

PROJECT NUMBER 38394
SOFTWARE DEVELOPMENT AND HOSTING AGREEMENT
BETWEEN
AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS
AND
MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES
AS CONTRACTING AGENT FOR THE
MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY

This Software Development and Hosting Agreement (hereinafter referred to as "Agreement") is entered into by and between American Association of Motor Vehicle Administrators, a non-profit 501(c)(3) organization in Virginia having its principal place of business at 4301 Wilson Boulevard, Suite 400, Arlington, Virginia 22203 (hereinafter referred to as "Contractor"), and Mississippi Department of Information Technology Services having its principal place of business at 3771 Eastwood Drive, Jackson, Mississippi 39211 (hereinafter referred to as "ITS"), as contracting agent for the Mississippi Department of Public Safety located at 1900 East Woodrow Wilson, Jackson, Mississippi 39216 (hereinafter referred to as "Customer" and/or "MDPS"). ITS and Customer are sometimes collectively referred to herein as "State."

WHEREAS, the State, is in need of a contractor to develop, implement and host a State-to-State (S2S) Verification Service; and

WHEREAS, the Contractor was the sole source provider to provide the above mentioned services, and is amenable to provide same pursuant to the terms of this Agreement;

NOW THEREFORE, in consideration of the mutual understandings, promises, and agreements set forth herein, the parties hereto agree as follows:

ARTICLE 1 TERM OF AGREEMENT

1.1 Unless this Agreement is extended by mutual, written agreement or terminated as prescribed elsewhere herein, the term of this Agreement shall commence on the date it is signed by all parties ("Effective Date") and shall continue in effect until the Contractor completes all tasks required herein, pursuant to the Project Work Plan, including services during the thirty (30) months hosting term as specified in Exhibit A. The S2S Service must be delivered, implemented, fully functional, accepted by the Customer, and all tasks (excluding hosting) required herein, including but not limited to development of required interfaces and training, completed within forty-nine (49) months from the Effective Date unless a change in this date is mutually agreed to in writing by the State and the Contractor. At the end of the thirty (30) months hosting term, the Agreement may, upon the written agreement of the parties, be renewed under the same terms and conditions for an additional term, the length of which will be agreed upon by the parties. One hundred and eighty (180) days prior to the expiration of the initial hosting term or any renewal hosting term of this Agreement, Contractor shall notify MDPS and ITS of the impending

expiration and MDPS shall have sixty (60) days in which to notify Contractor of its intentions as to the renewal of the Agreement.

1.2 This Agreement will become a binding obligation on the State only upon the issuance of a valid purchase order or written notice to proceed by the Customer following contract execution and the issuance by ITS of the CP-1 Acquisition Approval Document.

ARTICLE 2 DEFINITIONS

2.1 "Active User" means MDPS employees and driver's licensing entities across the United States participating in the S2S Service, who shall be bound to the terms and conditions of a mutually agreed upon subscription agreement. In the event of a conflict between the terms and conditions of this Agreement and any subscription agreement, the terms and conditions of this Agreement shall control.

2.2 "Agreement" shall mean this Software Development Agreement and any amendments thereto, between the Customer and the Contractor.

2.3 "Appropriate Change Order Rate" shall mean the rate specified in Article 9 herein for Project management, analysis and design, programming, or clerical work performed under an authorized Change Order.

2.4 "Assumptions" shall mean the schedule of assumptions included as Exhibit C to this Agreement.

2.5 "Change Order" shall mean changes in the scope of work which are approved and agreed to in writing by the State and the Contractor as set forth in Article 9 herein.

2.6 "Content" means any data or information provided by or through Active Users of the S2S Service for use with the Software.

2.7 "Contract Documents" shall mean those documents identified in Article 4 herein.

2.8 "Contractor" shall mean American Association of Motor Vehicle Administrators and its successors and assigns (subject to the provisions of the article herein titled "Assignments and Subcontracts").

2.9 "Customer" shall mean Mississippi Department of Public Safety.

2.10 "Defect" shall mean any failure of the S2S Service to operate in conformity with the accepted Specifications developed as part of the work on this Project.

2.11 "Deliverable" shall include, but is not limited to, such Project products and services as plans, analyses, standards, Documentation, manuals, procedures, software, source code,

interfaces, tests, training, support, warranties, and other items required for a successful S2S Service installation and not specifically excluded in writing by the Customer.

2.12 "Documentation" shall mean the published user and technical manuals and documentation that Contractor makes generally available for the Software; the help files included within the Software, and any files containing presentation materials or manuals or other related materials to train and educate MDPS and the Active Users on the use of the Software.

2.13 "Enhancements" shall mean the corrections, updates, upgrades or new versions of the Software or Documentation that Contractor may provide to MDPS under this Agreement.

2.14 "Material Defect" shall mean a Defect which would substantially impair the functioning of the S2S Service in accordance with the Specifications.

2.15 "Project" shall mean the analysis, design, development, conversion services, implementation services, and hosting services, and associated Deliverables to be performed by the Contractor as described in the RSOW and the Contract Documents.

2.16 "Project Work Plan" shall mean the planning and scheduling document described in the RSOW which specifically identifies the Contractor's tasks and time schedule, and is subject to the approval of the State.

2.17 "Proposal" shall mean the Contractor's response dated January 31, 2012, to the RSOW and any subsequent clarifications thereto as accepted by Customer.

2.18 "RSOW" shall mean the Request for Statement of Work No. 38394 issued by the State.

2.19 "Services" shall mean any software development, on-line user access, customizations, interface development, consulting, education, hosting installation and services, system administration, training, maintenance, support, and help desk services provided by Contractor to Customer.

2.20 "Software" shall mean the machine-readable object code version of the computer programs provided by Contractor to MDPS hereunder, whether embedded on disc, tape, or other media, as well as any computer programs whether embedded on disc, tape or other media used for the management of the State-to-State Verification Service (hereinafter referred to as "S2S Service") and Supported Interfaces (and any Documentation and help files within the Software), including any Enhancements provided pursuant to the maintenance and support terms identified herein.

2.21 "State" shall refer to Customer and ITS collectively.

2.22 “Supported Interfaces” shall mean application-based interfaces (API), network protocols, data formats, database schemas, and file formats used in the Software as described in the Documentation.

2.23 “S2S Service” shall mean the State-to-State Verification Service as designed, developed, installed and hosted for the Customer in accordance with the provisions of this Agreement, as specified in the Specifications. The S2S Service will share a common platform with the Commerical Driver Licensing Information System operated by AAMVA under the authority of the statutes and regulations of the Department of Transportation.

2.24 “Specifications” shall mean the specifications for the S2S Service developed by Contractor pursuant to this Agreement and approved by Customer.

2.25 “Warranty Period” shall mean (a) with respect to Deliverables comprising the Unified Network Interface, the one (1) year period following Customer’s acceptance of the Unified Network Interface; (b) with respect to Deliverables comprising the Network Control Software, the one (1) year period following Customer’s acceptance of the Network Control Software; and (c) with respect to Deliverables comprising the Web Services Interface, the one (1) year period following Customer’s acceptance of the Web Services Interface.

2.26 “Work-in-Progress” shall mean all indicia of the Contractor’s efforts to complete the listed Deliverables, including but not limited to all work papers, notes, preliminary designs, interview notes, estimates of scope of work, diagrams, bullet lists, models, prototypes, partial or complete program descriptions or definitions, program documentation on line and batch, all test case documentation, and all infrastructure components and infrastructure support items stretching across the entire Project, including but not limited to all security coding, approvals processing, notes and comments, and all other infrastructure components in any form whatsoever. This list is not intended to be all-encompassing, but is set forth as an example of the breadth of the matter contemplated as “Work-in-Progress.”

ARTICLE 3 CONTRACTOR SERVICES

The Contractor agrees to furnish to the Customer all Software (including source code), Services, and associated Deliverables required to provide to the Customer the S2S Service.

ARTICLE 4 CONTRACT DOCUMENTS

4.1 This contract constitutes the entire agreement of the parties with respect to the subject matter contained herein and supersedes and replaces any and all prior negotiations, understandings and agreements, written or oral, between the parties relating thereto, including all terms of any “shrink-wrap”, “click-wrap” or “browse-wrap” license of the Software.

4.2 The contract made by and between the parties hereto shall consist of, and precedence is hereby established by, the order of the following documents:

- A.** This Agreement signed by the parties herein;
- B.** The Assumptions attached hereto as Exhibit C;
- C.** Any other exhibits attached to this Agreement;
- D.** The Specifications;
- E.** The Project Work Plan, as agreed to by the parties, and any mutually agreed upon updates and amendments to the Project Work Plan;
- F.** The RSOW;
- G.** The Contractor's Proposal as accepted by the State; and
- H.** Any subscription agreements signed by Customer.

4.3 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Project by the Contractor. The Contract Documents are complementary, and what is required by one shall be binding as if required by all. A higher order document shall supersede a lower order document to the extent necessary to resolve any conflict or inconsistency arising under the various provisions thereof, provided, however, that in the event an issue is addressed in one of the above mentioned documents but is not addressed in another of such documents, no conflict or inconsistency shall be deemed to occur by reason thereof. The documents listed above are shown in descending order of priority, that is, the highest document begins with the first listed document ("A. This Agreement") and the lowest document is listed last ("H. Any subscription agreements").

ARTICLE 5 SCOPE OF WORK

5.1 The scope of work for this Project is defined by the Contract Documents set forth in Article 4 herein. The S2S Service to be produced by the Contractor under this Agreement will contain all plans, analyses, standards, Documentation, manuals, procedures, Software, interfaces, tests, training, support, warranties, and other items required for a successful S2S Service installation and not specifically excluded in writing by the Customer.

5.2 Customer and Active Users are granted access to the S2S Service twenty-four (24) hours a day, seven (7) days a week, three hundred and sixty five (365) days a year, subject to regularly scheduled maintenance and required repairs. The terms and conditions of this Agreement will apply to any Enhancements or additional Software Products Customer may procure in accordance with a written agreement to be agreed with Contractor.

5.3 Contractor will provide Customer storage space on and access to the S2S Service via the AAMVAnet™ and provide access to the S2S Service to the Active Users through Contractor's site ("Hosting Services").

5.4 In connection with the Hosting Services, Contractor will provide and maintain all Software and hardware, including, but not limited to, the server hardware and software, telecommunications hardware and software, security hardware and software and other software that is reasonably necessary to operate and maintain the S2S Service.

5.5 From and after such time that the S2S Service goes into production:

- a) The S2S Service will be accessible at least ninety nine percent (99%) of the time, twenty-four (24) hours a day, seven (7) days a week, except for scheduled maintenance and required repairs, and except for any loss or interruption of the Hosting Services due to causes beyond the control of Contractor ("Required Service Level"). The percentage of time that the S2S Service is accessible during a monthly billing period (allowing for loss or interruption of the Hosting Services due to causes beyond the control of the Contractor) shall be referred to as the "Actual Service Level".
- b) Contractor's monthly S2S Service management report will specify the Actual Service Level during the month to which the invoice relates.
- c) On a monthly basis, the amount of Service Level Credits, if any, to which MDPS is entitled will be subtracted from the monthly recurring charges owed by MDPS. The Service Level Credit amounts will be reflected in Contractor's invoice in the calendar month following the month for which any such amounts are calculated.
- d) The dollar value of the credit shall be the product of the value of charges for Hosting Services during such month times the applicable Service Credit Factor determined on the basis of the Actual Service Level for such month, with reference to the following table:

Actual Service Level is	Service Credit Factor
>=98.9 and <99%	5%
>=98.8 and <98.9%	6%
>=98.7 and <98.8%	7%
>=98.6 and <98.7%	8%
>=98.5 and <98.6%	9%
<98.5	10%

- e) Contractor will be relieved of responsibility for meeting any Service Levels and for any associated Service Level Credits to the extent caused or affected by problems determined to be caused by the actions or inactions of the participants of the S2S Service.

5.6 Contractor shall provide the Customer with its standard managed firewall service, which shall enable secure delivery of Contractor's application services using fully redundant hardware-based firewalls. Contractor's managed firewall service will be available twenty-four (24) hours a day, seven (7) days a week except for scheduled maintenance and required repairs and except for any loss or interruption due to causes beyond the control of Contractor.

5.7 Contractor acknowledges that the Content is and shall remain the sole and exclusive property of the state government agency transmitting such data. Contractor agrees to maintain the confidentiality of the Content and shall not make the Content publicly available except as may be necessary in performing the Hosting Services.

5.8 Contractor shall be responsible for the following:

- A. Ensuring that all Deliverables are complete and accepted by MDPS pursuant to the mutually agreed upon Project Work Plan;**
- B. All Content provided by MDPS and collected by the Software shall remain the sole and exclusive property of MDPS. Upon the termination or expiration of this Agreement, Contractor shall, at no cost to MDPS, provide such Content in its possession to MDPS pursuant to a mutually agreed upon release schedule;**
- C. Working with MDPS to achieve access rates that meet MDPS' needs;**
- D. Providing security for the host site that is agreeable to MDPS with Contractor responsible for all necessary equipment and software related to security;**
- E. Completing daily and monthly backups of the site and providing same to MDPS at no additional cost upon their request and upon the expiration/termination of this Agreement;**
- F. Notifying MDPS at least three (3) business days prior to any anticipated service interruption, with said notice containing a general description of the reason for the service interruption;**
- G. Proposing and adhering to a disaster recovery plan and providing access to such plan to the State, all at Contractor's expense;**
- H. Maintaining the confidentiality of the data entered;**
- I. Providing MDPS access to all of the technical information concerning operation of the site, including but not limited to, server specifications, Internet connection information, personnel requirements and software implementations;**
- J. Identifying any commercially available software, by vendor and version number, integrated into the Software and describing the particular functionality of any software that is proprietary to the Contractor;**
- K. Providing monthly reports containing line utilization, site availability statistics, network usage, security user access reports and S2S Service performance data to MDPS;**
- L. Maintaining sufficient bandwidth and server capacity to meet MDPS' and Active Users' demand as it may fluctuate and increase during the term of this Agreement, and**
- M. Ensuring that upon termination or expiration of this Agreement that transition of the site from the Licensor to MDPS or to a successor host will be accomplished at a mutually agreed upon reasonable expense to MDPS or to the successor host, and with minimal interruption of the site's accessibility.**

ARTICLE 6 COORDINATION OF PROJECT

6.1 The Contractor acknowledges that the Customer intends to be actively involved in monitoring the progress of the Project and will cooperate with Customer in such efforts. The Contractor agrees to (a) meet with the Customer on a regular basis at a mutually agreeable time, and as otherwise requested by the Customer, to discuss the status of the Project; (b) submit written monthly narrative Project status reports; (c) inform the Customer Project Manager regularly of completed and upcoming tasks; (d) inform the Customer Project Manager of any

critical meetings to allow their participation; and (e) ensure that the Contractor Project Manager and the Customer Project Manager work closely together. The Contractor agrees to obtain the Customer's approval of all tasks and the time schedule for completion of said tasks prior to commencing performance, if not already contained in the approved Project Work Plan.

6.2 It is understood by the parties that the Project Work Plan must be in place within twenty (20) business days of execution of this Agreement and prior to any other work being performed. Once this mutually agreed upon Project Work Plan, which will identify specific time frames and Deliverable target dates for this Project, has been developed, it will be incorporated into and made a part of this Agreement. As reasonably required during the course of the Project, the parties will review and revise target dates in the Project Work Plan based on actual progress and delays that have been encountered. The dates in the Project Work Plan will define the agreed upon period of performance. The parties acknowledge that the Project Work Plan will evolve and change from time to time upon the mutual written agreement of both parties. The parties agree that the Deliverables and schedule set forth in the latest version of the Project Work Plan will take precedence over any prior plans.

ARTICLE 7 RESPONSES BY CUSTOMER AND/OR CONTRACTOR

Whenever a response, approval, or other action is required in response to a request or submission by the Contractor, the Customer shall proceed with reasonable dispatch to secure the required response, approval, or action from the necessary Customer officials or personnel, and Customer's Project Manager or his/her designee shall supply the Contractor with a written approval of the requested action if the Customer's response is positive, or with a written explanation detailing with reasonable particularity the causes for negative response by the Customer. Except where otherwise provided in this Agreement, where agreement, approval, acceptance, consent, or similar action by the Customer or the Contractor is required, such action shall not be unreasonably delayed or withheld.

ARTICLE 8 PAYMENT TERMS

8.1 COMPENSATION: Except as provided in Article 9, Change Order Procedure, of this Agreement, the total compensation to be paid to the Contractor by the Customer shall not exceed \$28,516,445.00 (Fixed Price) for all products, services, travel, performances, and expenses under this Agreement, payable as described in the Payment Schedule and Deliverables List attached hereto as Exhibit A to this Agreement, unless prior written authorization from ITS has been obtained. Authorization of payments is subject to the written approval of the State.

8.2 PAYMENT SCHEDULE: The Contractor and the State agree to the Deliverable Schedule as set forth in the Payment Schedule and Deliverables List included as Exhibit A to this Agreement. The Contractor will receive payment in the amount indicated in Article 8.1 herein, less retainage to be withheld in accordance with Article 11.1 herein, upon written acceptance, as set forth in Article 13 herein, by the Customer of each of the Deliverables defined therein. The parties agree that as the Project Work Plan is revised by written agreement of the parties during the term of this Agreement, the anticipated dates for acceptance of Deliverables and for the

corresponding payments to the Contractor, but not the amounts of those payments may likewise be revised only by written agreement of the parties.

8.3 INVOICING: Upon written acceptance, as set forth in Article 13 herein, by the Customer of a Deliverable which has an associated payment, the Contractor will invoice the Customer for the invoice amount of that payment as indicated in the schedule in Exhibit A of this Agreement, less retainage to be withheld in accordance with Article 11.1 herein. Services will be invoiced every two (2) weeks in arrears as completed by Contractor and accepted by Customer. Contractor shall submit invoices and supporting documentation to Customer electronically during the term of this Agreement using the processes and procedures identified by the State. Invoices shall be submitted electronically in PDF form addressed as follows:

Clay Johnston

MIS Director

cjohnston@dps.ms.gov

Invoices for accepted deliverables shall be prepared in accordance with the billing format appended hereto and incorporated as Exhibit D. All such invoices shall include the appropriate Deliverable number, Modified Deliverable/Task/Item Name, Original Deliverable/Task/Item Name, and Mississippi budget code. Subject to the provisions of Article 13 herein, the Customer shall pay to the Contractor all approved and undisputed invoiced amounts due and owing within forty-five (45) days of the receipt by the Customer of each invoice. Late charges on any unpaid balance shall not exceed one and one-half percent (1.5%) per month or portion thereof from the expiration of such forty-five (45) day period until such time as the warrant or check is mailed or otherwise delivered to the Contractor. No payment, including final payment, shall be construed as acceptance of defective or incomplete work, and the Contractor shall remain responsible and liable for full performance in strict compliance with the Contract Documents. All payments should be made in United States currency. Payments by state agencies using the Statewide Automated Accounting System ("SAAS") shall be made and remittance information provided electronically as directed by the State. These payments by SAAS agencies shall be deposited into the bank account of the Contractor's choice.

8.4 Acceptance by the Contractor of the last payment from the Customer shall operate as a release of all claims against the State by the Contractor and any subcontractors or other persons supplying labor or materials used in the performance of the work under this Agreement.

ARTICLE 9 CHANGE ORDER RATE AND PROCEDURE

9.1 CHANGES IN THE SCOPE OF WORK: It is understood that the State may, at any time, by a written order, make changes in the scope of the Project. No changes in scope are to be conducted or performed by the Contractor except by the express written approval of the State. The Contractor shall be obligated to perform all Change Orders requested by the Customer which have no price or schedule effect.

9.2 CHANGES AFFECTING PRICE OR SCHEDULE: The Contractor shall have no obligation to proceed with any change that has a price or Project Work Plan effect until the

parties have mutually agreed in writing thereto. Neither the State nor the Contractor shall be obligated to execute such a Change Order; if no such Change Order is executed, the Contractor shall not be obliged or authorized to perform services beyond the scope of this Agreement and the Contract Documents. All executed Change Orders shall be incorporated into previously defined Deliverables.

9.3 APPROPRIATE CHANGE ORDER RATE: With respect to any Change Orders issued in accordance with Article 9 herein, the Contractor shall be compensated for work performed under a Change Order, according to the hourly Appropriate Change Order Rate specified in the attached Exhibit B. If there is a service that is not defined in the Appropriate Change Order Rate, the Contractor and the State will negotiate the rate. The Contractor agrees that each Appropriate Change Order Rate shall be a “fully loaded” rate, that is, it includes the cost of all materials, travel expenses, per diem, and all other expenses and incidentals incurred by the Contractor in the performance of the Change Order. The Contractor shall invoice the Customer upon acceptance by the Customer of all work documented in the Change Order, and the Customer shall pay invoice amounts on the terms set forth in this Agreement

9.4 CHANGE ORDERS: Upon agreement of the parties to enter into a Change Order, the parties will execute such a Change Order setting forth in reasonable detail the work to be performed thereunder, the revisions necessary to the specifications or performance schedules of any affected Project Work Plan, and the estimated number of professional services hours that will be necessary to implement the work contemplated therein. The price of the work to be performed under any Change Order will be determined based upon the Appropriate Change Order Rate; however, the Change Order will be issued for a total fixed dollar amount and may not be exceeded regardless of the number of hours actually expended by the Contractor to complete the work required by that Change Order. The Project Work Plan will be revised as necessary in accordance with Article 9.6 herein.

9.5 PROGRESS REPORTS REGARDING CHANGES: The Contractor will include in the progress reports delivered under this Agreement the status of work performed under all then current Change Orders.

9.6 REVISED PROJECT WORK PLAN: In the event the Contractor and the State enter into a Change Order which increases or decreases the time required for the performance of any part of the work under this Agreement, the Contractor shall submit to the Customer a revised version of the Project Work Plan clearly indicating all changes at least five (5) working days prior to implementing any such changes.

9.7 CUSTOMER’S REVIEW: The Customer shall promptly review all revised Project Work Plans submitted under this Agreement and shall notify the Contractor of its approval or disapproval, in whole or in part, of the proposed revisions, stating with particularity all grounds for any disapproval within ten (10) working days of receiving the revisions from the Contractor.

ARTICLE 10 RETURN OF OVERPAYMENTS

The Contractor agrees to return to the State any overpayments due to unearned funds or funds disallowed pursuant to the terms of this Agreement that were disbursed to the Contractor by the State. The Contractor shall return any overpayments to the State within thirty (30) calendar days after either discovery by the Contractor or notification by the State of the overpayment. In the event that the Contractor or its independent auditor discovers an overpayment has been made, the Contractor shall repay said overpayment within thirty (30) calendar days, without prior notification from the State. In the event that the State first discovers an overpayment has been made, the State will notify the Contractor by letter of such finding. Should repayment not be made in a timely manner, the State will charge interest of one and one half percent (1 ½ %) per month, compounded on the outstanding balance after thirty (30) calendar days after the date of notification by the State or discovery by the Contractor, or the maximum amount allowed by law, whichever is greater.

ARTICLE 11 SECURITY FOR PERFORMANCE BY THE CONTRACTOR

11.1 RETAINAGE: To secure the Contractor's performance under this Agreement, the Contractor agrees that the Customer shall hold back as retainage ten percent (10%) of each amount payable with respect to the Deliverables to which retainage applies as indicated in Exhibit A, including amounts payable under Change Orders, under this Agreement as set forth in Article 9 herein. The retainage amount will be released at three (3) intervals as described herein: (a) the retainage associated with Deliverables comprising the Unified Network Interface will be released upon the expiration of the Warranty Period for the Unified Network Interface or the satisfaction of warranty claims pertaining to the Unified Network Interface, whichever occurs later; (b) the retainage associated with the Web Services Interface will be released upon the expiration of the Warranty Period for the Web Services Interface or the satisfaction of warranty claims pertaining to the Web Services Interface, whichever is later; and (c) the retainage associated with the Network Control Software will be released upon the expiration of the Warranty Period for the Network Control Software or the satisfaction of warranty claims pertaining to the Network Control Software, whichever is later. At such time that retainage is released hereunder Contractor shall issue an invoice for payment of the amount of such released retainage.

ARTICLE 12 AVAILABILITY OF FUNDS

It is expressly understood and agreed that the obligation of the State to proceed under this Agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds for the performances required under this Agreement. If the funds anticipated for the continuing fulfillment of this Agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds, or if there is a discontinuance or material alteration of the program under which funds were provided, or if funds are not otherwise available to the State, the State shall have the right to immediately terminate this Agreement, in whole or in part, without damage, penalty, cost, or expense to the State of any kind whatsoever. Customer shall have the sole right to determine whether funds are available for the payments or

performances due under this Agreement. The effective date of termination shall be as specified in the notice of termination. In such event, the Contractor shall be paid pursuant to the provisions of Article 21.5 herein.

ARTICLE 13 ACCEPTANCE

13.1 DEFINITION: "Acceptance" shall mean, with respect to each Deliverable, written notice from the Customer that it has accepted the Deliverable as conforming in all material respects to the applicable Specifications, including any approved Change Orders, for such Deliverable.

13.2 ACCEPTANCE OF DELIVERABLE: Any Deliverable ready for review and approval shall be submitted directly to the Customer's Project Director or his/her designee. Upon receipt, the Customer's Project Director or his/her designee shall promptly forward a written notice of receipt to the Contractor, and the Customer shall have fifteen (15) working days from receipt of the Deliverable to review same and to approve or reject the Deliverable.

13.3 CORRECTION OF MATERIAL DEFECT: If the Customer determines that a Deliverable contains a Material Defect, the Customer shall notify the Contractor's Project Manager in writing, describing the Material Defect in sufficient detail to allow the Contractor to locate and correct the Material Defect. In the event the Customer notifies the Contractor of a Material Defect in a Deliverable, the Contractor shall: (a) promptly correct such Material Defect, or if agreeable to Customer; (b) develop a plan to correct such Material Defect within a reasonable period of time not to exceed fifteen (15) working days, unless the State consents in writing to a longer period of time, and diligently proceed according to such plan until the Material Defect has been corrected. Upon receipt of corrected Deliverables, the Customer shall have another acceptance period, as set forth in Article 13.2 herein, in which to re-evaluate/retest such Deliverable. If the Customer again determines that the Deliverable contains any Material Defects, the Customer shall again notify the Contractor's Project Manager in writing, describing the Material Defects in sufficient detail to allow the Contractor to locate and correct such Material Defects within fifteen (15) working days thereafter, unless the Customer consents in writing to a longer period of time. Subject to the provisions of Article 13.4 herein, the Customer and the Contractor will continue to perform the tasks required by this Article 13.3 as necessary until the Deliverable is acceptable to the Customer. The Customer shall not unreasonably withhold or delay its acceptance or rejection of corrected Deliverables.

13.4 INABILITY TO CORRECT MATERIAL DEFECT: If after three (3) repeated good faith efforts to correct a Material Defect, or such reasonable time as determined by the Customer depending on the nature of the Material Defect or the complexity thereof, the Contractor is unable to correct any Material Defects preventing acceptance of a Deliverable, the Customer may, at its sole discretion, either (a) notify the Contractor that it has elected to keep the Deliverable despite such Material Defects, (b) return the Deliverable to the Contractor, and provide the Contractor with an opportunity to deliver substitute Deliverables acceptable to the Customer within the time period specified by the Customer, (c) return the Deliverable to the

Contractor and withhold payment of amounts relating to such Deliverable, or (d) terminate the Agreement, in whole or in part, pursuant to Article 21. If Customer elects to terminate the Agreement pursuant to clause (d), the cure period specified in Article 21 will not be allowed, there having already been three (3) repeated good faith efforts to correct the Material Defect. If the Customer elects to keep a Deliverable containing Material Defects pursuant to clause (a) above, or if the Customer returns the Deliverable pursuant to clause (c), the State shall have the right to obtain professional services from third parties to attempt to remedy such Material Defects, provided that all such third parties execute a confidentiality agreement to protect the interests of the Contractor prior to being given access to any Deliverable or to any of the Contractor's proprietary information pertaining to it. All additional reasonable costs incurred by the Customer in obtaining such third party professional services shall be borne by the Contractor, and the Customer shall be entitled, in its discretion, to withhold such costs from any payments which may otherwise be due the Contractor upon acceptance of the conforming Deliverable or to invoice the Contractor for said costs, which invoice shall be paid by the Contractor within ten (10) working days of receipt. In addition to all other rights and remedies set forth in this Agreement, in the event the Customer determines that the Project is in jeopardy due to the Contractor's inability to submit acceptable Deliverables, then the State may terminate this Agreement for cause in accordance with Article 21.1 of this Agreement and recover its damages sustained as a result thereof.

ARTICLE 14 WARRANTIES

14.1 IMPLIED WARRANTIES: The Contractor shall not disclaim implied warranties of merchantability and implied warranties of fitness for a particular purpose. Any provisions disclaiming implied warranties shall be null and void.

14.2 WARRANTY FOR DELIVERABLES: The Contractor represents and warrants for the Warranty Period that all Deliverables shall be free from any Material Defect. This warranty includes, without limitation, correction of errors, design deficiencies, performance deficiencies, and incorrect or defective documentation, including those found during S2S Service Acceptance testing, implementation, and the Warranty Period. S2S Service Acceptance testing shall not in any way relieve the Contractor of its responsibilities to correct any Material Defect during the Warranty Period. With respect to Material Defects arising during the Warranty Period, the Contractor shall, as promptly as is reasonably possible in the circumstances after receiving notice of Material Defects from the State, repair or replace any Deliverable containing a Material Defect at no cost to the State within ten (10) working days of receiving notice of the Material Defect from the State or within such reasonable time as the parties may agree.

14.3 The Contractor represents and warrants that all Software provided by Contractor shall meet or exceed the Specifications.

14.4 Excluding all Deliverables covered by the one (1) year Warranty Period as specified in Article 2.25, Contractor represents and warrants that its Services hereunder shall be performed by competent personnel and shall be of professional quality consistent with generally accepted

industry standards for the performance of such Services and shall comply in all respects with the requirements in this Agreement. For any breach of this warranty, the Contractor shall, for a period of ninety (90) days from performance of the Service, perform the Services again, at no cost to Customer, or if Contractor is unable to perform the Services as warranted, Contractor shall reimburse Customer the fees paid to Contractor for the unsatisfactory Services.

14.5 The Contractor represents and warrants that it has and shall obtain and pass through to Customer any and all warranties obtained or available from the licensor of any third party software.

14.6 Contractor represents and warrants that it has the right to license the third party software provided under this Agreement.

14.7 Contractor represents and warrants that there is no disabling code or lockup program or device embedded in the Software provided to Customer. Contractor further agrees that it will not, under any circumstances, including enforcement of a valid contract right, (a) install or trigger a lockup program or device, or (b) take any step which would in any manner interfere with Customer's use of the Software and/or which would restrict Customer from accessing its data files or in any way interfere with the transaction of Customer's business. For any breach of this warranty, Contractor, at its expense, shall, within five (5) working days after receipt of notification of the breach, deliver Software to Customer that is free of such disabling code or a lockup program or device.

14.8 Contractor represents and warrants that the Software provided to Customer does not contain a computer virus. For any breach of this warranty, Contractor, at its expense, shall, within five (5) working days after receipt of notification of the breach or within such reasonable time as the parties may agree, deliver Software to Customer that is free of any virus, and shall be responsible for repairing, at Contractor's expense, any and all damage done by the virus to Customer's site.

14.9 Contractor represents and warrants that the Customer shall acquire good and clear title to the Customer Proprietary Material provided hereunder.

14.10 Contractor represents and warrants that it presently has and will continue to maintain, at its own expense, throughout the term of this Agreement, valid licenses for all software, trademarks, service marks, patents and copyrighted material and any other proprietary information of a third party that it will deploy in support of all products Contractor uses in the performance of this Agreement. Contractor further represents and warrants that upon Customer's request, Contractor shall pass through such licenses to Customer at no cost to Customer. In the event the licenses are passed through to Customer, such licenses shall name the Customer as the license holder of record and such licenses shall be established in such a manner so as to survive the termination/expiration of this Agreement for a period of one (1) year. For any breach of the preceding warranty, Contractor at its own expense shall, as promptly as is reasonably possible in

the circumstances after receiving notice of Material Defects from the State, secure and/or pass through, as applicable, the necessary licenses.

14.11 WARRANTY AGAINST BROKER'S FEE: The Contractor represents and warrants that it has not employed any company or person, other than a *bona fide* employee working solely for the Contractor or for a company regularly employed as its marketing agent, to solicit or secure the Agreement. The Contractor also warrants that it has not paid or agreed to pay any company or person, other than a *bona fide* employee working solely for the Contractor or for a company regularly employed by the Contractor as its marketing agency, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award of the Agreement. For breach or violation of this warranty, the State shall have the right to cancel the Agreement without liability, or, in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fees.

14.12 WARRANTY AGAINST CONFLICT OF INTEREST: No official or employee of the Customer or of ITS and no other public official of the State of Mississippi who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the Project shall, prior to the completion of said Project, voluntarily acquire any personal interest, direct or indirect, in the Agreement. The Contractor warrants that it has removed any material conflict of interest prior to the signing of the Agreement and that it shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its responsibilities under the Agreement. The Contractor also warrants that in the performance of the Agreement no person having any such known interests shall be employed.

14.13 WARRANTY AGAINST GRATUITIES: The Contractor represents and warrants that no elected or appointed officer or other employee of the State of Mississippi has or shall benefit financially or materially from the Agreement. No individual employed by the State of Mississippi shall be admitted to any share or part of the Agreement or to any benefit that may arise there from. The State of Mississippi may, by written notice to the Contractor, terminate the right of the Contractor to proceed under the Agreement if it is found, after notice and hearing by the Executive Director of ITS or duly authorized representative, that gratuities in the form of entertainment, gifts, or otherwise were offered or given by the Contractor to any officer or employee of the State of Mississippi with a view toward securing the Agreement or securing favorable treatment with respect to the award, or amending or making of any determinations with respect to the performing of such contract, provided that the existence of the facts upon which the Executive Director of ITS or duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court. In the event the Agreement is terminated under this clause, the State of Mississippi shall be entitled to pursue the same remedies against the Contractor as it would pursue in the event of a breach of contract by the Contractor, including punitive damages, in addition to any other damages to which it may be entitled at law or in equity.

14.14 WARRANTY OF SOFTWARE COMPLIANCE: The Contractor represents and warrants that any software or other products delivered hereunder will not deviate from the specifications set forth in the most recently agreed upon Specifications, will perform the tasks for which it is designed and will function correctly, and will comply with the current information systems standards and procedures and the operational requirements, as agreed upon by the Customer, ITS, or their designated representatives.

14.15 WARRANTY OF CONVEYANCE OF PROJECT DOCUMENTS: The Contractor represents and warrants that, upon completion of the Project, the Contractor and all subcontractors, if any, shall convey to the State, for Deliverables with respect to which there is a retainage (as specified in Exhibit A), copies of all interim reports, data collection forms, and any working papers that are reasonably required for Customer's operation of the S2S Service.

14.16 LIABILITY: Unless jointly agreed otherwise in writing, Contractor's liability shall not exceed the total amount paid by Customer to Contractor under this Agreement, including any amounts paid pursuant to amendments and Change Orders. In no event will Contractor be liable to Customer for special, indirect, consequential or incidental damages including lost profits, lost savings or lost revenues of any kind. Excluded from this or any liability limitation are claims related to fraud, bad faith, infringement issues, bodily injury, death, physical damage to tangible personal property and real property, and the intentional and willful misconduct or gross negligent acts of Contractor. The language contained herein tending to limit the liability of the Contractor will apply to Customer to the extent it is permitted and not prohibited by the laws or constitution of Mississippi. Further, the parties understand and agree that the Contractor is precluded from relying on any contractual damages limitation language within this Agreement where the Contractor acts fraudulently or in bad faith.

14.17 If applicable under the given circumstances, Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act, Section 71-11-1, et seq. of the Mississippi Code Annotated (Supp2008), and will register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance and, upon request of the State and approval of the Social Security Administration or Department of Homeland Security where required, to provide a copy of each such verification to the State. Contractor further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Contractor understands and agrees that any breach of these warranties may subject Contractor to the following: (a) termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to

Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such termination/cancellation, Contractor would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.

14.18 Contractor represents and warrants that the S2S Service provided pursuant to this Agreement will pass both internal security audits and independent security audits to ensure that S2S Service meets the security requirements included in the Specifications. For any breach of the preceding warranty at any time during which the S2S Service is covered by warranty, maintenance and/or support, Contractor shall, at its own expense and at no cost to Customer, remediate any Material Defect, anomaly or security vulnerability in the S2S Service by repairing and/or replacing any and all components of the system necessary in order for the S2S Service to comply with the Specifications.

14.19 Contractor represents and warrants that no official or employee of Customer or of ITS, and no other public official of the State of Mississippi who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the Project shall, prior to the completion of said Project, voluntarily acquire any personal interest, direct or indirect, in this Agreement. The Contractor warrants that it has removed any material conflict of interest prior to the signing of this Agreement, and that it shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its responsibilities under this Agreement. The Contractor also warrants that in the performance of this Agreement no person having any such known interests shall be employed.

14.20 The Contractor represents and warrants that no elected or appointed officer or other employee of the State of Mississippi, nor any member of or delegate to Congress has or shall benefit financially or materially from this Agreement. No individual employed by the State of Mississippi shall be admitted to any share or part of the Agreement or to any benefit that may arise therefrom. The State of Mississippi may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this Agreement if it is found, after notice and hearing by the ITS Executive Director or his/her designee, that gratuities in the form of entertainment, gifts, jobs, or otherwise were offered or given by the Contractor to any officer or employee of the State of Mississippi with a view toward securing this Agreement or securing favorable treatment with respect to the award, or amending or making of any determinations with respect to the performing of such contract, provided that the existence of the facts upon which the ITS Executive Director makes such findings shall be in issue and may be reviewed in any competent court. In the event this Agreement is terminated under this article, the State of Mississippi shall be entitled to pursue the same remedies against the Contractor as it would pursue in the event of a breach of contract by the Contractor, including punitive damages, in addition to any other damages to which it may be entitled at law or in equity.

14.21 Contractor represents and warrants that it presently has and will continue to maintain, at its own expense, throughout the term of this Agreement, valid licenses for all software,

trademarks, service marks, patents and copyrighted material and any other proprietary information of a third party that it will deploy in support of all products Contractor uses in the performance of this Agreement.

ARTICLE 15 INFRINGEMENT INDEMNIFICATION

The Contractor represents and warrants that the Deliverables provided to the Customer under this Agreement and their use by the Customer and Active Users will not infringe or constitute an infringement of any copyright, patent, trademark, servicemark, trade secret, or other proprietary right of any person or entity. Customer agrees that it will promptly notify Contractor in writing of any such claim or action of which it has knowledge, and that it will cooperate fully in the defense and investigation of the claim by supplying Contractor all relevant information currently available and in its possession, all at Contractor's expense. Contractor shall, to the extent authorized by Mississippi law, have sole control over the defense or settlement of any such claim or action. Contractor, at its own expense, shall defend or settle any and all infringement actions filed against Contractor or Customer which involve the Deliverables provided under this Agreement and shall pay all settlements, as well as all costs, attorney fees, damages, and judgment finally awarded against Customer. If the continued use of the items for the purpose intended is threatened to be enjoined or is enjoined by any court of competent jurisdiction, Contractor shall, at its expense: (a) first procure for Customer the right to continue using such items, or upon failing to procure such right; (b) modify or replace them with non-infringing items with equivalent functionality, or upon failing to secure either such right; (c) refund to Customer the fees previously paid by Customer for the infringing materials Customer may no longer use. Said refund shall be paid within ten (10) working days of notice to the Customer to discontinue said use. In addition to the foregoing, the Contractor shall indemnify the Customer in accordance with the provisions of Article 20 herein.

ARTICLE 16 CONTRACTOR'S STAFF

16.1 The Contractor agrees that the personnel identified below ("Key Personnel") shall be assigned to this Project at its commencement and shall remain a part of this Project and function in the capacity indicated below throughout the duration of the Agreement, as long as such personnel are employed by the Contractor and are not replaced by the Contractor at the Customer's request or with the Customer's prior consent. Contractor agrees to pay the Customer \$250,000.00 per Key Personnel removed if any of the Key Personnel are removed from the Project prior to the ending date of the Agreement for reasons other than departure from the Contractor's employment or replacement by Contractor pursuant to the Customer's request or without Customer's prior consent.

16.2 Subject to the State's written approval, which approval will not be unreasonably denied, the Contractor may substitute qualified persons as Key Personnel in the event of the separation of the incumbents therein from employment with Contractor or for other reasons that are reasonably acceptable to the State and may also assign additional staff to provide technical support to the Customer. All substitute Key Personnel assigned to this Project shall have equal or greater ability, experience, and qualifications than the departing personnel and shall be subject to

the prior written approval of the Customer. The Contractor must notify the Customer of any proposed removal of any Key Personnel and provide such information concerning such substitute Key Personnel as the Customer may reasonably request.

Name and Title	Project Role
Philippe Guiot, Vice President & CIO	Project Management & Oversight
Pamela Dsa, Project Director, Driver Systems PMO	Project Manager
Surajit Chatterjee, Director, Software Development, Central Sites	Director for Development of the Central Site, Network Control Software and Test System
Greg McNally, Director, Web Applications	Director for Development of the Web User Interface and Reports
Abhimanyu Kapil, Director, Quality Assurance	Director for System testing of the Central Site, Network Control Software, Test System, Web User Interface and Reports, and Jurisdiction Training and Structured testing
Pierre-Yves Boyer, Director, Enterprise Architecture	Director for Security & Privacy Assessment
Vlad Bulkin, Software Architect	Lead Architect

16.3 The Contractor will not permanently divert any staff member from meeting work schedule(s) developed and approved under this Agreement, unless approved in writing by the Customer. In the event of Contractor personnel loss or redirection, the services performed by the Contractor shall be uninterrupted, and the Contractor shall report in required status reports its efforts and progress in finding replacements and the effect of the absence of those personnel.

16.4 REMOVAL OF STAFF: If at any time during the term of this Agreement the State becomes dissatisfied with the performance of any Contractor/subcontractor staff, the State shall notify Contractor and the parties shall attempt to resolve the performance issues. If such efforts to resolve performance issues are not successful after good faith efforts, the State may require replacement of such staff, and Contractor shall use its best efforts to accomplish the replacement within fifteen (15) working days of the request.

ARTICLE 17 OWNERSHIP OF DOCUMENTS AND WORK PAPERS

The Customer shall own, with respect to Customer Proprietary Material (defined in Article 18), all documents, notes, programs, databases (and all applications thereof), studies, files, reports, work papers, and all other materials, electronic or otherwise, created by Contractor in connection with the Project, whether completed or in progress, except for the Contractor's internal administrative and quality assurance files and internal Project correspondence. The Contractor

shall deliver such documents and work papers to the Customer upon termination or completion of this Agreement, or at such other time as may be agreed upon by the parties. The foregoing notwithstanding, the Contractor shall be entitled to retain a set of such Project work papers for its files. Contractor shall be entitled to use such Project work papers only after receiving written permission from the Customer and subject to the provisions of Article 18 herein. The Contractor shall own, with respect to Contractor Proprietary Material (defined in Article 18), all documents, notes, programs, databases (and all applications thereof), studies, files reports, work papers, and all other materials, electronic or otherwise, created by Contractor in connection with the Project.

ARTICLE 18 COPYRIGHT

18.1 As used herein, Customer Proprietary Material means, all Deliverables including without limitation all software, source code for developed/customized software, associated documentation, and all other materials of every kind and nature, whether hard copy or electronic, whether completed or in progress other than Contractor Proprietary Material (defined below) It is understood and agreed that the Customer owns all title and proprietary rights, whether tangible or intangible, including but not limited to copyright, trademark, and trade secret rights, in and to the Customer Proprietary Material.

18.2 As used herein, Contractor Proprietary Material means all software, source code for developed/customized software, associated documentation, and all other materials of every kind and nature, whether hard copy or electronic, owned by Contractor or a third party that was developed previous to or independently of the efforts under this Agreement as well as customizations to Contractor's or a third party's pre-existing intellectual property during the performance of this Agreement. It is understood and agreed that all title and proprietary rights, whether tangible or intangible, including but not limited to copyright, trademark, and trade secret rights, in and to the Contractor Proprietary Material are retained by the Contractor or the third party as applicable.

18.3 Contractor agrees that, upon payment in full to Contractor of all compensation due Contractor for the Software under this Agreement, the Customer shall own all right, title and interest in and to Customer Proprietary Material, free from any claim, lien, or right of retention on the part of the Contractor. All patent rights, copyrights and other registration to the Customer Proprietary Material shall be the property of the State of Mississippi, which shall have the sole right to seek patent, copyright, registered design, or other protection in connection therewith. If state or federal laws, regulations, or cooperative agreements should not allow the State of Mississippi to seek patent, copyright, or other registration, the Contractor shall, if so requested by the State, seek such registration and shall irrevocably grant, assign and transfer such registration to the State. In such event, the State shall be responsible for all costs and fees associated with such registration.

18.4 The parties understand and agree that Customer shall have: (a) a non-exclusive, non-transferable, enterprise-wide unlimited, and perpetual license for any Contractor Proprietary Material furnished to Customer pursuant to this Agreement; (b) the right to use and customize

the Contractor Proprietary Material and the related Documentation for its business operations in accordance with the terms and conditions of this Agreement; (c) unlimited use by the Active Users (i.e., subscribers) to the S2S Service of the Contractor Proprietary Material acquired for Customer's operations; (d) use of such Contractor Proprietary Material with a backup platform system, should it be deemed necessary by Customer; (e) the right to copy such Contractor Proprietary Material for safekeeping, backup, and disaster recovery purposes; (f) the right to combine the Contractor Proprietary Material with other programs and modules, and the right to create interfaces to other programs; and (g) the right to reproduce any and all physical Documentation supplied under the terms of this Agreement.

18.5 Customer agrees that, except as noted herein, it will not otherwise copy, translate, modify, adapt, decompile, disassemble, or reverse engineer any of the Contractor Proprietary Material without the prior written consent of Contractor. All title and proprietary rights, whether tangible or intangible, including but not limited to copyright, trademark, and trade secret rights, in and to the Contractor Proprietary Material are retained by the Contractor or third party as applicable. Customer agrees to reproduce and include the copyright, trademark, and other proprietary rights notices on any copies made of the Contractor Proprietary Material and Documentation.

18.6 The parties understand and agree that Contractor shall have: (a) a non-exclusive, non-transferable, enterprise-wide unlimited, and revocable term license during the term of this Agreement for any Customer Proprietary Material developed by Contractor pursuant to this Agreement; (b) the right to use and customize the Customer Proprietary Material and the related Documentation for Contractor's business operations in accordance with the terms and conditions of this Agreement; (c) unlimited use by the Active Users (i.e., subscribers) to the S2S Service of the Customer Proprietary Material acquired for Contractor's operations; (d) use of such Customer Proprietary Material with a backup platform system, should it be deemed necessary by Contractor; (e) the right to copy such Customer Proprietary Material for safekeeping, backup, and disaster recovery purposes; (f) the right to combine the Customer Proprietary Material with other programs and modules, and the right to create interfaces to other programs; and (g) the right to reproduce any and all physical Documentation supplied under the terms of this Agreement. Notwithstanding the preceding, it is understood and agreed that Contractor has the right to copy and reuse the code from the S2S Service in other products and programs, as long as the product or application does not directly compete or provide an alternate application for use by the states to the S2S Service.

18.7 Contractor agrees that, except as noted herein, it will not otherwise copy, translate, modify, adapt, decompile, disassemble, or reverse engineer any of the Customer Proprietary Material without the prior written consent of Customer. All title and proprietary rights, whether tangible or intangible, including but not limited to copyright, trademark, and trade secret rights, in and to the Customer Proprietary Material are retained by the Customer or the third party as applicable. Contractor agrees to reproduce and include the copyright, trademark, and other proprietary rights notices on any copies made of the Customer Proprietary Material and

Documentation.

18.8 The parties understand and agree that upon the completion of the Agreement, Customer plans to complete a governance process whereby management and oversight of the System, as well as Customer's ownership of Customer Proprietary Material and Customer's license to Contractor Proprietary Material, will be transferred to a new entity that meets the criteria of Customer, DIVS, and the federal agencies who directed and funded this Project.

ARTICLE 19 CONFIDENTIALITY

19.1 CONFIDENTIAL INFORMATION: "Confidential Information" shall mean (a) those materials, documents, data, and other information which the Contractor has designated in writing as proprietary and confidential, and (b) all data and information which the Contractor acquires as a result of its contact with and efforts on behalf of the Customer and any other information designated in writing as confidential by the State. Each party to this Agreement agrees to protect all Confidential Information provided by one party to the other, to treat all such Confidential Information as confidential to the extent that confidential treatment is allowed under state law, and, except as otherwise required by law, not to publish or disclose such information to any third party without the other party's written permission and to do so by using those methods and procedures normally used to protect the party's own Confidential Information.

19.2 DISCLOSURE OF CONFIDENTIAL INFORMATION: In the event that either party to this Agreement receives notice that a third party requests divulgence of confidential or otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of confidential or otherwise protected information, that party shall promptly inform the other party and thereafter respond in conformity with such subpoena to the extent mandated by state and/or federal laws, rules, and regulations. This Article shall survive the termination or completion of this Agreement, shall continue in full force and effect, and shall be binding upon the Contractor and its agents, employees, successors, assigns, subcontractors, or any party or entity claiming an interest in this Agreement on behalf of or under the rights of the Contractor, following any termination or completion of this Agreement. The parties agree that this Article is subject to and superseded by Mississippi Code Annotated, Section 25-61-1, et. seq. regarding Public Access to Public Records.

19.3 EXCEPTIONS TO CONFIDENTIAL INFORMATION: Contractor and the State shall not be obligated to treat as confidential and proprietary any information disclosed by the other party ("the Disclosing Party") which (a) is rightfully known to the recipient prior to negotiations leading to this Agreement, other than information obtained in confidence under prior engagements; (b) is generally known or easily ascertainable by non-parties of ordinary skill in computer design and programming or in the business of the Customer; (c) is released by the Disclosing Party to any other person, firm, or entity (including governmental agencies or bureaus) without restriction; (d) is independently developed by the recipient without any reliance on Confidential Information; (e) is or later becomes part of the public domain or may be lawfully

obtained by the State or the Contractor from any non-party; or (f) is disclosed with the Disclosing Party's prior written consent.

19.4 With the exception of any attached exhibits which are labeled as "confidential", the parties understand and agree that this Agreement, including any amendments and/or change orders thereto, does not constitute confidential information, and may be reproduced and distributed by the State without notification to Contractor. ITS will provide third party notice to Contractor of any requests received by ITS for any such confidential exhibits so as to allow Contractor the opportunity to protect the information by court order as outlined in ITS Public Records Procedures.

ARTICLE 20 HOLD HARMLESS

Subject to the limitations on Contractor's liability under this Agreement contained in Article 14.16 of this Agreement, the Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate the State, its Commissioners, Board Members, officers, employees, agents, and representatives, and the State of Mississippi from and against all claims, demands, liabilities, suits, actions, damages, losses, and costs of every kind and nature whatsoever, including, without limitation, court costs, investigative fees and expenses, attorneys' fees, and claims for damages arising out of or caused by the Contractor and/or its partners, principals, agents, employees, and/or subcontractors in the performance of or failure to perform this Agreement. In the State's sole discretion, the Contractor may be allowed to control the defense of any such claim, suit, or action. In the event the Contractor defends said claim, suit, or action, the Contractor shall use legal counsel reasonably acceptable to the State; the Contractor shall be solely responsible for all costs and/or expenses associated with such defense, and the State shall be entitled to participate in said defense. The Contractor's obligations under this Article are contingent upon the State promptly notifying the Contractor in writing of any claim, suit, or action of which it has knowledge, and the State cooperating with the Contractor's reasonable requests in defending said claim or suit. The Contractor shall not settle any claim, demand, suit, or action without the State's concurrence, which the State shall not unreasonably withhold.

ARTICLE 21 TERMINATION

21.1 TERMINATION FOR CAUSE: Either party may terminate this Agreement upon a material breach by the other party upon thirty (30) days prior written notice, unless the defaulting party cures such breach within such thirty (30) day period, or, if the breach is one that is curable but requires more than thirty (30) days to cure, develops a plan to cure such breach within a mutually agreeable and reasonable period of time and diligently proceeds according to such plan until the breach is cured. The non-defaulting party may also pursue any remedy available to it in law or in equity.

21.2 DEFAULT BY CONTRACTOR: The State may terminate the whole or any part of this Agreement for cause under Article 21.1 above without the assessment of any penalties under the following circumstances: (a) if the Contractor becomes the subject of bankruptcy or receivership proceedings, whether voluntary or involuntary, or the Contractor executes an

assignment for the benefit of its creditors; or (b) if the Contractor fails to produce Deliverables reasonably acceptable to the State within the time specified herein or any extension thereof such as to imperil the completion of the S2S Serviceon or before the deadline set forth in Article 1.1 of this Agreement; or (c) if the Contractor fails to make progress as to materially endanger performance of this Agreement in accordance with its terms; or (d) if the Contractor fails to materially perform any other provisions of this Agreement.

21.3 TERMINATION OTHER THAN FOR CAUSE: The State may terminate the whole or any part of this Agreement for any reason without the assessment of any penalties after giving thirty (30) days written notice specifying the effective date thereof to the Contractor.

21.4 RIGHTS UPON TERMINATION FOR CAUSE:In the event of a termination for cause, the Contractor shall be entitled to: (a) the contract price for any completed Deliverable not previously tendered to the State, provided that the State accepts any such Deliverable under the procedures set forth in Article 13 of this Agreement; (b) the fair value for Work-in-Progress on any Deliverable not completed as of the effective date of the termination, said fair value to be determined by the parties based upon the degree of functional completion of the Deliverable discounted by the amount of labor required to complete the Deliverable, provided that, however, the State may, for reasonable cause, refuse to accept any Work-in-Progress for a specified Deliverable, upon which refusal Contractor shall be due nothing for that Deliverable; and (c) less the amount of re-procurement costs expended by the State, including but not limited to the amount over and above the amount of the performance bond that the State incurred to procure the completion of the Deliverable, for Deliverables not accepted in whole or in part. Further, should the State terminate this Agreement for cause, the Contractor shall permanently forfeit the retainage set forth in Article 11.1 of this Agreement, and the State may seek such other damages and remedies as are available to it under the law. Upon termination for cause, the State shall have the ownership and/or license rights as defined in Articles 17 and 18 for all Deliverables and Work-in-Progress, which it accepts under this Article. If, after termination, it is determined by a court of competent jurisdiction that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for other than cause, as set forth in Article 21.5 herein.

21.5 RIGHTS UPON TERMINATION OTHER THAN FOR CAUSE: In the event of a termination other than for cause, the Contractor shall be entitled to: (a) the contract price for any completed Deliverable not previously tendered to the State, provided that the State accepts any such Deliverable under the procedures set forth in Article 13 of this Agreement; (b) the fair value for Work-in Progress on any Deliverable not completed, whether accepted or not by the State, as of the effective date of the termination, said fair value to be determined by the parties based upon the degree of functional completion of the Deliverable as mutually agreed upon by the parties; and (c) the amount of funds actually retained under Article 11.1 herein. Upon termination of this Agreement other than for cause, the State shall have the ownership and/or license rights as defined in Articles 17 and 18 for all Deliverables and Work-in-Progress which it accepts under this Article.

ARTICLE 22 INSURANCE

22.1 Contractor and all subcontractors shall maintain, at its own expense, the following insurance coverages in the amounts specified, insuring the Contractor, its employees, agents, designees, subcontractors, and any indemnities as required herein:

- A. Professional liability insurance in an amount not less than one million dollars (\$1,000,000.00), including personal injury, bodily injury (including both disease or death), property damages, and blanket contractual liability; and
- B. Comprehensive general liability insurance in an amount not less than one million dollars (\$1,000,000.00), including coverage for blanket contractual liability, broad form property damage, personal injury and bodily injury (including illness, disease, and death), and products/completed operations; and
- C. Comprehensive automobile liability insurance, including hired and non-owned vehicles, in an amount not less than one million dollars (\$1,000,000.00), covering bodily injury and property damage; and
- D. Employee fidelity bond insurance in an amount not less than three hundred thousand dollars (\$300,000.00); and
- E. Workers' compensation insurance in the amounts required pursuant to the laws of the applicable state.

22.2 DURATION: All insurance policies required herein shall be issued by an insurance company or companies licensed to do business in the State of Mississippi and reasonably acceptable to the State and shall be written on an occurrence basis, or the Contractor/subcontractor shall provide coverage to the State for a period of not less than three (3) years after expiration of the Warranty Period. The Contractor/subcontractor shall name ITS, the Customer, and the State of Mississippi as additional insured on all insurance policies and coverages, excepting only the professional liability coverage, and all such policies shall include the following endorsement: "It is hereby agreed and understood that ITS, the Customer, and the State of Mississippi are named as additional insured and that the coverage afforded to ITS, the Customer, and the State of Mississippi under this policy shall be primary insurance. If ITS, the Customer, and the State of Mississippi have other insurance which is applicable to the loss, such other insurance shall be on an excess or contingent basis. The amount of the Insurer's liability under this policy shall not be reduced by the existence of such other insurance."

22.3 NO CANCELLATION: No policy of insurance may be canceled, modified, or reduced during the course of this Agreement except if replaced by policies complying with the provisions of this Agreement with no gap in coverage.

22.4 DEDUCTIBLES: Contractor/subcontractor shall be responsible for all deductibles and for any inadequacy or absence of coverage, and the Contractor/subcontractor shall have no claim or other recourse against the State for any costs or loss attributable to such deductibles or

to coverage limitations, exclusions, or unavailability, all of which shall be borne solely by the Contractor/subcontractor.

22.5 CERTIFICATE OF INSURANCE: At the time of the execution of this Agreement, the Contractor/subcontractor shall deliver to the State a Certificate or Certificates of Insurance certifying the types and the amounts of coverage, certifying that said insurance is in force before the Contractor/subcontractor starts work, certifying that said insurance applies to the Project and to all activities and liability of the Contractor/subcontractor pursuant to this Agreement, and certifying that ITS, the Customer, and the State of Mississippi are named as additional insured on the Contractor/subcontractor's policies of insurance by endorsement as required herein. The Contractor/subcontractor shall simultaneously deliver to ITS, the Customer, and the State of Mississippi one duplicate original of each entire insurance policy.

22.6 NON-DELEGABLE: The insurance and indemnity obligations of this Agreement are non-delegable. The Contractor shall not subcontract any part of this Agreement without retaining absolute responsibility for requiring the same insurance coverage from its subcontractors.

22.7 PAYMENT OF PREMIUMS: The Contractor/subcontractor shall be responsible for payment of all premiums for insurance required by this Agreement, but the Contractor's/subcontractor's obligations shall not be limited to the purchase of insurance. The Contractor shall indemnify and hold harmless the State, as described in Article 20 of this Agreement, for all damages for which insurance should have been provided pursuant to this Agreement, irrespective of whether said insurance was actually obtained. The Contractor's indemnity obligations under this Agreement shall not be restricted to amounts available under insurance, whether actually obtained or which should have been obtained, but shall extend to the fullest extent, as set forth in Article 20 of this Agreement.

22.8 The Contractor's and any subcontractor's failure to maintain complete insurance shall be a material breach of this Agreement authorizing the State, at the State's sole election, either to terminate this Agreement for cause or to provide full insurance coverage at the Contractor's sole expense; however, in neither case shall the Contractor's liability be lessened.

22.9 In the event the Contractor or any subcontractors fail to obtain and maintain insurance required by this Agreement, the State shall be entitled, at its sole discretion and without waiving any rights hereunder, to purchase said insurance and deduct the premium costs from any amounts owed the Contractor; however, the State shall have no obligation to purchase said insurance, and failure to do so shall not constitute a waiver of the Contractor's and/or subcontractor's obligations with respect to insurance as set forth in this Agreement.

22.10 The State shall not be required to purchase any insurance under this Agreement.

ARTICLE 23 DISPUTES

In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement or the breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question, or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. If the parties are unable to resolve the dispute in a satisfactory manner within the next thirty (30) calendar days, either party may give the other party written notice of its disagreement, which notice shall include the factual details of the party's position, the contractual provisions relied upon, and its arguments, if any, which support its position, and may simultaneously therewith request non-binding mediation of the dispute under either the International Institute for Conflict Prevention & Resolution Mediation Procedure in effect as of the date of this Agreement, or the American Arbitration Association Rules for Commercial Mediation in effect at the time mediation is requested. The other party, herein called "Respondent", may agree to mediation at its discretion. If the Respondent agrees to mediation, it may, in its discretion, elect to proceed under any available rules for expedited processing of the mediation. The parties agree that any mediator provided must be knowledgeable and experienced in the type of disputes submitted to mediation. All mediation proceedings pursuant to this Section shall be confidential and shall be treated as compromise settlement negotiations for purposes of applicable rules of evidence. If the dispute is not resolved through mediation, either party may initiate litigation in a court of competent jurisdiction; provided, however, either party may initiate litigation prior to the completion of mediation under this Section to toll any applicable statute of limitations, to preserve its legal rights or to seek a preliminary injunction or other provisional judicial relief, if in its sole judgment such action is necessary. Nothing in this Section shall impair the right of either party to seek such other rights or remedies it may have at law or in equity.

ARTICLE 24 RECORD RETENTION AND ACCESS TO RECORDS

Contractor shall establish and maintain financial records, supporting documents, statistical records and such other records as may be necessary to reflect its performance of the provisions of this Agreement. The Customer, ITS, any state or federal agency authorized to audit Customer, and/or any of their duly authorized representatives, shall have unimpeded, prompt access to this Agreement and to any of the Contractor's proposals, books, documents, papers and/or records that are pertinent to this Agreement to make audits, copies, examinations, excerpts and transcriptions at the State's or Contractor's office as applicable where such records are kept during normal business hours. All records relating to this Agreement shall be retained by the Contractor for three (3) years from the date of receipt of final payment under this Agreement. However, if any litigation or other legal action, by or for the state or federal government has begun that is not completed at the end of the three (3) year period, or if an audit finding, litigation or other legal action has not been resolved at the end of the three (3) year period, the records shall be retained until resolution.

ARTICLE 25 INDEPENDENT CONTRACTOR STATUS

25.1 The Contractor shall at all times be regarded as an independent contractor and shall at no time act as an agent for the State. Nothing contained herein shall be deemed or construed by the

State, the Contractor, or any third party as creating the relationship of principal and agent, partners, joint venturers, or any similar such relationship between the State and the Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the State or the Contractor hereunder creates or shall be deemed to create a relationship other than the independent relationship of the State and the Contractor.

25.2 Contractor's personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the State.

25.3 It is further understood that the consideration expressed herein constitutes the full and complete compensation for all services and performances hereunder and that, except as provided for in Articles 8 and 11.1 of this Agreement, any sum due and payable to Contractor shall be paid as a gross sum with no withholdings or deductions being made by the State for any purpose from said contract sum.

25.4 Contractor shall pay, when due, all salaries and wages of its employees, and it accepts exclusive responsibility for the payment of federal income tax, state income tax, social security, unemployment compensation, and any other withholdings that may be required. Neither Contractor nor employees of Contractor are entitled to state retirement or leave benefits.

ARTICLE 26 NON-SOLICITATION OF EMPLOYEES

Each party to this Agreement agrees not to employ or to solicit for employment, directly or indirectly, any of the other party's employees until at least one (1) year after the expiration/termination of this Agreement, unless mutually agreed to in writing by the State and the Contractor.

ARTICLE 27 COMPLIANCE WITH LAWS

The Contractor understands that the State is an equal opportunity employer and therefore maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, or any other consideration made unlawful by federal, state, or local laws. All such discrimination is unlawful and the Contractor agrees during the term of the Agreement that the Contractor will strictly adhere to this policy in its employment practices and provision of services. The Contractor shall comply with all applicable state and federal laws and regulations in its performance of its obligations under this Agreement.

ARTICLE 28 AUTHORITY, ASSIGNMENTS AND SUBCONTRACTS

28.1 In matters of proposals, negotiations, contracts, and resolution of issues and/or disputes, the parties agree that Contractor represents all contractors, third parties, and/or subcontractors Contractor has assembled for this project. The Customer is required to negotiate only with Contractor, as Contractor's commitments are binding on all proposed contractors, third parties, and subcontractors.

28.2 The Contractor acknowledges that it was selected by the State to perform the services required hereunder based, in part, upon the Contractor's special skills and expertise. Except as otherwise provided in this Agreement, the Contractor shall not assign, subcontract, or otherwise transfer this Agreement or its obligations for components of the Work having a value exceeding \$100,000.00 hereunder in whole or in part without the prior written consent of the State, which consent will not be unreasonably delayed or denied. Any attempted assignment or transfer of its obligations without such consent shall be null and void. Subject to the foregoing, this Agreement shall be binding upon the respective successors and assigns of the parties.

28.3 Contractor must obtain the written approval of Customer before subcontracting any component of this Agreement having a value in excess of \$100,000.00. No such approval by the State of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of the State in addition to the total fixed price agreed upon in this Agreement. All subcontracts shall incorporate the terms of this Agreement and shall be subject to the terms and conditions of this Agreement and to any conditions of approval that the State may deem necessary.

28.4 Contractor represents and warrants that any subcontract agreement Contractor enters into shall contain a provision advising the subcontractor that the subcontractor shall have no lien and no legal right to assert control over any funds held by the Customer, that the subcontractor acknowledges that no privity of contract exists between the Customer and the subcontractor, and that the Contractor is solely liable for any and all payments which may be due to the subcontractor pursuant to its subcontract agreement with the Contractor. The Contractor shall indemnify and hold harmless the State from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs, and expenses of every kind and nature whatsoever arising as a result of Contractor's failure to pay any and all amounts due by Contractor to any subcontractor, materialman, laborer, or the like.

28.5 All subcontractors shall be bound by any negotiation, arbitration, appeal, adjudication, or settlement of any dispute between the Contractor and the Customer, where such dispute affects the subcontract.

ARTICLE 29 ADDITIONAL PROVISIONS

29.1 AUTHORITY TO CONTRACT: Contractor warrants: (a) that it is a validly organized business with valid authority to enter into this Agreement; (b) that it is qualified to do business and in good standing in the State of Mississippi; (c) that entry into and performance under this Agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind; and (d) notwithstanding any other provision of this Agreement to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this Agreement.

29.2 WAIVER: No delay or omission by either party to this Agreement in exercising any right, power, or remedy hereunder or otherwise afforded by contract, at law, or in equity shall constitute an acquiescence therein, impair any other right, power, or remedy hereunder or otherwise afforded by any means, or operate as a waiver of such right, power, or remedy. No waiver of or modification to any term or condition of this Agreement will void, waive, or change any other term or condition. No waiver by one party to this Agreement of a default by the other party will imply, be construed as, or require waiver of future or other defaults. A waiver by the State, to be effective, must be in writing, must set out the specifics of what is being waived, and must be signed by an authorized representative of the State.

29.3 GOVERNING LAW: This Agreement shall be construed in accordance with and governed by the laws of the State of Mississippi, and venue for the resolution of any dispute shall be Jackson, Hinds County, Mississippi.

29.4 NOTICES: Any notice required or permitted to be given under this Agreement shall be in writing and personally delivered or sent by electronic means, provided that the original of such notice is sent by certified United States mail, postage prepaid, return receipt requested, or overnight courier with signed receipt, to the party to whom the notice should be given at their business address listed herein. ITS' address for notice is: Craig P. Orgeron, Ph.D., Executive Director, Mississippi Department of Information Technology Services, 3771 Eastwood Drive, Jackson, Mississippi 39211. Customer's address for notice is: Mr. Clay Johnston, Director, Management Information Systems, Mississippi Department of Public Safety, 1900 Woodrow Wilson, Jackson, Mississippi 39216. The Contractor's address for notice is: Mr. Neal D. Schuster, President and CEO, American Association of Motor Vehicle Administrators, 4301 Wilson Boulevard, Suite 400, Arlington, Virginia 22203. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

29.5 FORCE MAJEURE: Each party shall be excused from performance for any period and to the extent that it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond the reasonable control and without the fault or negligence of such party and/or its subcontractors. Such acts shall include, without limitation, acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters (the "Force Majeure Events"). When such a cause arises, the Contractor shall notify the State immediately in writing of the cause of its inability to perform, how it affects its performance, and the anticipated duration of the inability to perform. Delays in delivery or in meeting completion dates due to Force Majeure Events shall automatically extend such dates for a period equal to the duration of the delay caused by such events, unless the State determines it to be in its best interest to terminate the Agreement.

29.6 SEVERABILITY: If any term or provision of this Agreement is prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by

law, provided that the State's purpose for entering into this Agreement can be fully achieved by the remaining portions of the Agreement that have not been severed. In such event, the parties shall amend the Agreement as necessary to reflect the original intent of the parties and to bring any invalid or unenforceable provisions in compliance with applicable law.

29.7 THIRD PARTY ACTION NOTIFICATION: Contractor shall notify Customer in writing within five (5) business days of Contractor filing bankruptcy, reorganization, liquidation or receivership proceedings or within five (5) business days of its receipt of notification of any action or suit being filed or any claim being made against Contractor or Customer by any entity that may materially affect the Contractor's performance under this Agreement. Failure of the Contractor to provide such written notice to Customer may be considered a material breach of this Agreement.

29.8 INTEREST: Except as to late payments as set forth in Article 8.3 herein, the State shall not be required to pay any interest, including prejudgment interest, under this Agreement.

29.9 CAPTIONS: The captions and headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provision or article of this Agreement.

29.10 TAXES: Contractor is solely liable for all taxes, including but not limited to use, excise, personal property, and sales tax. It is the Contractor's sole responsibility to contact the appropriate city, county, and state taxing authorities to determine the Contractor's tax liabilities, if any.

29.11 SOVEREIGN IMMUNITY: By entering into this Agreement with Contractor, the State of Mississippi does in no way waive its sovereign immunities or defenses as provided by law.

29.12 STATE PROPERTY: Contractor shall be responsible for the proper custody of any State-owned property furnished for Contractor's use in connection with the performance of this Agreement. Contractor shall reimburse the State for any loss or damage, normal wear and tear excepted.

29.13 STATE REGISTRATION: Contractor must furnish certification of authority to conduct business in the State of Mississippi as a condition of this Agreement. Such registration must be obtained from the Secretary of State of the State of Mississippi before actual work under this Agreement begins.

29.14 MODIFICATION OR RENEGOTIATION: This Agreement may be modified only by written agreement signed by the parties hereto, and any attempt at oral modification shall be void and of no effect. The parties agree to renegotiate the Agreement if federal and/or state revisions of any applicable laws or regulations make changes in this Agreement necessary.

29.15 SURVIVAL: Articles 14, 15, 17, 18, 19, 20, 24, 26, 29.3, 29.8, and 29.11 shall survive any termination or expiration of this Agreement.

ARTICLE 30 DEBARMENT AND SUSPENSION CERTIFICATION

Contractor certifies that neither it nor its principals: (a) are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency; (b) have, within a three (3) year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; (c) are presently indicted of or otherwise criminally or civilly charged by a governmental entity with the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and (d) have, within a three (3) year period preceding this Agreement, had one or more public transactions (federal, state, or local) terminated for cause or default.

ARTICLE 31 COMPLIANCE WITH ENTERPRISE SECURITY POLICY

Contractor and Customer understand and agree that all products and services provided by Contractor under this Agreement must be and remain in compliance with the State of Mississippi's Enterprise Security Policy. The parties understand and agree that the State's Enterprise Security Policy is based on industry-standard best practices, policy, and guidelines at the time of contract execution. The parties understand and agree that the Customer is responsible for maintaining compliance with the State of Mississippi's Enterprise Security Policy. The State reserves the right to introduce a new policy during the term of this Agreement and require the Contractor to comply with same. If Contractor is unable or unwilling to comply with the new policy, the parties agree to enter into discussions in an attempt to reach an amicable resolution. In the event a mutual agreement is not reached, both Contractor and Customer shall be released from their obligations under the Agreement.

ARTICLE 32 STATUTORY AUTHORITY

By virtue of Section 25-53-21 of the Mississippi Code Annotated, as amended, the Executive Director of ITS is the purchasing and contracting agent for the State of Mississippi in the negotiation and execution of all contracts for the acquisition of information technology equipment, software, and services. The parties understand and agree that ITS as contracting agent is not responsible or liable for the performance or non-performance of any of Customer's or Contractor's contractual obligations, financial or otherwise, contained within this Agreement.

ARTICLE 33 SOFTWARE SUPPORT AND MAINTENANCE

As part of the Software support and maintenance services, Contractor will maintain the Products in an operable condition according to the specifications contained in the technical manuals and as outlined in the RSOW and the Contractor's Proposal in response thereto.

For the faithful performance of the terms of this Agreement, the parties have caused this Agreement to be executed by their undersigned representatives.

State of Mississippi, Department of
Information Technology Services, on
behalf of Mississippi Department of Public
Safety

By: 
Authorized Signature

Printed Name: Craig P. Orgeron, Ph.D.

Title: Executive Director

Date: 10/15/12

American Association of Motor Vehicle
Administrators

By: 
Authorized Signature

Printed Name: MARK S. SMITH

Title: CHIEF FINANCIAL OFFICER

Date: 10/3/12

Mississippi Department of Public Safety

By: 
Authorized Signature

Printed Name: A. E. SANTA CRUZ

Title: COMMISSIONER DPS

Date: 10/11/12

EXHIBIT C ASSUMPTIONS

#	PROJECT ASSUMPTIONS
1.	Contractor has used the term "MS" in the Response to the RSOW. "MS" refers to the Mississippi Department of Information Technology Services (ITS), MS Department of Public Safety or its designee.
2.	The S2S Service is being developed for the 50 States, D.C. and five U.S. territories (i.e., the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the Northern Mariana Islands).
3.	S2S will be backward compatible with CDLIS.
4.	All States must be on the latest version of CDLIS before implementing S2S.
5.	The Federal Motor Carrier Safety Administration (FMCSA) shall review any changes to the functionality, design or documentation of the Commercial Driver's License Information System (CDLIS) that result from the design and implementation of the S2S Service. DHS shall review any changes to the requirements for the S2S Service. FMCSA shall also provide timely notification of any changes to CDLIS functionality or design that impact S2S design, development, testing and operation.
6.	The S2S Service developed by Contractor will be capable of supporting all fifty-six (56) Jurisdictions. The project plan includes estimates for Contractor to structure test with only 8 pilot and 8 additional Jurisdictions during the pilot and post-pilot periods.

#	SOW ASSUMPTIONS
1	Contractor will not be held responsible for delays caused by MS led efforts, such as approvals from the Working Group (WG) and/or other federal agencies.
2	Contractor assumes that MS will involve FMCSA and DHS personnel needed to perform review of the Deliverable Documentation, and that Contractor may be entitled to adjustments to the Deliverable schedules.
3	Every document Deliverable will include sign-off by Contractor personnel and the Customer.

EXHIBIT D

Sample Invoice



**American Association of
Motor Vehicle Administrators**

4801 Wilson Boulevard
Suite 400
Arlington, VA 22203

TIN 53-0172317
DUHS 40542177
Project Name XXXXXX

Mississippi Department of Public Safety
Clay Johnston, MIS Director
P.O. Box 958
Jackson, MS 39205

Term: 45

Award TBD
P.O. Number N/A
Project Number TBD

Invoice	Number	XXXXXX
	Date	XX/XX/XX
	Period	XX/XX/XX to XX/XX/XX

Description	Amount
Contract Billings	43,638.00
Retainage	<u>(4,693.80)</u>
	43,954.20
Deliverable # 1a	
Modified Deliverable Name: Schedule Management Plan	
Original Deliverable Name: Project Management Plan (Part 1)	
MS Budget Code: 02b3 Design	
Contract Billings	43,638.00
Retainage	<u>(4,693.80)</u>
	43,954.20
Deliverable # 1b	
Modified Deliverable Name: Scope Management Plan	
Original Deliverable Name: Project Management Plan (Part 2)	
MS Budget Code: 02b3 Design	
Contract Billings	6,106.00
Deliverable # 14a1	
Modified Deliverable Name: Monthly User Training Month 1	
Original Deliverable Name: Monthly User Training Month 1	
MS Budget Code: 02b6 Post Pilot Implementation	
Invoice Total	\$ 94,014.40

Payment is to be made by Electronic Funds Transfer as follows:

Bank Name: PNC Bank, N.A. - Washington, DC
Routing Number: 054000039
Account Name: American Association of Motor Vehicle Administrators
Account Number: 530354684