

**ATTACHMENT A**

**CONTRACT**

**FOR**

**KETS Infrastructure as a Service (IaaS)**

**BETWEEN**

**THE COMMONWEALTH OF KENTUCKY**

**Finance and Administration Cabinet  
On Behalf Of  
Kentucky Department of Education (KDE)**

**AND**

**Volta, Inc.**

**MA 758 2100000527**

**VENDOR CONTACT INFORMATION:**

**Miles Cox  
208 Steele Street  
Frankfort, KY 40601  
859-296-5780 x121  
hello@voltainc.com**

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This Master Agreement (“Contract”, “Award” or “Agreement”) is entered into, by and between the **Commonwealth of Kentucky, Kentucky Department of Education** (“the Commonwealth” or “Customer” or “KDE”) and **Volta, Inc.** (“Contractor” or “Vendor” or “Volta”) as the Prime Vendor.

The Commonwealth and Contractor agree to the following:

**I. Scope of Contract**

This Contract will provide enterprise server infrastructure as a service to all KY Public School Districts, KY School for the Blind (KSB), KY School for the Deaf (KSD) and the KY Department of Education (KDE); 180 sites.

Volta shall offer a Infrastructure as a Service business model to deliver server hardware that is Volta-owned, installed, configured, maintained, updated, and supported as an Operating Expense (OPEX). For a fixed device/resource fee, Volta will be responsible

for the equipment provided under this service to include the bare metal and host operating system. Volta shall perform all maintenance and onsite repair/replacement of the bare metal hardware and shall update firmware/microcode for hardware components based upon OEM releases, testing, and host operating system and virtual machine (VM) compatibility. Volta shall perform all necessary upgrades/updates to the host operating system based upon new software releases, testing, and VM compatibility.

Volta shall locate all infrastructure provided under this service at the public-school district, KSB, KSD, KDE and test site locations.

Volta will be utilizing Hyper-V as the hardware virtualization platform.

## II. Negotiated Items

- The Commonwealth and Volta will finalize the Service Level Agreement (SLA) after contract award.

## III. Terms and Conditions

### SECTION 30 – COMMONWEALTH OFFICE OF TECHNOLOGY (COT) REQUIREMENTS

#### 30.1 Commonwealth Information Technology Policies and Standards

- A. The vendor and any subcontractors shall be required to adhere to applicable Commonwealth policies and standards.
- B. The Commonwealth posts changes to COT Standards and Policies on its [technology.ky.gov](http://technology.ky.gov) website. Vendors and subcontractors shall ensure their solution(s) comply with all posted changes. Vendors or subcontractors that cannot comply with changes must, within thirty (30) days of the posted change, request written relief with the justification for such relief. The Commonwealth may 1) deny the request, 2) approve an exception to the policy / standard, or 3) consider scope changes to the contract to accommodate required changes. Vendors or subcontractors that do not provide the response within the thirty (30) day period shall be required to comply within ninety (90) days of the change.

#### 30.2 Compliance with Kentucky Information Technology Standards (KITS)

- A. The Kentucky Information Technology Standards (KITS) reflect a set of principles for information, technology, applications, and organization. These standards provide guidelines, policies, directional statements and sets of standards for information technology. It defines, for the Commonwealth, functional and information needs so that technology choices can be made based on business objectives and service delivery. The vendor shall stay knowledgeable and shall abide by these standards for all related work. <http://technology.ky.gov/Governance/Pages/KITS.aspx>

B. The vendor and any subcontractors shall be required to submit a technology roadmap for any offered solution. Additional roadmaps will be submitted upon request of the Commonwealth. The Roadmap shall include, but is not limited to, planned, scheduled and projected product lifecycle dates and historical release/patch or maintenance dates for the technology. In addition, any guidance on projected release/revision/patch/maintenance schedules would be preferred.

**30.3 Compliance with Commonwealth Security Standards**

The software deployment and all vendor services shall abide by privacy and security standards as outlined in the Commonwealth's Enterprise Information Technology Policies.

Enterprise Security Policies

<http://technology.ky.gov/ciso/Pages/InformationSecurityPolicies,StandardsandProcedures.aspx>

**Enterprise IT Policies**

<http://technology.ky.gov/policy/pages/policies.aspx>

**Finance and Administration Cabinet Commonwealth Office of Technology  
Enterprise IT Policies**

<http://finance.ky.gov/services/policies/Pages/default.aspx>

**30.4 Compliance with Industry Accepted Reporting Standards Based on Trust Service Principles and Criteria**

The vendor must employ comprehensive risk and threat management controls based on defined industry standards for service organizations such as AICPA TSP section 100, Trust Services Principles and Criteria. The vendor must annually assert compliance and engage a third party to examine such assertions and controls to provide a Report, such as AT101 SOC 2 type 2, on Controls at a Service Organization Relevant to Security, Availability, Processing Integrity, Confidentiality, and Privacy, which contains an opinion on whether the operating controls effectively support the assertions. All such reports, including publicly available reports (i.e. AT 101 SOC 3) shall be made available to the Commonwealth for review.

**30.5 System Vulnerability and Security Assessments**

The Commonwealth reserves the right to conduct, in collaboration with the vendor, non-invasive vulnerability and security assessments of the software and infrastructure used to provide services prior to implementation and periodically thereafter. Upon completion of these assessments, the Commonwealth will communicate any findings to the vendor for action. Any cost relating to the alleviation of the findings will be the responsibility of the vendor. Mitigations will be subject to re-evaluation after completion. In cases where direct mitigation cannot be achieved, the vendor shall communicate this and work closely with the Commonwealth to identify acceptable compensating controls that will reduce risk to an acceptable and agreed upon level. An accredited third party source may

be selected by the vendor to address findings, provided they will acknowledge all cost and provide valid documentation of mitigation strategies in an agreed upon timeframe.

### 30.6 **Privacy Assessments**

The Commonwealth reserves the right to conduct Privacy assessments of the collection, use, maintenance and sharing of Commonwealth data by any vendor services, software, and infrastructure used to provide services prior to implementation and periodically thereafter. Upon completion of this assessment, the Commonwealth will communicate any findings to the vendor for action. Any cost relating to the alleviation of the findings will be the responsibility of the vendor. Mitigations will be subject to re-evaluation after completion. In cases where direct mitigation cannot be achieved, the vendor shall communicate this and work closely with the Commonwealth to identify acceptable compensating controls or privacy practices that will reduce risk to an acceptable and agreed upon level. An accredited third party source may be selected by the vendor to address findings, provided they will acknowledge all cost and provide valid documentation of mitigation strategies in an agreed upon timeframe.

### 30.7 **Privacy, Confidentiality and Ownership of Information**

The Commonwealth is the designated owner of all Commonwealth data and shall approve all access to that data. The Vendor shall not have ownership of Commonwealth data at any time. The vendor shall not profit from or share Commonwealth data. The Vendor shall be in compliance with privacy policies established by governmental agencies or by state or federal law. Privacy notice statements may be developed and amended from time to time by the Commonwealth and will be appropriately displayed on the Commonwealth portal (Ky.gov). The Vendor should provide sufficient security to protect the Commonwealth and COT data in network transit, storage, and cache. **All Commonwealth data, including backups and archives, must be maintained at all times within the contiguous United States. All Commonwealth data, classified as sensitive or higher, as defined in Enterprise Standards, must be encrypted in-transit and at rest.**

### 30.8 **EU GDPR Compliance**

The Commonwealth of Kentucky requires all vendor contracts to comply with the European Union's General Data Privacy Regulation [Regulation (EU) 2016/679] (the "GDPR") when the Commonwealth is a "controller" or "processor" of "personal data" from an individual "data subject" located in the European Union, as those terms are defined in the GDPR. The Contractor acknowledges and agrees that it is acting as a "processor" of "personal data" for the Commonwealth under this Agreement and that all applicable requirements of the GDPR are incorporated by reference as material terms of this Agreement. The Contractor represents and warrants that (1) it is aware of and understands its compliance obligations as a "processor" under GDPR; (2) it has adopted a GDPR compliance policy/program, a copy of which has been provided to the Commonwealth; (3) it will process "personal data" only in accordance with the Commonwealth's instructions; and (4)

with regard to its obligations under this Agreement, it shall comply with all applicable requirements of the GDPR to the same extent as adopted by the Commonwealth. Additionally, the Contractor shall indemnify and hold harmless the Commonwealth, and its employees from and against any claims, demands, suits, damages, penalties, fines, or costs arising from any violation of GDPR by the Contractor.

**30.9 X-as-a-Service Technical Definitions**

Refer to [NIST 800-145](#)

**30.10 Data Quality**

Vendors shall provide proposed levels of data quality per the following dimensions.

Data Quality is the degree to which data is valid, accurate, complete, unique, timely, consistent with all requirements and business rules, and relevant for a given use. The vendor shall provide data quality definitions and metrics for any data elements. Data has to be of the appropriate quality to address the needs of the Commonwealth of Kentucky. The following dimensions can be used to assess data quality:

- Validity – The data values are in an acceptable format.
- Accuracy – The data attribute is accurate.
- Completeness – There are no null values in a data field.
- Uniqueness – There are no duplicate values in a data field.
- Timeliness – The data attribute represents information that is not out-of-date.
- Consistency – The data attribute is consistent with a business rule that may be based on that attribute itself, or on multiple attributes.
- Adherence to business rules – The data attribute or a combination of data attributes adheres to specified business rules.

**30.11 License Agreements**

Software provided by the vendor to the Commonwealth should contain a provision for perpetual licensing with all upgrade options. License agreements should also contain a provision for the Commonwealth to maintain a version of the software in escrow in the event the vendor is unable to continue business for financial or other business reasons.

**30.12 Software Version Requirements**

All commercially supported and Commonwealth approved software components such as Operating system (OS), Database software, Application software, Web Server software, Middle Tier software, and other ancillary software must be kept current. In the event that a patch interferes with the solution, the vendor must present a plan for compliance to the Commonwealth outlining the constraints and an appropriate plan of action to bring the solution in to compliance to allow this patch to be applied in the shortest timeframe possible, not to exceed three months, unless otherwise negotiated with the Commonwealth.

The vendors shall keep software in compliance with industry standards to support third party dependencies such as Java, Adobe Flash, Internet Explorer, Mozilla Firefox, etc. at currently supported version, release, and patch levels. In the event that a third party dependency interferes with the solution, the vendor must present a plan for compliance to the Commonwealth outlining the constraints and an appropriate plan of action to bring the solution into compliance to allow this third party dependency to be updated in the shortest timeframe possible, not to exceed three months, unless otherwise negotiated with the Commonwealth.

**30.13 Section 508 Compliance**

All user interfaces to the solution(s) provided, shall be warranted by the vendor to comply with Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d) and the World Wide Web Consortium's (W3C) Web Content Accessibility Guidelines (WCAG) 2.0, conformance level Double-A or greater.

**30.14 No Surreptitious Code Warranty**

The contractor represents and warrants that no copy of licensed Software provided to the Commonwealth contains or will contain any Self-Help Code or any Unauthorized Code as defined below. This warranty is referred to in this contract as the "No Surreptitious Code Warranty".

As used in this contract, "Self-Help Code" means any back door, time bomb, drop-dead device, or other software routine designed to disable a computer program automatically with the passage of time or under the positive control of a person other than the licensee of the software. Self-Help Code does not include Software routines in a computer program, if any, designed to permit an owner of the computer program (or other person acting by authority of the owner) to obtain access to a licensee's computer system(s) (e.g. remote access) for purposes of maintenance or technical support.

As used in this contract, "Unauthorized Code" means any virus, Trojan horse, spyware, worm or other Software routines or components designed to permit unauthorized access to disable, erase, or otherwise harm software, equipment, or data; or to perform any other such actions. The term Unauthorized Code does not include Self-Help Code.

In addition, contractor will use up-to-date commercial virus detection software to detect and remove any viruses from any software prior to delivering it to the Commonwealth.

The vendor shall defend the Commonwealth against any claim, and indemnify the Commonwealth against any loss or expense arising out of any breach of the No Surreptitious Code Warranty.

**30.15 Network Connection Requirements**

- a. Vendor shall work with KDE and/or all Kentucky public schools to establish any network connections. If a secure site-to-site connection is required, the vendor shall employ a secure site-to-site connection procured by KDE.
- b. Vendor shall notify KDE and/or all Kentucky public schools network bandwidth requirements and if caching is required for implementation vendor shall resolve caching requirements, in coordination with KDE.
- c. Vendor shall, at KDE's discretion, provide appropriate access to enable the Commonwealth to perform additional security measures, such as decryption of the network traffic if required for inspection. If the proposed solution does not have the ability to meet this requirement, the vendor must provide an alternative such as audit reporting of this function.
- d. Vendor shall provide notifications to the KDE Customer Service Center and/or applicable local school district service center for unplanned outages within 5 minutes.
- e. Vendor shall notify KDE Change Management and/or applicable local school district, through the KDE Customer Service Center and/or applicable local school district, a minimum of two (2) weeks prior to any planned outage.
- f. Infrastructure as a Service
  1. Vendor shall work with the KDE and all Kentucky public school districts to establish all administrative personnel engagements.
  2. Vendor shall, at KDE's request, provide appropriate access to enable the Commonwealth to perform additional security measures in compliance with Commonwealth Enterprise Policies, Standards, and/or any Federal or State requirements.

30.16 **Applicable Security Control Framework Compliance**

The vendor must have an awareness and understanding of the NIST Special Publication 800-53 Security Control Framework and employ safeguards that meet or exceed the moderate level controls as defined within the standard. The respondent must provide sufficient safeguards to provide reasonable protections around the Commonwealth's data to ensure that the confidentiality, integrity, and availability is maintained at an appropriate level. These include but are not limited to:

- *Access Control*

The vendor must employ policy and process that provide for stringent control to limit physical and logical access to systems that house Commonwealth data, on a need to know basis, provide clear separation of duties, and adheres to least privilege principles.
- *Awareness and Training*

The vendor must provide the appropriate role specific training for staff to ensure that there is awareness and understanding of roles and

responsibilities as they relate to the protections around the Commonwealth's data.

- *Audit and Accountability*  
There must be sufficient auditing capability to ensure that actions are tracked and there is individual accountability for all actions taken by vendor staff.
- *Configuration Management*  
The vendor must work within established baselines that provide minimal functionality needed to ensure service delivery without exposing unnecessary risk. The vendor must also employ structured change control processes that provide a level of coordination with the client agreed upon in a Service Level Agreement (SLA).
- *Contingency Planning*  
The vendor must employ contingent planning policy and procedures that ensure service delivery based on agreed SLA levels while maintaining all Commonwealth data within the continental United States.
- *Identification and Authorization*  
The vendor must employ appropriate identity and access management policies and procedures to ensure that access is appropriately authorized and managed at a level to ensure that access is provisioned and de-provisioned in a timely and efficient manner.
- *Incident Response*  
The vendor must employ policy and procedures to ensure that an appropriate response to all identified security incidents are addressed in a timely manner and are reported to the appropriate parties in an agreed upon SLA timeframe. The vendor must also ensure that all staff are sufficiently trained to ensure that they can identify situations that are classified as security incidents.
- *Maintenance*  
The vendor must employ policy and procedures that ensure that all maintenance activities are conducted only by authorized maintenance staff leveraging only authorized maintenance tools.
- *Media Protection*  
The vendor must employ policy and procedure to ensure that sufficient protections exist to protect Commonwealth data on all storage media throughout the media lifecycle and maintain documentation from media creation through destruction.
- *Physical and Environmental Controls*  
The vendor must employ physical and environmental policies and procedures that ensure that the service and delivery infrastructure are located in a physically secure and environmentally protected environment to ensure the confidentiality, integrity, and availability of Commonwealth data.
- *Personnel Security*  
The vendor must employ policies and procedures to ensure that all staff that have access to systems that house, transmit, or process Commonwealth data have been appropriately vetted and have been through a background check at the time of hire and periodically thereafter.
- *System and Communications Protections*



The vendor must employ physical and logical protection that protect system communications and communication media from unauthorized access and to ensure adequate physical protections from damage.

## SECTION 40 – PROCUREMENT REQUIREMENTS

### 40.1 Procurement Requirements

Procurement requirements are listed under “**Procurement Laws, Preference, Regulations and Policies**” and “**Response to Solicitation**” located on the eProcurement Web page at <https://finance.ky.gov/services/eprocurement/Pages/LawsPrefRegsPolicies.aspx> and <http://finance.ky.gov/services/eprocurement/Pages/VendorServices.aspx> respectively. The vendor must comply with all applicable statutes, regulations and policies related to this procurement.

### 40.2 Contract Components and Order of Precedence

The Commonwealth’s acceptance of the contractor’s offer in response to the Solicitation RFP 758 2000000312, indicated by the issuance of a contract award by the Office of Procurement Services, shall create a valid contract between the Parties consisting of the following:

1. Procurement Statutes, Regulations and Policies
2. Any written Agreement between the Parties;
3. Any Addenda to the Solicitation RFP 758 2000000312;
4. The Solicitation RFP 758 2000000312 and all attachments
5. Any Best and Final Offer;
6. Any clarifications concerning the Contractor’s proposal in response to the Solicitation RFP 758 2000000312;
7. The Contractor’s proposal in response to the Solicitation RFP 758 2000000312.

In the event of any conflict between or among the provisions contained in the contract, the order of precedence shall be as enumerated above.

### 40.3 Final Agreement

This Contract represents the entire agreement between the parties with respect to the subject matter hereof. Prior negotiations, representations, or agreements, either written or oral, between the parties hereto relating to the subject matter hereof shall be of no effect upon this Contract.

### 40.4 Contract Provisions

If any provision of this Contract (including items incorporated by reference) is declared or found to be illegal, unenforceable, or void, then both the Commonwealth and the Contractor shall be relieved of all obligations arising under such provision. If the remainder of this Contract is capable of performance, it shall not be affected by such declaration or finding and shall be fully performed.

40.5 **Type of Contract**

This Contract shall be on the basis of a **firm fixed unit price** for the elements listed.

40.6 **Contract Usage**

The contractual agreement with the selected vendor will in no way obligate the Commonwealth of Kentucky to purchase any services or equipment under this Contract. The Commonwealth agrees, in entering into any contract, to purchase only such services in such quantities as necessary to meet the actual requirements as determined by the Commonwealth.

40.7 **Addition or Deletion of Items or Services**

The Office of Procurement Services reserves the right to add new and similar items, by issuing a contract modification, to this contract with the consent of the Vendor. Until such time as the Vendor receives a modification, the Vendor shall not accept delivery orders from any agency referencing such items or services.

40.8 **Changes and Modifications to the Contract**

Pursuant to KRS 45A.210 (1) and 200 KAR 5:311, no modification or change of any provision in the contract shall be made, or construed to have been made, unless such modification is mutually agreed to in writing by the Contractor and the Commonwealth, and incorporated as a written amendment to the contract and processed through the Office of Procurement Services and approved by the Finance and Administration Cabinet prior to the effective date of such modification or change pursuant to KRS 45A.210(1) and 200 KAR 5:311. Memorandum of understanding, written clarification, and/or correspondence shall not be construed as amendments to this Contract.

If the contractor finds at any time that existing conditions made modification of the contract necessary, it shall promptly report such matters to the Commonwealth Buyer for consideration and decision.

40.9 **Changes in Scope**

The Commonwealth may, at any time by written order, make changes within the general scope of the contract. No changes in scope are to be conducted except at the approval of the Commonwealth.

40.10 **Contract Conformance**

If the Commonwealth Buyer determines that deliverables due under this Contract are not in conformance with the terms and conditions of this Contract and the mutually agreed-upon project plan, the Buyer may request the Contractor to deliver assurances in the form of additional contractor resources and to demonstrate that other major schedules will not be affected. The Commonwealth shall determine the quantity and quality of such additional resources and failure to comply may constitute default by the Contractor.

40.11 **Assignment**

This Contract shall not be assigned in whole or in part without the prior written consent of the Commonwealth Buyer.

40.12 **Payment**

The Commonwealth will make payment within thirty (30) working days of receipt of Contractor's invoice or of acceptance of goods and/or services in accordance with KRS 45.453 and KRS 45.454.

Payments are predicated upon successful completion and acceptance of the described work, services, supplies, or commodities, and delivery of the required documentation. Invoices for payment shall be submitted to the agency contact person or his representative.

40.13 **Contractor Cooperation in Related Efforts**

The Commonwealth of Kentucky may undertake or award other contracts for additional or related work, services, supplies, or commodities, and the Contractor shall fully cooperate with such other contractors and Commonwealth employees. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Commonwealth employees.

40.14 **Contractor Affiliation**

"Affiliate" shall mean a branch, division or subsidiary that is effectively controlled by another party. If any affiliate of the Contractor shall take any action that, if done by the Contractor, would constitute a breach of this agreement, the same shall be deemed a breach by such party with like legal effect.

40.15 **Commonwealth Property**

The Contractor shall be responsible for the proper custody and care of any Commonwealth-owned property furnished for Contractor's use in connections with the performance of this Contract. The Contractor shall reimburse the Commonwealth for its loss or damage, normal wear and tear excepted.

40.16 **Confidentiality of Contract Terms**

The Contractor and the Commonwealth agree that all information communicated between them before the effective date of the contract shall be received in strict confidence and shall not be necessarily disclosed by the receiving party, its agents, or employees without prior written consent of the other party. Such material will be kept confidential subject to Commonwealth and Federal public information disclosure laws.

Upon signing of this Contract by all parties, terms of the contract become available to the public, pursuant to the provisions of the Kentucky Revised Statutes.

The Contractor shall have an appropriate agreement with its subcontractors extending these confidentiality requirements to all subcontractors' employees.

40.17 **Confidential Information**

The Contractor shall comply with the provisions of the Privacy Act of 1974 and instruct its employees to use the same degree of care as it uses with its own data to keep confidential information concerning client data, the business of the Commonwealth, its financial affairs, its relations with its citizens and its employees, as well as any other information which may be specifically classified as confidential by the Commonwealth in writing to the Contractor. All Federal and State Regulations and Statutes related to confidentiality shall be applicable to the Contractor. The Contractor shall have an appropriate agreement with its employees, and any subcontractor employees, to that effect, provided however, that the foregoing will not apply to:

- A. Information which the Commonwealth has released in writing from being maintained in confidence;
- B. Information which at the time of disclosure is in the public domain by having been printed and published and available to the public in libraries or other public places where such data is usually collected; or
- C. Information, which, after disclosure, becomes part of the public domain as defined above, through no act of the Contractor.

40.18 **Advertising Award**

The Contractor shall not refer to the award of contract in commercial advertising in such a manner as to state or imply that the firm or its services are endorsed or preferred by the Commonwealth of Kentucky without the expressed written consent of the agency technical contact person. (see Section 50.4)

40.19 **Patent or Copyright Infringement**

The Contractor shall report to the Commonwealth promptly and in reasonable written detail, each notice of claim of patent or copyright infringement based on the performance of this Contract of which the Contractor has knowledge.

The Commonwealth agrees to notify the Contractor promptly, in writing, of any such claim, suit or proceeding, and at the Contractor's expense give the Contractor proper and full information needed to settle and/or defend any such claim, suit or proceeding.

If, in the Contractor's opinion, the equipment, materials, or information mentioned in the paragraphs above is likely to or does become the subject of a claim or infringement of a United States patent or copyright, then without diminishing the Contractor's obligation to satisfy any final award, the Contractor may, with the Commonwealth's written consent, substitute other equally suitable equipment, materials, and information, or at the Contractor's options and expense, obtain the right for the Commonwealth to continue the use of such equipment, materials, and information.

The Commonwealth agrees that the Contractor has the right to defend, or at its option, to settle and the Contractor agrees to defend at its own expense, or at its option to settle, any claim, suit or proceeding brought against the Commonwealth on the issue of infringement of any United States patent or copyright or any product, or any part thereof, supplied by the Contractor to the Commonwealth under this agreement. The Contractor agrees to pay any final judgment entered against the Commonwealth on such issue in any suit or proceeding defended by the Contractor.

If principles of governmental or public law are involved, the Commonwealth may participate in the defense of any such action, but no costs or expenses shall be incurred for the account of the Contractor without the Contractor's written consent.

The Contractor shall have no liability for any infringement based upon:

- A. the combination of such product or part with any other product or part not furnished to the Commonwealth by the Contractor
- B. the modification of such product or part unless such modification was made by the Contractor
- C. the use of such product or part in a manner for which it was not designed

**40.20 Permits, Licenses, Taxes and Commonwealth Registration**

The Contractor shall procure all necessary permits and licenses and abide by all applicable laws, regulations, and ordinances of all Federal, State, and local governments in which work under this Contract is performed.

The Contractor shall maintain certification of authority to conduct business in the Commonwealth of Kentucky during the term of this Contract. Such registration is obtained from the Secretary of State, who will also provide the certification thereof. Additional local registration or license may be required.

The Contractor shall pay any sales, use, and personal property taxes arising out of this Contract and the transaction contemplated hereby. Any other taxes levied upon this Contract, the transaction, or the equipment or services delivered pursuant hereto shall be borne by the Contractor.

**40.21 EEO Requirements**

The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding \$500,000. The Contractor shall comply with all terms and conditions of the Act.

<http://finance.ky.gov/services/eprocurement/Pages/VendorServices.aspx>.

**40.22 Provisions for Termination of the Contract**

This Contract shall be subject to the termination provisions set forth in 200 KAR 5:312.

**40.23 Bankruptcy**

In the event the Contractor becomes the subject debtor in a case pending under the Federal Bankruptcy Code, the Commonwealth's right to terminate this Contract may be subject to the rights of a trustee in bankruptcy to assume or assign this Contract. The trustee shall not have the right to assume or assign this Contract unless the trustee (a) promptly cures all defaults under this Contract; (b) promptly compensates the Commonwealth for the monetary damages incurred as a result of such default, and (c) provides adequate assurance of future performance, as determined by the Commonwealth.

**40.24 Conformance with Commonwealth & Federal Laws/Regulations**

This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. Any action brought against the Commonwealth on this Contract, including but not limited to actions either for breach of contract or for enforcement of this Contract, shall be brought in Franklin Circuit Court, Franklin County, Kentucky in accordance with KRS 45A.245.

**40.25 Accessibility**

Vendor hereby warrants that the products or services to be provided under this Contract comply with the accessibility requirements of Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, part 1194. Vendor further warrants that the products or services to be provided under this contract comply with existing federal standards established under Section 255 of the Federal Telecommunications Act of 1996 (47 U.S.C. § 255), and its implementing regulations set forth at Title 36, Code of Federal Regulations, part 1193, to the extent the vendor's products or services may be covered by that act. Vendor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services which is brought to its attention.

**40.26 Access to Records**

The state agency certifies that it is in compliance with the provisions of KRS 45A.695, "Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract." The Contractor, as defined in KRS 45A.030, agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this agreement for the purpose of financial audit or program review. The Contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. Records and other prequalification information confidentially disclosed as part of the bid process shall

not be deemed as directly pertinent to the agreement and shall be exempt from disclosure as provided in KRS 61.878(1)(c).

**40.27 Prohibitions of Certain Conflicts of Interest**

In accordance with KRS 45A.340, the Contractor represents and warrants, and the Commonwealth relies upon such representation and warranty, that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services. The Contractor further represents and warrants that in the performance of this Contract, no person, including any subcontractor, having any such interest shall be employed.

In accordance with KRS 45A.340 and KRS 11A.040 (4), the Contractor agrees that it shall not knowingly allow any official or employee of the Commonwealth who exercises any function or responsibility in the review or approval of the undertaking or carrying out of this Contract to voluntarily acquire any ownership interest, direct or indirect, in the contract prior to the completion of the contract.

**40.28 No Contingent Fees**

No person or selling agency shall be employed or retained or given anything of monetary value to solicit or secure this Contract, excepting bona fide employees of the offeror or bona fide established commercial or selling agencies maintained by the offeror for the purpose of securing business. For breach or violation of this provision, the Commonwealth shall have the right to reject the proposal or cancel this Contract without liability.

**40.29 Intentionally Left Blank**

**40.30 Contract Claims**

The Parties acknowledge that KRS 45A.225 to 45A.290 governs contract claims.

**40.31 Limitation of Liability**

The liability of the Commonwealth related to contractual damages is set forth in KRS 45A.245.

**40.32 Discrimination (Effective April 8, 2015)**

Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. This section applies only to contracts utilizing federal funds, in whole or in part. During the performance of this Contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity, or age. The Contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting

discrimination against otherwise qualified disabled individuals under any program or activity. The Contractor agrees to provide, upon request, needed reasonable accommodations. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. Such action shall include, but not be limited to the following; employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.
3. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.
4. The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.
5. The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.
7. The Contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each



subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

## SECTION 50 – SCOPE OF WORK

### 50.1 **Agencies to Be Served**

This Contract shall be for use by **all Kentucky Public School Districts, the Kentucky School for the Blind (KSB) the Kentucky School for the Deaf (KSD) and the Kentucky Department of Education**. No shipments shall be made except upon receipt by vendor of an official delivery order from the using agency.

### 50.2 **Term of Contract and Renewal Options**

The initial term of this Contract shall be for a period of **four (4) years** from the effective date of the Award of Contract.

This Contract may be renewed at the completion of the initial contract period for **two (2) additional three (3) year** periods upon the mutual agreement of the Parties. Such mutual agreement shall take the form of a contract modification as described in Section 40.8.

At the end of this Contract, the Vendor shall provide all agency data in a form that can be converted to any subsequent system of the agency's choice. The Vendor shall cooperate to this end with the vendor of the agency's choice, in a timely and efficient manner.

The Commonwealth reserves the right not to exercise any or all renewal options. The Commonwealth reserves the right to extend this Contract for a period less than the length of the above-referenced renewal period if such an extension is determined by the Commonwealth Buyer to be in the best interest of the Commonwealth.

The Commonwealth reserves the right to renegotiate any terms and/or conditions as may be necessary to meet requirements for the extended period. In the event proposed revisions cannot be agreed upon, either party shall have the right to withdraw without prejudice from either exercising the option or continuing the contract in an extended period.

### 50.3 **Basis of Price Revisions**

**PRICE ADJUSTMENTS:** Unless otherwise specified, the prices established by this Contract shall remain firm for the contract period subject to the following:

- A. Price Increases: A price increase shall not occur during the first twelve (12) months of this Contract. A vendor may request a price increase after twelve (12) months of this Contract, which may be granted or denied by the Commonwealth. Any such price increase shall be based on industry wide price changes. The contract holder must request in writing a price increase at least thirty (30) days prior to the effective date, and shall provide firm proof that the price increase(s) is justified. The Office of Procurement Services may request additional information or justification. If the price increase is denied, the contract holder may withdraw from the contract without prejudice upon written notice and approval by the Office of Procurement Services. Provided, however, that the vendor must continue service, at the Contract prices, until a new contract can be established (usually within sixty (60) days).
- B. Price Decreases: The Contract price shall be reduced to reflect any industry wide price decreases. The contract holder is required to furnish the Office of Procurement Services with notice of any price decreases as soon as such decreases are available.
- C. Extended Contract Periods: If the Contract provides for an optional renewal period, a price adjustment may be granted at the time the contract is renewed, subject to price increase justification as required in Paragraph A "Price Increases" as stated above.

50.4 **Notices**

All programmatic communications with regard to day-to-day performance under the contract are to be made to the agency technical contact(s):

**Agency Technical Contact**  
**Melissa Moore**  
**KY Department of Education**  
**300 Sower Boulevard, 4<sup>th</sup> Floor**  
**Frankfort, KY 40601**  
**(502) 564-2020 x 2438**  
**Melissa.Moore@education.ky.gov**

**Secondary Agency Technical Contact**  
**Phil Coleman**  
**KY Department of Education**  
**300 Sower Boulevard, 4<sup>th</sup> Floor**  
**Frankfort, KY 40601**  
**(502) 564-2020 x 2204**  
**Phil.Coleman@education.ky.gov**

All communications of a contractual or legal nature are to be made to the Commonwealth Buyer.

**Commonwealth Buyer**

**Susan S. Noland, KCPM**  
**COMMONWEALTH OF KENTUCKY**  
**FINANCE AND ADMINISTRATION CABINET**  
**Office of Procurement Services**  
**New Capital Annex**  
**702 Capitol Avenue, Room 096**  
**Frankfort, KY 40601**  
**502.564.5951**  
[Susan.Noland@ky.gov](mailto:Susan.Noland@ky.gov)

**50.5 Subcontractors**

The Contractor is permitted to make subcontract(s) with any other party for furnishing any of the work or services herein. The Contractor shall be solely responsible for performance of the entire contract whether or not subcontractors are used. The Commonwealth shall not be involved in the relationship between the prime contractor and the subcontractor. Any issues that arise as a result of this relationship shall be resolved by the prime contractor. All references to the Contractor shall be construed to encompass both the Contractor and any subcontractors of the contractor.

**50.6 Scope of Work/Technical Requirements**

**A. Definition - Server Infrastructure as a Service (IaaS)**

A business model that offers the customer a subscription based service model to deliver the customer infrastructure on an outsourced basis to support enterprise operations, including but not limited to: Active Directory services, Security Services, Anti-Virus/Malware Services, Windows Updates, and Diagnostic Services. As part of this service the equipment (Hardware and Host Operating System) is provided by the vendor and is not owned or maintained by the customer. The equipment is owned, maintained, updated (firmware and host Operating System), monitored and replaced on a given lifecycle to meet modern needs by the vendor. The equipment should be located on the customer's site or offsite as agreed upon by the customer and vendor. All on premise equipment shall be located inside customer's power-conditioned rack which currently houses all KDE supported shared services.

**B. Customer Infrastructure**

Infrastructure for all public school districts shall be located on premise at the public school district site location. Infrastructure for the KSB, KSD, KDE, and test sites will be located on premise at their respective locations.

**C. Qualified Vendors**

A qualified vendor is an authorized provider of infrastructure as a service that meets or exceeds all technical specifications outlined in this Contract and the following criteria:

1. The vendor shall have a minimum of five (5) years providing managed infrastructure

2. The vendor shall have the ability to service all customer sites as outlined in the Service Level Agreement. Customer is defined in 50.6 (B).
3. The vendor shall offer 24 x 7 x 365 monitoring and notification services
4. The vendor shall be capable of managing all aspects of the host operating system.
5. The vendor should leverage a common enterprise infrastructure among all 180 sites. Including all KY Public school districts, KSB, KSD and KDE.
6. The vendor shall adhere to state and federal security standards and guidelines
7. The vendor shall maintain environments to conform to all state-required audit levels.
8. The vendor should be willing to work with both the customer and other vendor partner(s) who will maintain and support layers.

**D. Solution Objectives**

1. The service shall have four nines (99.99%) of uptime during the customer's normal business hours. Customer's normal business hours are 7:30am Eastern Standard Time to 5:00pm Central Standard Time.
2. The service should provide automated administrative tasks
3. The service should allow for fee based dynamic scaling so the customer may leverage additional capacities.
4. Host Operating System shall be Microsoft Hyper-V.
5. The vendor shall support and accommodate new releases of host Operating System within 9 months of RTM release.
6. The Vendor shall cover all implementation at no charge to the customer.
7. The service should include a fully outlined disaster recovery model
8. The vendor should allow for economies of scale with shared infrastructure and application support costs.
9. The service should allow the customer to utilize customer's licensing of both host and virtual machine operating systems where applicable.

**E. Account Representative/ Technical Account Representative Escalation of Solution Objectives**

This person shall be the main point of contact for contractual work including but not limited to contract updates and renewals; the day to day overall satisfaction of the IaaS solution provided; and complaint and issue resolution of IaaS solution.

The Vendor shall name a sole point of contact as the technical account manager. This person shall monitor the overall success of the technical solution provided by the vendor. This person shall work closely with the customer technical staff and will be the first point of escalation for technical issues.

**Volta Account Manager**  
**Mike Logan**

[mlogan@voltainc.com](mailto:mlogan@voltainc.com)  
502-517-1806

The Vendor shall provide a copy of procedures for requesting escalation, complaint resolution and identify the staff available for installations, billing problems, etc. The Vendor shall provide updated information annually at a minimum.

**F. Implementation Plan**

1. The Vendor should identify a project manager that shall work in conjunction with the customer's project manager or the customer's point of contact to coordinate the activity for service implementation and/or maintenance activities

**Volta Project Manager**  
**Miles Cox**  
[mcox@voltainc.com](mailto:mcox@voltainc.com)  
502-680-1105

2. All activities associated with the vendor's solution shall be the responsibility of the Vendor. Examples may include but not be limited to the purchase, procurement, delivery, install and maintenance of the vendor's service solution.

**G. Service Level Agreement**

1. The Vendor shall have a monitoring and notification solution of both host and all infrastructure.
2. The primary period of service (PPS) shall fall between the hours of 7:00am Eastern Standard Time to 5:00pm Central Standard Time customer's local time, Monday through Friday, excluding state and/or district observed holidays
3. The Vendor's service desk shall be capable of processing multiple forms of service requests including at a minimum phone and email service requests. Vendor shall have a toll-free number for all calls (no busy signals, answered by the third ring, hold time no longer than two (2) minutes, and a call tracking system); Call back within one (1) hour of placing call; if the phone line remains busy after three (3) attempts the Vendor shall email the customer (KDE and district offices all have this ability);

**Volta toll-free number**  
**1-888-479-9672 Option 1**

4. The Vendor's monitoring and notification solution should be available for monitoring and notification service twenty-four (24) hours per day, seven (7) days per week, three hundred and sixty-five (365) days per year (24 x 7 x 365)

5. The Vendor should include a customer email address for all operational activities including but not limited to automated notifications and incident closures.

#### **H. Repair/Replacement**

1. The Vendor shall initiate response within four (4) business hours and provide incident resolution by the close of the next business day.
2. The Vendor shall be provided access to the customer's building where the equipment is located as required to fulfill the service request.
3. The Vendor shall coordinate change management activity with the customer utilizing the customer's change process. This includes but is not limited to Firmware and host Operating System updates (including emergency releases).
4. The Vendor shall support and accommodate new releases of server host operating system within 9 months of Release to Manufacturer (RTM) release.

#### **I. Uniform Administrative Requirements, Cost Principles and Audit Requirements**

Vendor providing service under this Contract shall conform and otherwise comply with all Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, as applicable. Requirements are located on the Code of Federal Regulations web page at <https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=366afee6cb0855060cf7f2c5d3eae3e7&mc=true&n=pt2.1.200&r=PART&ty=HTML>

#### IV. Pricing

<b>Charges per Device Configuration</b>	<b>Annual Cost</b>
# of vCPUs	\$23.12
RAM Per GB	\$6.14
Storage Per GB	\$0.68
Storage Per 500 IOPS	\$231.02
Network connectivity 1 Gbit Shared vSwitch	\$40.30
Network connectivity 10 Gbit Shared vSwitch	\$91.18

<b>Chargers per Configuration – 180 Individual Site Implementations 6 Month Rollout</b>	<b>Annual Cost</b>
34 vCPUs, 40 GB RAM, 3TB Storage, 6000 IOPS, 2x1Gbit shared vSwitch, 1x10Gbit shared vSwitch – Per Site	\$3,589.20

<b>Chargers per Baseline Virtualization (Single Site)</b>	<b>Annual Cost</b>
40 vCPUs, 80 GB RAM, 4TB Storage, 6000 IOPS, 2x Gbit Shared vSwitch, 2x10Gbit Shared vSwitch	\$4,451.28

**V. Approvals**

This Contract is subject to the terms and conditions as stated. By executing this Contract, the parties verify that they are authorized to bind this agreement and that they accept the terms of this agreement.

This Contract may be executed electronically in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same Contract.

This Contract is invalid until properly approved and executed by the Finance and Administration Cabinet.

**1st Party: Kentucky Department of Education, as Contracting Agent (“Contractor” or “Vendor” or “KDE”)**

Printed name	Digitally signed by	Title
<b>Karen</b>	Karen Wirth	
<b>Wirth</b>	Date: 2020.12.22	
Signature	09:20:28 -05'00'	Date

**2nd Party: Volta, Inc., (“the Commonwealth” or “Customer” or “Volta”)**

Miles Cox	COO
Printed name	Title
<i>Miles Cox</i>	12/21/2020
Signature	Date

**Approved by the Finance and Administration Cabinet  
Office of Procurement Services**

Joan Graham	Executive Director
Printed name	Title
<i>Joan Graham</i>	12/22/2020
Signature	Date

**Attachments**

- Attachment A – This document**
- Attachment B – Omitted Intentionally**
- Attachment C – Omitted Intentionally**
- Attachment D – Omitted Intentionally**
- Attachment E – Protection of Personal Information Security and Breach**



**Investigation Procedures and Practices Act**

**Attachment F– Omitted Intentionally**

**Attachment G – Omitted Intentionally**

**Attachment H – KETS Technical Environment Documents V 3.4**

**Attachment I – Omitted Intentionally**

**Attachment J – Data Breach and Security Protocols**

**ATTACHMENT E**  
**Protection of Personal Information Security and Breach**  
**Investigation Procedures and Practices Act**

Vendors that receive Personal Information as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, et seq., (the "Act"), shall secure and protect the Personal Information by, without limitation, complying with all requirements applicable to non-affiliated third parties set forth in the Act.

"Personal Information" is defined in accordance with KRS 61.931(6) as "an individual's first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one (1) or more of the following data elements:

- a) An account, credit card number, or debit card number that, in combination with any required security code, access code or password, would permit access to an account;
- b) A Social Security number;
- c) A taxpayer identification number that incorporates a Social Security number;
- d) A driver's license number, state identification card number or other individual identification number issued by an agency;
- e) A passport number or other identification number issued by the United States government; or
- f) Individually Identifiable Information as defined in 45 C.F.R. sec. 160.013 (of the Health Insurance Portability and Accountability Act), except for education records covered by the Family Education Rights and Privacy Act, as amended 20 U.S.C. sec 1232g."

As provided in KRS 61.931(5), a "non-affiliated third party" means "any person or entity that has a contract or agreement with the Commonwealth and receives (accesses, collects or maintains) personal information from the Commonwealth pursuant to the contract or agreement."

The vendor hereby agrees to cooperate with the Commonwealth in complying with the response, mitigation, correction, investigation, and notification requirements of the Act.

The vendor shall immediately notify as soon as possible, but not to exceed seventy-two (72) hours, the contracting agency, the Office of Procurement Services, the Commonwealth Office of Technology and the NG-KIH Program Office of a determination of or knowledge of a breach, unless the exception set forth in KRS 61.932(2)(b)2 applies and the vendor abides by the requirements set forth in that exception.

The vendor hereby agrees that the Commonwealth may withhold payment(s) owed to the vendor for any violation of the Identity Theft Prevention Reporting Requirements. The vendor hereby agrees to undertake a prompt and reasonable investigation of any breach as required by KRS 61.933.

Upon conclusion of an investigation of a security breach of Personal Information as required by KRS 61.933, the vendor hereby agrees to an apportionment of the costs of the notification, investigation, and mitigation of the security breach.

In accordance with KRS 61.932(2)(a) the vendor shall implement, maintain, and update security and breach investigation procedures that are appropriate to the nature of the information disclosed, that are at least as stringent as the security and breach investigation procedures and practices established by the Commonwealth Office of Technology:

<http://technology.ky.gov/ciso/Pages/InformationSecurityPolicies,StandardsandProcedures.aspx>

## ATTACHMENT H



Attachment H - KETS  
Technical Environmen

**Attachment J**  
**Data Security and Breach Protocols**

Vendors that receive Personal Information as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, et seq., (the "Act"), shall secure and protect the Personal Information by, without limitation, complying with all requirements applicable to non-affiliated third parties set forth in the Act.

"Personal Information" is defined in accordance with KRS 61.931(6) as "an individual's first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one (1) or more of the following data elements:

An account, credit card number, or debit card number that, in combination with any required security code, access code or password, would permit access to an account;

A Social Security number;

A taxpayer identification number that incorporates a Social Security number;

A driver's license number, state identification card number or other individual identification number issued by an agency;

A passport number or other identification number issued by the United States government; or

Individually Identifiable Information as defined in 45 C.F.R. sec. 160.013 (of the Health Insurance Portability and Accountability Act), except for education records covered by the Family Education Rights and Privacy Act, as amended 20 U.S.C. sec 1232g."

As provided in KRS 61.931(5), a "non-affiliated third party" means "any person or entity that has a contract or agreement with the Commonwealth and receives (accesses, collects or maintains) personal information from the Commonwealth pursuant to the contract or agreement."

The vendor hereby agrees to cooperate with the Commonwealth in complying with the response, mitigation, correction, investigation, and notification requirements of the Act.

The vendor shall notify as soon as possible, but not to exceed seventy-two (72) hours, the contracting agency, the Commissioner of the Kentucky State Police, the Auditor of Public Accounts, and the Commonwealth Office of Technology of a determination of or knowledge of a breach, unless the exception set forth in KRS 61.932(2)(b)2 applies and the vendor abides by the requirements set forth in that exception. If the agency is a unit

of government listed in KRS 61.931(1)(b), the vendor shall notify the Commissioner of the Department of Local Government in the same manner as above. If the agency is a public school district listed in KRS 61.931(1)(d), the vendor shall notify the Commissioner of the Department of Education in the same manner as above. If the agency is an educational entity listed under KRS 61.931(1)(e), the vendor shall notify the Council on Postsecondary Education in the same manner as above. Notification shall be in writing on a form developed by the Commonwealth Office of Technology.

The vendor hereby agrees to report, immediately and within twenty-four (24) hours, any known reasonably believed instances of missing data, data that has been inappropriately shared, or data taken off site to my immediate supervisor, Associate Commissioner, and to the KDE Office for whom I perform work under the contract with KDE.

The vendor hereby agrees that the Commonwealth may withhold payment(s) owed to the vendor for any violation of the Identity Theft Prevention Reporting Requirements.

The vendor hereby agrees to undertake a prompt and reasonable investigation of any breach as required by KRS 61.933.

Upon conclusion of an investigation of a security breach of Personal Information as required by KRS 61.933, the vendor hereby agrees to an apportionment of the costs of the notification, investigation, and mitigation of the security breach.

In accordance with KRS 61.932(2)(a) the vendor shall implement, maintain, and update security and breach investigation procedures that are appropriate to the nature of the information disclosed, that are at least as stringent as the security and breach investigation procedures and practices established by the Commonwealth Office of Technology:

<http://technology.ky.gov/ciso/Pages/InformationSecurityPolicies,StandardsandProcedures.aspx>

### **Student Data Security**

Pursuant to KRS 365.734 (House Bill 232 (2014)), if contractor is a known cloud computing service provider (as defined in KRS 365.734(1)(b) as "any person or entity other than an educational institution that operates cloud computing services"), or, through service to agency, becomes the equivalent of a cloud computing service provider, contractor does further agree that:

Contractor shall not process student data for any purpose other than providing, improving, developing, or maintaining the integrity of its cloud computing services, unless the provider receives express permission from the student's parent. The

contractor shall work with the student's school and district to determine the best method of collecting parental permission. KRS 365.734 defines "process" and "student data".

With a written agreement for educational research, contractor may assist an educational institution to conduct educational research as permitted by the Family Education Rights and Privacy Act of 1974, as amended, 20 U.S.C.sec.1232g.

Pursuant to KRS 365.734, contractor shall not in any case process student data to advertise or facilitate advertising or to create or correct an individual or household profile for any advertisement purposes.

Pursuant to KRS 365.734, contractor shall not sell, disclose, or otherwise process student data for any commercial purpose.

Pursuant to KRS 365.734, contractor shall certify in writing to the agency that it will comply with KRS 365.734(2).