/or ES&S Hardware licensed and sold hereunder, Customer shall be responsible for

(i) Customer's pro-rata share of such Review costs.

(ii) Customer's pro-rata share of the costs of designing, developing, manufacturing and/or certification by applicable federal and state authorities of any mandated modifications to the ES&S Hardware and/or ES&S Software that may result from such Reviews; and

(iii) the total cost of any Third-Party Items that are required in order for the ES&S Hardware and/or ES&S Software to satisfy any new requirements resulting from such Reviews in order to remain certified;

Customer's pro-rata share of the costs included under subsections 16(ii) and 16(iii) above shall be determined at the time by dividing the number of registered voters in Customer's jurisdiction by the total number of registered voters in all counties in Customer's state to which ES&S has sold and/or licensed the ES&S Hardware and/or ES&S Software purchased and licensed by Customer under this Agreement.

17. **Customer Enhancements.** In the event that Customer requests any future enhancements of the ES&S Hardware and/or ES&S Software ("Enhancements"), such requests shall be submitted in writing to ES&S. ES&S will evaluate each of the Enhancements to determine if any of such Enhancements are technologically feasible, commercially reasonable and consistent with ES&S's security protocol and procedures. In the event that ES&S determines that any of such Enhancements meet the foregoing requirements, then ES&S shall prepare a scope of work which shall include an estimated timeline and the estimated costs for design, development, testing, certification and implementation of such Enhancements (the "SOW"). ES&S shall provide the SOW to Customer for review and written approval. After ES&S's receipt of written approval of the SOW by Customer, ES&S shall prepare a written change order for Customer's execution. ES&S shall solely own and retain any and all intellectual proprietary rights in any Enhancements developed and provided to Customer.

18. **Entire Agreement.** This Agreement, including all exhibits hereto, shall be binding upon and inure to the benefit of the parties and their respective representatives, successors, and assigns. This Agreement, including all Exhibits hereto, contains the entire agreement of the parties with respect to the subject matter hereof and shall supersede and replace any and all other prior or contemporaneous discussions, negotiations, agreements or understandings between the parties, whether written or oral, regarding the subject matter hereof. Any provision of any purchase order, form, or other agreement which conflicts with or is in addition to the provisions of this Agreement shall be of no force or effect. In the event of any conflict between a provision contained in an Exhibit to this Agreement and these General Terms, the provision contained in the Exhibit shall control. No waiver, amendment, or modification of any provision of this Agreement shall be effective unless in writing and signed by the party against whom such waiver, amendment or modification is sought to be enforced. No consent by either party to, or waiver of, a breach by either party shall constitute a consent to or waiver of any other different or subsequent breach by either party. This Agreement shall be governed by and construed in accordance with the laws of the State in which the Customer resides, without regard to its conflicts of laws principles. The parties agree that venue for any dispute or cause of action arising out of or related to this Agreement shall be in the state and federal courts of the United States located in the State in which the Customer resides. ES&S is providing equipment, software, and services to Customer as an independent contractor, and shall not be deemed to be a "state actor" for purposes of 42 U.S.C. § 1983. ES&S may engage subcontractors to provide certain of the equipment, software, or services, but shall remain fully responsible for such performance. The provisions of Sections 1-5, 7(b), 8-9, 12, 13(b), 14-16, and 18 of these General Terms shall survive any termination or expiration of this Agreement, to the extent applicable.

EXHIBIT A
ES&S HARDWARE MAINTENANCE AND
SOFTWARE LICENSE, MAINTENANCE AND SUPPORT SERVICES
(POST-WARRANTY PERIOD)

ARTICLE I
GENERAL

1. **Term; Termination.** This Exhibit A for ES&S Hardware Maintenance and Software License, Maintenance and Support Services shall be in effect for the coverage period as described in Schedule A1 (the "Initial Post-Warranty Term"). Upon expiration of the Initial Post-Warranty Term, this Exhibit A shall automatically renew for an unlimited number of successive **Two-Year Periods** (each a "Renewal Period") until this Exhibit A is terminated by the first to occur of (a) either party's written election not to renew, which shall be delivered to the other party at least thirty (30) days prior to the end of the Initial Post-Warranty Term or any Renewal Period, as applicable, (b) the date which is thirty (30) days after either party notifies the other that it has materially breached this Exhibit A, if the breaching party fails to cure such breach (except for a breach pursuant to subsection (e), which will require no notice), (c) the date which is thirty (30) days after ES&S notifies Customer that it is no longer able to procure replacement parts that may be needed in order to perform the ES&S Hardware Maintenance Services contemplated hereunder, (d) the date on which the ES&S Hardware or firmware installed thereon is no longer certified by federal and/or state authorities for use in Customer's jurisdiction, or (e) the date which is thirty (30) days after Customer fails to pay any amount due to ES&S under this Exhibit A. The termination of this Exhibit A shall not relieve Customer of its liability to pay any amounts due to ES&S hereunder and shall only entitle Customer to a prorated refund of any fees already paid to ES&S in the event that this is Exhibit A is terminated pursuant to subsection 1(c) or 1(d) above.

2. **Fees.** In consideration for ES&S' agreement to provide ES&S Hardware Maintenance and Software License, Maintenance and Support Services under this Exhibit A, Customer shall pay to ES&S the ES&S Hardware Maintenance and Software License, Maintenance and Support Fees set forth on Schedule A1 for the Initial Post-Warranty Term. The Hardware Maintenance and Software License, Maintenance and Support Fees for the Initial Post-Warranty Term are due as set forth on Schedule A1. ES&S may increase the Hardware Maintenance and Software License, Maintenance and Support Fees for a Renewal Period by not more than 10% of the amount of the most recent Fees paid by Customer. All fees for any Renewal Period shall be due and payable no later than thirty (30) days prior to the beginning of such Renewal Period. The Software License, Maintenance and Support Fee shall be comprised of (i) a fee for the Software License, Maintenance and Support provided for the ES&S Firmware, and (ii) a fee for the Software License, Maintenance and Support provided for all other ES&S Software, and shall be in addition to any fees or charges separately referred to in any Section of this Exhibit A. If Customer elects to receive Software License, Maintenance and Support for an Add-On or New Product during the Initial Post-Warranty Term or any Renewal Period thereof, ES&S will charge an incremental Software License, Maintenance and Support Fee for such services.

ARTICLE II
HARDWARE

1. **Maintenance Services.** The ES&S Hardware Maintenance Services to be provided to Customer under this Agreement for the ES&S Hardware set forth on Schedule A1 (the "Products") shall be subject to the following terms and conditions:

a. **Routine Maintenance Services.** An ES&S Representative shall provide such services as may be necessary to keep the Products working in accordance with their Documentation, normal wear and tear excepted ("Normal Working Condition"). The services provided by ES&S pursuant to this Subsection 1(a) are referred to herein as "Routine Maintenance Services". Routine Maintenance Services shall be provided once each **Twenty-Four (24) Months** during the Initial Post-Warranty Term or any Renewal Period thereof.

Generally, Routine Maintenance Services shall include cleaning, lubrication, diagnostic check, and calibration services. The Routine Maintenance Services shall not include the repair or replacement of any ES&S Hardware components that are consumed in the normal course of operating the ES&S Hardware, including, but not limited to, headphones and headphone protective covers, printer cartridges or ribbons, paper, batteries, drums, toners, fusers, transfer belts, removable media storage devices, seals, keys, power supplies/cords, PCMCIA, Smart, or CF cards or marking devices (collectively, the "Consumables"). ES&S may modify and make available additional Consumables as they may become available from time to time. Customer may request that Routine Maintenance Services be performed more than once during the Initial Post-Warranty Term or any Renewal Period. Any such request shall be made at least sixty (60) days before the Routine Maintenance Services are desired. The per-unit fee for such additional Routine Maintenance Services is set forth on Schedule A1 and shall be due within thirty (30) days after invoice date. ES&S will schedule the Routine Maintenance Services with Customer. The Routine Maintenance Services will be provided at Customer's Designated Location. Customer's "Designated Location" shall mean Customer's owned or leased facility at which Customer desires ES&S to perform the ES&S Hardware Maintenance Services.

b. **Repair Services.**

i. **Defects Under Normal Use and Service.** If a defect or malfunction occurs in any Product while it is under normal use and service, Customer shall promptly notify ES&S, and ES&S shall use reasonable efforts to restore the item to Normal Working Condition as soon as practicable. The services provided by ES&S pursuant to this Subsection 1(b)(i) are referred to herein as "Repair Services". ES&S will perform Repair Services in conjunction with a Routine Maintenance Service event at the Customer's Designated Location.

ii. **Defects Due to Customer Actions or Omissions.** If a defect or malfunction occurs in any Product as a result of (1) repairs, changes, modifications or alterations not authorized or approved by ES&S, (2) use, modification, dismantling, disassembly, or transfer to third party without ES&S's prior written consent, (3) accident, theft, vandalism, neglect, abuse, liquid contact, use of adhesive materials on ballots or use that is not in accordance with instructions or specifications furnished by ES&S or (4) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, rodent infestation, or if Customer does not notify ES&S within 72 hours after it knows of the defect or malfunction, Customer shall pay ES&S for the Repair Services at ES&S' then-current rates, as well as for the cost of all parts used in connection with such Repair Services.

iii. **Timing.** The date(s) on which any Repair Services shall be provided shall be mutually agreed upon by ES&S and Customer. If Customer requires ES&S to provide "emergency" Repair Services (which shall be defined as Repair Services that are provided by ES&S within 48 hours after Customer notifies ES&S of the need therefore), and such emergency Repair Services are not needed as a result of an action, error or omission by ES&S, Customer shall pay a surcharge, as set forth on Schedule A1.

iv. **Loaner Unit.** At Customer's request and if such product is available, ES&S shall use reasonable efforts to promptly make available to Customer a product that is the same as, or substantially similar to, the Product for which Repair Services are being performed (a "Loaner Unit"). If the Repair Services are being performed

pursuant to Subsection 1(b)(ii) above, Customer shall pay ES&S for the use of the Loaner Unit at ES&S' then-current rates including the cost of shipping.

c. **Exclusions.** ES&S has no obligation under this Agreement to (i) assume the obligations under any existing or expired warranty for a Third Party Item; (ii) repair or replace Product components that are consumed in the normal course of operating the Product, including, but not limited to, headphones and headphone protective covers, printer cartridges or ribbons, paper, batteries, drums, toners, fusers, transfer belts, removable media storage devices, seals, keys, power supplies/cords, PCMCIA, Smart, or CF cards or marking devices (collectively, the "Consumables"), or (iii) repair any Product from which the serial number has been removed or altered. In addition, ES&S may, at any time in its discretion, determine that any Product is no longer fit for ES&S Hardware Maintenance Services because it is in such poor condition that it cannot practically be restored to Normal Working Condition, or cannot be restored to Normal Working Condition at an expense that is less than the then-current value of the Product. If such a determination is made, ES&S shall no longer be required to provide ES&S Hardware Maintenance Services for such Product. ES&S shall also refund to Customer an amount equal to (1) that portion of the most recent fee paid for ES&S Hardware Maintenance Services that is attributable to such Product, multiplied by (2) a fraction, the numerator of which is the remaining number of days within the Term for which such fee was paid and the denominator of which is the total number of days within the Term.

d. **Sole Provider; Access.** Customer shall not permit any individual other than an ES&S Representative to provide maintenance or repairs with respect to the Products for so long as the Initial Post-Warranty Term or any Renewal Period is in effect. Customer shall provide ES&S Representatives with all information necessary to enable them to provide ES&S Hardware Maintenance Services. Customer shall likewise provide full access to the Products and adequate working space for all ES&S Hardware Maintenance Services performed at its Designated Location, including sufficient heat, lights, ventilation, electric current and outlets.

e. **Environmental Conditions.** Products should be stored in a clean, dry and secure environment. During the storage and operation of the Products, the temperature and moisture ranges should be maintained in accordance with the Products' Documentation.

f. **Reinstatement of ES&S Hardware Maintenance Services; Inspection.** If the Initial Post-Warranty Term or any Renewal Period thereof expires without being renewed, Customer may thereafter resume receiving ES&S Hardware Maintenance Services upon (a) notification to ES&S and (b) the granting to ES&S of access to the Products. ES&S requires Customer to allow it to inspect such Products before it provides any ES&S Hardware Maintenance Services. The purpose of such inspection shall be to determine whether or not the Products are in Normal Working Condition. The cost of such inspection will be at ES&S' then current rates and shall be due from Customer within thirty (30) days of its receipt of ES&S' invoice therefore. If any of the Products is not in Normal Working Condition, ES&S, at the option of Customer, (i) shall provide such repairs and replacements as it deems reasonable and necessary to restore such item to Normal Working Condition, at Customer's expense with respect to the cost of any labor (charged at ES&S' then current rates) and parts used in such repairs or replacements, or (ii) shall not provide any ES&S Hardware Maintenance Services with respect to such Product(s).

ARTICLE III

SOFTWARE LICENSE, MAINTENANCE AND SUPPORT SERVICES

1. **License and Services Provided.** ES&S shall provide license, maintenance and support services ("Software License, Maintenance and Support") for the ES&S Software, to allow Customer to continue to license and use the software in accordance with the license terms set forth in Sections 2-4 of the General Terms as well as to enable it to perform in accordance with its Documentation in all material respects, and to cure any defect in material or workmanship. The specific Software License,

Maintenance and Support services provided by ES&S and each party's obligations with respect to such services are set forth on Schedule A1.

2. **Updates.** During the Initial Post-Warranty Term and any Renewal Period thereof, ES&S may continue to provide Updates in accordance with the terms of Section 4 of the General Terms. Unless otherwise agreed to by the parties, and subject to Customer's prior execution of a purchase order therefor, ES&S shall install ES&S Firmware Updates in accordance with Section 4 of the General Terms. Updates to the ES&S Firmware will be incorporated by ES&S into a regularly scheduled preventative maintenance event at no additional charge to Customer. If Customer requests installation of an Update at a time other than a regularly scheduled preventative maintenance event, then Customer shall execute and deliver to ES&S a purchase order therefore and ES&S shall charge Customer accordingly for such installation. ES&S shall also charge Customer at its then-current rates to; (i) train Customer on Updates, if such training is requested by Customer and (ii) if applicable, provide maintenance and support on the ES&S Software that is required as a result of Customer's failure to timely or properly install an Update. Notwithstanding the foregoing, Customer shall pay ES&S to install all ES&S Software Updates.

3. **Conditions.** ES&S shall not provide Software License, Maintenance and Support for any item of ES&S Software if such item requires such services as a result of (a) repairs, changes, modifications or alterations not authorized or approved by ES&S, (b) use, modification, dismantling, or transfer to third party without ES&S's prior written consent, (c) accident, theft, vandalism, neglect, abuse, liquid contact or use that is not in accordance with the Documentation, (d) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, (e) Customer's failure to timely and properly install and use the most recent update provided to it by ES&S, or (f) Customer's failure to notify ES&S within three (3) business days after Customer knows of the need for such services. Any such Software License, Maintenance and Support shall be provided at the fees to be agreed upon by the parties if and when the need for such Software License, Maintenance and Support arises. Replacement versions of Software and/or Third-Party Items or any services required in order to replace the same as a result of items set forth in this Section 3 or as a result of Customer's actions or inactions shall be billable to Customer at ES&S' then current rates.

4. **Proprietary Rights.** ES&S shall own the entire right, title and interest in and to all corrections, programs, information and work product conceived, created or developed, alone or with Customer or others, as a result of or related to the performance of this Exhibit A, including all proprietary rights therein or based thereon. Subject to the payment of all Software License, Maintenance and Support Fees, ES&S hereby grants to Customer a non-exclusive license to use that portion of such corrections, programs, information, and work product that ES&S actually delivers to Customer pursuant to this Exhibit A. All licensed items shall be deemed to be ES&S Software for purposes of this Exhibit A. Except and to the extent expressly provided herein, ES&S does not grant to Customer any right, license, or other proprietary right, express or implied, in or to any corrections, programs, information, or work product covered by this Exhibit A.

5. **Reinstatement of Software License, Maintenance and Support.** If the Initial Post-Warranty Term or any Renewal Period thereof expires without being renewed, Customer may thereafter receive a Software License and resume receiving Software Maintenance and Support upon (a) notification to ES&S, (b) payment of all fees, which would have been due to ES&S had the Initial Post-Warranty Term or any Renewal Period not expired, and (c) the granting to ES&S of access to the ES&S Software, so that ES&S may analyze it and perform such maintenance as may be necessary before resuming the Software License, Maintenance and Support services.

Schedule A1
Pricing Summary

<u>Summary:</u>		
Description	Refer To	Amount
ES&S Hardware Maintenance Fees	ES&S Hardware Maintenance Description and Fees Below	\$70,170.00
ES&S Software License, Maintenance and Support Fees	ES&S Software License, Maintenance and Support Description and Fees Below	\$38,640.00
ES&S Firmware License, Maintenance and Support Fees	ES&S Firmware License, Maintenance and Support Description and Fees Below	\$47,840.00
Total Maintenance Fees for the Initial Post-Warranty Term:		\$156,650.00
<u>Payment Terms:</u>		
ES&S shall Invoice Customer annually for each year of the Initial Post-Warranty Term.		
Payment is due before the start of each period within the Initial Post-Warranty Term.		
<u>Terms & Conditions:</u>		
Note 1: Any applicable state and local taxes are not included and are the responsibility of Customer.		

ES&S HARDWARE MAINTENANCE DESCRIPTION AND FEES

Initial Post-Warranty Term: Expiration of the Warranty Period through the **second** anniversary thereof

Qty	Description	Coverage Period	Annual Maintenance Fee Per Unit	Maintenance Fee In Total
75	Model DS200 Scanner	Year 1	\$160.00	\$12,000.00
200	ExpressVote BMD	Year 1	\$105.00	\$21,000.00
1	Model DS450 Scanner	Year 1	\$2,085.00	\$2,085.00
Total Maintenance Fees for Year 1				\$35,085.00
75	Model DS200 Scanner	Year 2	\$160.00	\$12,000.00
200	ExpressVote BMD	Year 2	\$105.00	\$21,000.00
1	Model DS450 Scanner	Year 2	\$2,085.00	\$2,085.00
Total Maintenance Fees for Year 2				\$35,085.00
Total Hardware Maintenance Fees for the Initial Post-Warranty Term				\$70,170.00

Note 1: The Per-Unit Fees if Customer requests more than one Routine Maintenance visit in a 24-month period shall be 75% of the then current maintenance fee per unit.

Note 2: Surcharge for Emergency Repair Services shall be the daily maintenance service rate in effect at the time such service is requested.

Note 3: Customer's Designated Location: Williamson County, Tennessee

Note 4: The Per Unit Surcharge for performance of Routine Maintenance visit at more than one Customer Designated Location shall be \$25.00 per unit for all units located at second or more locations.

ES&S Hardware Maintenance Services Provided by ES&S Under this Schedule A1

1. Telephone Support.
2. Issue Resolution.
3. Technical Bulletins will be available through Customer's ES&S Web-based portal.
4. Routine Maintenance Services.
 - Onsite scheduled maintenance inspection per Article II, Section 1(a). The Inspection includes:
 - Service performed by an ES&S trained and certified technician.
 - Performance of factory approved diagnostics on the unit, identifying and making adjustments where necessary as indicated by the testing.

- Replacement of worn or defective parts with new or remanufactured federally and state certified parts.
- Conducting a final test to verify that the unit is working according to manufacturer's specifications.
- Use of a checklist tailored for each piece of ES&S Tabulation Hardware.

5. Repair Services.

- Customer will receive coverage for interim repair calls.
 - Interim repair calls may be provided during a scheduled Routine Maintenance Services event or scheduled in conjunction with other service work being performed in close proximity to Customer's location if such repairs are not election critical.
 - A Product may be sent to ES&S' Depot location for repairs at a time to be mutually agreed upon by ES&S and Customer.

6. Priority Services.

- Customer has access to the ES&S Help Desk for assistance.
- The customer receives priority on service calls.
- The customer receives priority on response time.
- The customer receives priority on certified ES&S parts inventory.

Note: Except for those ES&S Hardware Maintenance Services specifically set forth herein, ES&S is under no obligation and shall not provide other ES&S Hardware Maintenance Services to the Customer unless previously agreed upon in writing by the parties.

**ES&S SOFTWARE LICENSE, MAINTENANCE AND SUPPORT DESCRIPTION AND FEES
SOFTWARE**

Initial Post-Warranty Term: Expiration of the Warranty Period through the second anniversary thereof

Listed below is the Software and Fees for which Software License, Maintenance and Support will be provided:

Qty	Description	Coverage Period	Software License, Maintenance and Support Fee In Total
1	ElectionWare Software – Reporting Only	Year 1	\$9,845.00
1	ExpressLink Software	Year 1	\$4,475.00
1	Media Burn Capability	Year 1	\$5,000.00
Total License, Maintenance and Support Fees for Year 1			\$19,320.00
1	ElectionWare Software – Reporting Only	Year 2	\$9,845.00
1	ExpressLink Software	Year 2	\$4,475.00
1	Media Burn Capability	Year 2	\$5,000.00
Total License, Maintenance and Support Fees for Year 2			\$19,320.00
Total Software License, Maintenance and Support Fees for the Initial Post-Warranty Term			\$38,640.00

**ES&S SOFTWARE LICENSE, MAINTENANCE AND SUPPORT DESCRIPTION AND FEES
FIRMWARE**

Initial Post-Warranty Term: Expiration of the Warranty Period through the second anniversary thereof

Listed below are the Hardware Products and Fees for which Firmware License, Maintenance and Support will be provided:

Qty	Description	Coverage Period	Annual Firmware License, Maintenance and Support Fee Per Unit	Firmware License, Maintenance and Support Fee In Total
75	Model DS200 Scanner	Year 1	\$95.00	\$7,125.00
200	ExpressVote BMD	Year 1	\$75.00	\$15,000.00
1	Model DS450 Scanner	Year 1	\$1,795.00	\$1,795.00
Total License, Maintenance and Support Fees for Year 1				\$23,920.00
75	Model DS200 Scanner	Year 2	\$95.00	\$7,125.00
200	ExpressVote BMD	Year 2	\$75.00	\$15,000.00
1	Model DS450 Scanner	Year 2	\$1,795.00	\$1,795.00

Qty	Description	Coverage Period	Annual Firmware License, Maintenance and Support Fee Per Unit	Firmware License, Maintenance and Support Fee In Total
	Total License, Maintenance and Support Fees for Year 2			\$23,920.00
	Total Firmware License, Maintenance and Support Fees for the Initial Post-Warranty Term			\$47,840.00

Software License, Maintenance and Support Services Provided by ES&S under the Agreement

1. Telephone Support.
2. Issue Resolution.
3. Technical Bulletins will be available through Customer's ES&S Web-based portal.

Note: Except for those Software License, Maintenance and Support services specifically set forth herein, ES&S is under no obligation and shall not provide other Software License, Maintenance and Support services to the Customer unless previously agreed upon by the parties.

Software License, Maintenance and Support and ES&S Hardware Maintenance and Support Services – Customer Responsibilities

1. Customer shall have completed a full software training session for each product selected.
 - Customer shall have completed training at a proficiency level to successfully use the hardware (firmware) and software products.
 - Customer shall have the ability to install hardware firmware and make changes to date and time settings.
 - Customer shall have the ability to change accessible consumable items on hardware. Any other changes made by the customer must be pre-approved in writing by ES&S.
2. Customer shall have reviewed a complete set of User Manuals.
3. Customer shall be responsible for the installation and integration of any third-party hardware or software application, or system purchased by the Customer, unless otherwise agreed upon, in writing, by the parties.
4. Customer shall be responsible for data extraction from Customer's voter registration system.
5. Customer shall be responsible for implementation of any security protocols physical, network or otherwise which are necessary for the proper operation of the ES&S Hardware and ES&S Software.
6. Customer shall be responsible for the acceptance of the ES&S Hardware and Software, unless otherwise agreed upon, in writing, by the parties.
7. Customer shall be responsible for the design, layout, set up, administration, maintenance, or connectivity of the Customer's network.

8. Customer shall be responsible for the resolution of any errors associated with the Customer's network or other hardware and software not purchased or recommended by ES&S and not otherwise identified in the User Guides as part of ES&S' Hardware and Software.
9. Customer shall be responsible for all costs associated with diagnosing ballot printing problems resulting from the use of non-ES&S Ballot Partner Printers ballots.
10. Customer shall be responsible for the payment of additional or replacement Software CDs or DVDs requested by Customer. The price for such additional or replacement Software CDs or DVDs shall be at ES&S' then current rates.