

**IOWA DEPARTMENT OF NATURAL RESOURCES
CONTRACT NUMBER 16CRDPBJMANK-0034**

Between

**IOWA DEPARTMENT OF NATURAL RESOURCES
And
ACTIVE Network, LLC.**

This Contract was approved by the Natural Resource Commission on August 11, 2016.

IN WITNESS THEREOF, the parties hereto have entered into this Contract on the day and year last specified below.

DEPARTMENT OF NATURAL RESOURCES

By: Chuck Gipp Date: 11/3/16
Chuck Gipp, Director

CONTRACTOR

By: Gary Evans Date: 11/01/16
ACTIVE Network, LLC.
Gary Evans, General Manager

For DNR use only:

1. Retain the original contract in the project file and send a hardcopy with the first invoice.
2. a) Fax contract to 515-725-8202 (check one box below before faxing)
OR
b) Email scanned copy to your Division's Contract Rep:

DIVISION	DIVISION CONTRACT REP
<input type="checkbox"/> Conservation & Recreation	Kim.Rasler@dnr.iowa.gov
<input type="checkbox"/> Director's Office	Karen.Fynaardt@dnr.iowa.gov
<input type="checkbox"/> Environmental Services	Jerah.Sheets@dnr.iowa.gov

If you do not have faxing or scanning/emailing capabilities, you may mail a copy of the contract to IA DNR, Wallace State Office Building, Attention: (your respective bureau's contract rep), 502 East 9th Street, Des Moines, IA 50319.

**PROFESSIONAL
SERVICES SPECIAL
CONDITIONS**

This Contract is entered into between the Iowa Department of Natural Resources (DNR) and ACTIVE Network, LLC. (Contractor). The parties agree as follows:

Section 1 IDENTITY OF THE PARTIES

1.1 Parties. DNR is authorized to enter into this Contract. DNR's address is: Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319.

ACTIVE Network, LLC, a corporation is organized under the laws of the State of Texas and is registered with the Iowa Secretary of State. The Contractor's address is: 717 N. Harwood Street, Suite 2500, Dallas, Texas 75201.

1.2 Project Manager. Each party has designated a Project Manager, who shall be responsible for oversight and negotiation of any contract modifications, as follows:

DNR Project Manager: Jessica Manken
IA Dept. of Natural Resources
State Parks Bureau
502 E. 9th Street
Des Moines, IA 50319-0034
Phone: 515-725-8488
Fax: 515-725-8201
Email: jessica.manken@dnr.iowa.gov

Contractor Project Manager: Jeff Alderman
Project Manager
6925 Century Ave
5th Floor
Mississauga, ON L5N-7K2
Phone: 800-695-4636 x 2703
Cell: 647-405-4573
Email: Jeff.Alderman@activenetwork.com

1.2.2 Contractor Personnel. Contractor shall have the following personnel who shall perform all design, system development, testing, deployment and maintenance operations, including the implementation and operation of the website, and all Call Center and Help Desk operations required to complete the work required by this Contract. Where specific individuals are named, Contractor shall employ those individuals to with DNR in the capacity specified in this Contract for at least the term of the Contract. Contractor shall not remove, reassign or substitute the individuals identified as Personnel in this Contract, except in the event of death, illness, retirement, disability, termination from employment, conditions permitting absence from employment under the Family and Medical Leave Act of 1993, or in the event of DNR's written consent. If the removal, reassignment or substitution of personnel becomes necessary, then Contractor shall replace the individual with a person having equal or greater ability, experience and

qualifications. Contractor shall notify DNR in writing within five (5) business days of the personnel change and shall include with the written notification a copy of the replacement individual's resume. DNR shall have the opportunity to object to a proposed replacement individual on the basis of her or his qualifications.

1.2.2.1 Implementation Project Management Team. The Implementation Project Management Team Leader shall be the main point of contact for DNR during the **Implementation Phase** of the Project. The Contractor's Implementation Project Management Team Leader shall be:

Jeff Alderman
Project Manager
6925 Century Ave
5th Floor
Mississauga, ON L5N-7K2
Phone: 800-695-4636 x 2703
Cell: 647-405-4573
Email: Jeff.Alderman@activenetwork.com

The DNR's contact for Consulting Escalation shall be:

Jeff Alderman
Project Manager
6925 Century Ave
5th Floor
Mississauga, ON L5N-7K2
Phone: 800-695-4636 x 2703
Cell: 647-405-4573
Email: Jeff.Alderman@activenetwork.com

The Implementation Project Management Team shall manage the daily operations of the Contract staff, work with state personnel and network vendors, and be responsible for establishing and enforcing quality assurance standards for the Project. The Implementation Project Management Team shall be the focal point for the coordination of Contractor's and DNR's responsibilities and assignments and shall provide a leadership role for all Contractor's services. The Implementation Project Management Team shall be responsible for all aspects of the system customization and implementation of the proposed Centralized Parks Reservation System (CPRS), including resource planning, scheduling and status reports to DNR. At least one member of the Implementation Project Management Team shall be available for all project meetings and be available within 24 hours of notification by DNR if necessary. At least one member of the Implementation Project Management Team shall be available to DNR by telephone during regular business hours. Members of the Implementation Project Management Team must spend sufficient time in Iowa so that the Contractor understands the operations of DNR and the expectations for this Project.

The Implementation Project Management Team shall have the following responsibilities:

- Create weekly updating of the project plan and status report
- Host scheduled status and specific conference calls with the CPRS Project Team;

- Hosting weekly internal status meetings with the ACTIVE Network project team
- Training for DNR CPRS teams: Management, Trainers, Finance, etc.
- Training for ACTIVE Network: Help desk, Inventory, Product Support
- Work with Inventory Team to develop / create data collection tools for the project.
- Create a Project Charter / Scope
- Work with DNR's CPRS Project Team to determine agency access requirements for Recreation Dynamics
- Coordinate all other ACTIVE Network teams to ensure the project stays on track and within scope
- Analyze data to be input and create a data validation process (Park, Site, Reservation and Customer Data)

1.2.2.2 Account Manager. The Contractor's Account Manager shall be:

Joy Boire
10182 Telesis Ct
San Diego, CA 92121
Office: 888-543-7223 Ext: 2711
Email: Joy.Boire@activenetwork.com

The Account Manager shall be responsible for overseeing all financial aspects of the CPRS, including the collection of fees, maintenance of financial records and the transmittal of funds due to DNR. DNR's contact for Account Management escalation shall be:

Joy Boire
10182 Telesis Ct
San Diego, CA 92121
Office: 888-543-7223 Ext: 2711
Email: Joy.Boire@activenetwork.com

1.2.2.3 Software Engineer. The Contractor's Software Engineer shall be:

Steve Wade
22530 Gateway Center Drive,
Suite 200
Clarksburg, MD 20871
Office: 469-291-0623
Email: Steve.Wade@activenetwork.com

The Software Engineer shall be responsible for heading up the maintenance and development of all software programs for the CPRS.

1.2.2.4 Operations Manager. The Contractor's Operations Manager shall be:

Aaron Piche
6925 Century Ave,
5th Floor
Mississauga, ON L5N-7K2
Office: 800-695-4636 x 2833
Cell: 647-625-7568
Email: Aaron.Piche@activenetwork.com

The Operations Manager shall be responsible for overseeing the operation of the CPRS and shall serve as the primary point of contact for the DNR Project Team. The Operations Manager shall be responsible for sending all required reports throughout Operations to the designate DNR Project Team members. The Operations Manager shall participate in meetings between DNR and ACTIVE Network.

1.2.2.5 Client Services Manager. The Client Services Manager shall be Bill Anderson. The Client Services Manager shall be responsible for overseeing the operation of the CPRS and shall serve as the primary point of contact for the DNR Project Manager during the **Operations Phase** of the Contract. The Client Services Manager shall be responsible for sending all required reports throughout the term of the Contract to the DNR Project Manager. The Client Services Manager shall participate in meetings between DNR and the Contractor. The Client Services Manager shall be available to DNR by telephone during regular business hours. The Client Services Manager shall also provide after-hours contact information to DNR in case of an emergency.

1.2.2.6 Support Personnel. The Support Services Operations Manager shall be:

Aaron Sherman
717 N. Harwood St.
Suite 2500
Dallas, TX, 75201
Office: 469-729-3343
Cell: 972-370-4799
Email: Aaron.Sherman@activenetwork.com

Contractor shall maintain sufficient levels of support personnel, including supervisory and support staff with appropriate training, work experience, and expertise to perform all Contract requirements on an ongoing basis. Support Personnel also shall be responsible for handling ad hoc reporting requests and other data inquiries.

1.2.2.7 Call Center Management Team. The Call Center Supervisor shall be:

Jessica Himmel
18 Division St.
Suite 213
Saratoga Springs, NY, 12866
Office: 518-306-2588
Cell: 518-577-0007
Email: Jessica.Himmel@activenetwork.com

The Call Center Management Team shall be responsible for overseeing all aspects of the Call Center operations, staff supervision, record keeping, trouble shooting and customer service.

1.2.2.8 Other Personnel. The following Contractor personnel shall work on the CPRS during the Implementation Phase, the Pilot Phase, and the Operations Phase, as necessary.

Inventory Team. The Inventory Team shall be responsible for all data entry aspects as it relates to inventory information. The Inventory Team shall lead the data collection discussions and shall assist in the gathering of information. The Inventory Team shall be available for assistance with complex tasks. Other responsibilities include but shall not be limited to:

- Review / validate data collection process from the park locations
- Ensure the data input activities are complete
- Create all maps
- Ensure appropriate sign-off from park locations that park / site and map data is correct
- Create and distribute any new procedural documentation for CPRS as it relates to working with the Inventory Team during the project and post-implementation

After the initial Go Live period DNR staff will be fully competent with self-management of inventory and we transition key aspects of inventory management to DNR CPRS staff.

Product Management – Finance Team. The Product Management - Finance Team shall be involved in all financial discussions and identification of reporting requirements. Its responsibilities shall include but shall not be limited to the following:

- Determine the financial model(s) that will be used for Iowa Parks
- Determine the reporting requirements for financial transactions
- Handle the distribution of funds and the posting process
- Participate in implementation of the accounting structure and the accounting codes
- Create and distribute refund/financial procedures
- Identify and implement necessary invoicing procedures
- Participate in all internal status meetings and select calls with DNR in regards to financial information

Technology Operations / Database Administration (OBA) Team. The Technology Operations (Tech-Ops) and DBAs team shall be responsible for all database and central hardware/networking components associated with implementing CPRS into the Recreation Dynamics system. These duties shall include but shall not be limited to:

Tech Ops: Gather system requirements from the client in order for a successful go-live. If required, this includes the setup of VPN connectivity from park locations and central offices plus any additional requirements for communications to the central database.

Tech-Ops identifies tasks and planning around the incorporation of Iowa Parks into the current central database structure.

DBAs: Maintain the data integrity and security levels of Iowa information in the Recreation Dynamics database. DBAs also run any scripts required against the database.

Database Architect: Works closely with the Implementation Team to ensure data input and preparations for Go-Live are as outlined in the Quality Assurance Plan.

Web Administration Team. The Web Administration Team shall create all internet pages that are required for Iowa Parks. The creation of the web pages shall be completed once the park information has been entered into the database and signed off by the park locations. Other responsibilities of the Web Administration Team shall include but shall not be limited to frequent data and map updates to park pages, and creating and updating all policy and fee pages.

Product Management Team, Development Team and Quality Assurance Team. Product Management, Development and Quality Assurance Teams shall work in conjunction to determine, develop and test all changes that are required as part of the Project scope. All development efforts shall be coordinated and tracked in a separate project plan, managed by a designated Project Manager within the Development Department. Representatives from these departments shall attend the weekly internal project status meetings to update the Implementation Project Management Team on progress being made.

Communications / Marketing / PR Team. The ACTIVE Network Marketing Manager shall lead efforts to coordinate marketing and public relations activities for the Project, during Implementation and for the duration of the contract. Working closely with DNR, a strategy shall be developed to ensure that marketing is performed in a timely and effective manner. Activities included in the marketing of the project and the new contract may include:

- Communicate new policies and procedures;
- Internal communications;
- External communications;
- Develop Iowa-specific Annual Marketing Plan with fully integrated media campaign for the CPRS;
- Create and coordinate press releases and Go-Live Announcements.

Help Desk. The Help Desk shall be involved in all support related functions once the Pilot Phase of the project begins. Other responsibilities of the Help Desk include shall include but shall not be limited to the following:

- Attend and participate in internal project status meetings.
- Be knowledgeable of all Iowa Parks policies and procedures
- Create and distribute escalation procedures for the CPRS contract
- Provide on-call support after standard help desk hours
- Log and manage Issues for satisfactory resolution and performance compliance.

Section 2 STATEMENT OF PURPOSE

2.1 Background. According to Iowa Code section 455A.2, the DNR has the responsibility "for state parks and forests" and for "managing fish, wildlife, and land and water resources in this state." The DNR may provide and operate facilities for the proper public use of state parks under Iowa Code section 461A.3. The DNR also is authorized to "fix fees for camping and other special privileges which shall be in such amounts as may be determined by the commission upon a basis of the cost of providing and reasonable value of such privileges."

2.1 Iowa code section 461A.47.

According to 571 Iowa Administrative Code section 61.3, it is the responsibility of DNR to establish a centralized reservation system to accept and process reservations for camping and rental facilities in state parks, recreation areas and state forest campgrounds.

2.2 Purpose. The purpose of this contract is to provide, operate and maintain a centralized reservation system for state parks, recreation areas, and state forest campgrounds to accept reservations for camping, cabin rentals, day-use lodge rentals and open shelter rentals either online through the Internet or over the phone through a call center.

ACTIVE Network, LLC. shall provide services in accordance with technical, reporting, operation, and call center requirements, DNR business rules and performance standards defined in the Department of Natural Resources RFP# 1216542006.

Section 3 DURATION OF CONTRACT

3.1 Term of Contract. The term of this Contract shall be November 8, 2016, through November 7, 2020, unless terminated earlier in accordance with the Termination section of this Contract. However, this Contract shall not begin until it has been signed by both parties.

3.2 Approval of Contract. If the amount of compensation to be paid by DNR according to the terms of this Contract is equal to or greater than \$25,000.00, then performance shall not commence unless by August 11, 2016, this Contract has been approved by the Natural Resource Commission.

3.3 Extension. DNR shall have the sole option to extend this Contract for subsequent periods, adding up to no more than six years total from the beginning date of the Original Contract, by executing a signed amendment prior to the expiration of this Contract.

Section 4 DEFINITIONS

"Administrative Function Component" shall mean the Component of the CPRS for DNR system administration that shall include, but not be limited to, administrative rights to DNR staff to generate reports (including fiscal, statistical, management and ad hoc reports an agreed upon tool), and to make changes to data (including site attribute and inventory data) as necessary. The Administrative Function also shall allow DNR in-park staff and DNR central office staff to make, change and cancel reservations and to record registrations.

"Business Rules" shall mean the DNR's current Parks Reservation Business Rules described in section 4.2.2 of this RFP and attached hereto. Business rules are the policies and procedures determined by DNR that are necessary to administer campground and rental facility reservations on a fair and equal basis for customers, and to provide direction to Contractor while conducting reservation business for DNR.

"Buddy Campsite" are campsites designated as buddy sites because they are in close proximity to one another, share a green and living space and are reserved by people who want to camp together.

"Call Center" shall mean a phone center where operators process all telephone reservations, reservation changes and reservation cancellations for camping and rental facilities.

"Customer" shall mean any person who uses the Iowa Parks Reservation System to reserve and pay for the reservation of facilities within the Iowa State Parks.

"Deliverables" shall mean services to be provided by, or on behalf of, the Contractor pursuant to this Contract. Deliverables shall include everything produced by the Contractor that is related to the Tasks, such as reports, meetings, documentation, designs, copy, artwork, data, information, graphics, images, processes, techniques, materials, plans, papers, forms, studies, modifications, content, concepts, and all other tangible and intangible works, materials and property of every kind and nature that are related to the Deliverables, but expressly excludes Contractor's software and technology used to perform the services hereunder and any and all derivatives or versions thereof.

"Department or DNR" shall mean the Iowa Department of Natural Resources.

"Discovery" shall mean the requirements analysis and design processes.

"Discovery Gate Review" shall mean the review of the high level design.

"Electronic Funds Transfer (EFT)" shall mean a computer based system used to perform financial transactions electronically. The Contractor shall supply the State of Iowa's bank with required reports and transactions. The Contractor shall conduct the EFT and ensure the funds are deposited to the appropriate DNR account established by the State of Iowa's bank.

"ELSI 2" shall mean DNR's current system for the sale of selected outdoor recreation and commercial privileges (such as hunting and fishing licenses) through an electronically integrated network of agents; a Contractor handling a web-based sales system and a telephone sales system; and DNR.

"Go-Live" shall be the first live operational use of the hosted system.

"Go-Live Process" shall include a freeze period where the existing Parks Reservation System does not accept reservations and tasks necessary to move the CPRS into production. The Go-Live Process is completed as of the Go-Live date.

"I3" shall mean Iowa's web-based financial management and enterprise resources planning system, which consists of budgeting, financial and purchasing modules.

"In-Park reservations and registrations" shall mean any Centralized Parks Reservation System function designed to facilitate the reservation and/or registration of park campsites/rental facilities at the park site.

"Implementation Guide" shall mean the system design and specifications and testing workplan.

"Implementation Phase" shall mean the portion of the Project prior to "Go-Live".

"Internet reservation system or Public Access Component" shall mean the feature of the Centralized Parks Reservation System that allows members of the public to reserve and pay for the reservation of facilities within the Iowa State Parks.

"Operations Phase" shall mean the phase of the Project following the "Go Live."

"Recreation Dynamics" shall mean the web-based and Call Center Iowa parks reservation system.

"Pilot Phase" shall mean the DNR acceptance testing period.

"Project" shall mean the CPRS.

"Public Access Component or Internet Reservation System" shall mean the feature of the Centralized Parks Reservation System that allows members of the public to reserve and pay for the reservation of facilities within the Iowa State Parks.

"Rental Facilities" shall mean those facilities that may be rented on a daily or nightly basis and includes open shelters, open shelters with kitchenettes, beach house open shelters, lodges, cabins, yurts and group camps.

"Reservations" shall mean the advance booking of an individual campsite or rental facility for a contiguous period of time and a commitment to hold the campsite or rental facility for a specified duration.

"Centralized Parks Reservation System or CPRS" shall mean the system that will be developed and deployed by DNR to replace its current parks reservation system. The system shall include a web-based component and a call center.

"Sound Bite" shall mean a short recorded telephone message that may be used to notify customers of a pending change in their reservation that must be approved by DNR

"State" shall mean the State of Iowa, the state agency identified on the Contract Declarations & Execution Page(s), and all state agencies, boards, and commissions, and any political subdivisions making purchases off any Resulting Contract as permitted by this RFP.

"System Administration" shall mean the ability for designated individuals to have the capability of making changes in the data, or to various components of the system independently from the Contractor. Roles will be established for DNR staff and various individuals with different levels of authority. This may include park holds and other capabilities unique to the DNR.

"Task Milestone Date" shall mean the deadline for accomplishing a Task required by this Contract.

Section 5 STATEMENT OF WORK

5.1 Statement of Work. Contractor shall perform the following Tasks,* in accordance with the following requirements and the requirements of the Contractor's Proposal of January 26, 2016, (Exhibit A), and the DNR's Request for Proposal issued on November 24, 2016, (Exhibit B). Contractor shall complete its obligations under this Contract by the Task Milestone Dates set out in the following table:

Obligation	Task Milestone Date
<p>Task 1: Kick Off Meeting Description: Contractor shall schedule and attend a Kick Off meeting with DNR. At the Kick Off Meeting, Contractor shall communicate the Final Project Timetable, which shall be attached to this Contract and by this reference made a part hereof, and the parties will define roles and expectations. At this meeting, the Contractor shall review with DNR business requirements (i.e. General business practices), the project schedule, key dates, task force and project activities.</p>	<p>No later than 10-18-2016. The Task Milestone Date for this Task is contained in line 20 of Attachment H.</p>
<p>Task 2: Detailed Design Document Description: Contractor shall develop a Detailed Design Document, which shall be incorporated into and attached to this Contract following review and approval of DNR. The parties shall proceed according to the provisions contained in Sections 5.1.2 through 5.1.5 below, before Contractor proceeds to Task 3. If a Detailed Design Document is approved by DNR, Contractor shall design, develop, test, implement, operate, and manage a CPRS, as described in Exhibit A, and which may be further specified by the Detailed Design Document.</p>	<p>No later than 10-03-2016 from the date this contract is signed by the DNR signatory.</p>

<p>Task 3: Requirements Analysis and Design</p> <p>Description: The web-based component of the CPRS and the Call Center component of the CPRS shall be designed to fulfill the requirements contained in the "Technical Requirements", which are contained in Attachment "C" attached to this Contract and by this reference made a part hereof. The Call Center component of the CPRS also shall be designed to fulfill the requirements contained in the CPRS "Call Center Requirements", which are contained in Attachment "D" attached to this Contract and by this reference made a part hereof. The CPRS also shall comply with the "Reporting Requirements", which are contained in Attachment "E", which is attached to this Contract and by this reference made a part hereof, and the "Operations Requirements", which are contained in Attachment "F", which is attached to this Contract and by this reference made a part hereof.</p> <p>As part of this Phase of the Project, the Contractor shall:</p> <ul style="list-style-type: none"> Address functional and technical requirements identified through GAP analysis • Include a high level design for the required customizations (Discovery Gate Review) • Include the external interfaces for ELS12 and 13 • Develop and provide to DNR a User Manual • Develop and provide to DNR an entity relationship diagram • Develop and provide to DNR a detailed comprehensive data element dictionary, and • Develop and provide to DNR a logical and physical data model. 	<p>No later than 12-05-2016.</p> <p>Additional details of the schedule are contained in the Final Project Timetable, which is attached as Attachment "H" and by this reference made a part of this Contract.</p> <p>The Task Milestone Date for this Task is contained in line 205 of Attachment "H."</p>
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<p>Task 4: Training Description: The Contractor shall provide training as required by Exhibit B, and as designated in Exhibit A. The Contractor shall provide to DNR a Training Work Plan.</p>	<p>Shall start on 12-26-2016 and be completed no later than 12-28-2016.</p> <p>Additional details of the schedule are contained in the Final Project Timetable, which is attached as Attachment "H".</p> <p>The Task Milestone Date for this Task is contained in line 214 of Attachment "H".</p>
<p>Task 5: Testing Description: The Contractor shall conduct testing as required by Exhibit B, and as designated in Exhibit A. The Contractor shall allow for DNR testing of the CPRS prior to Go-Live, as required by Exhibit B and as designated in Exhibit A. The Contractor shall provide DNR a Master Test Work Plan, the Master Test Work Plan Results, and a Defects Tracking Log.</p>	<p>No later than 01-12-2017.</p> <p>Additional details of the schedule are contained in the Final Project Timetable, which is attached as Attachment "H".</p> <p>The Task Milestone Date for this Task is contained in line 211 of Attachment "H".</p>
<p>Task 6: Transition and Data Conversion Description: The Contractor shall conduct transition and data conversion as required by Exhibit B, and as designated in Exhibit A. The Contractor shall be responsible for the entry of data relating to security, codes, financial accounts and other information. To facilitate this process, Contractor shall provide DNR with Excel spreadsheet templates that DNR Parks staff will use to prepare the data. Upon receipt of the spreadsheets of data, Contractor shall use its automated data import process to populate the appropriate tables within the CPRS, to perform quality checks to ensure proper data import. The Contractor also shall allow an opportunity for DNR Parks staff to verify the correct set-up of the data.</p>	<p>No later than 12-01-2016.</p> <p>Additional details of the schedule are contained in the Final Project Timetable, which is attached as Attachment "H."</p> <p>The Task Milestone Date for this Task is contained in line 178 of Attachment "H."</p>

<p>Task 7: Implementation: The Contractor shall conduct implementation as required by Exhibit B, and as designated in Exhibit A. The Contractor shall provide to DNR an Implementation Work Plan, a signed Implementation Certification Letter, and a User Manual.</p>	<p>No later than 12-15-2016.</p> <p>Additional details of the schedule are contained in the Final Project Timetable, which is attached as Attachment "H."</p> <p>The Task Milestone Date for this Task is contained in line 24 of Attachment "H".</p>
<p>Task 8: Post Development and Deployment Support (Operation Phase): Following statewide Implementation of the CPRS (Operations Phase), the Contractor shall manage, operate, maintain and provide the services and products specified in this Contract and its incorporated documents throughout the remainder of the contract period.</p>	<p>Beginning no later than 01-16-2017, and continuing throughout the term of this Contract.</p>

*For all Tasks, Contractor agrees to comply with the requirements of Attachment "G", (Performance Standards), which is attached to and by this reference made a part of this Contract.

5.1.2. Review of Proposed Statement of Work. Following submission of the Final Project Timetable and Detailed Design Document required by Tasks 1 and 2, DNR shall review those documents and the parties shall communicate in an attempt to reach agreement regarding the contents of the Final Project Timetable and Detailed Design Document.

5.1.3. Failure to Reach Agreement Regarding Statement of Work. In the event DNR determines that the parties cannot reach agreement regarding the contents of the Final Project Timetable and Detailed Design Document, then DNR shall have the continuing right, in its sole discretion, to terminate this Contract without providing Contractor with any further or additional notice or opportunity to cure, notwithstanding the termination provisions of this Contract.

5.1.4. Incorporation of Proposed Statement of Work. Following acceptance by DNR of the Final Project Timetable and Detailed Design Document, the Final Project Timetable and Detailed Design Document shall be incorporated into this Contract by reference as if set out herein. A copy of the Final Project Timetable and Detailed Design Document shall be attached to this Contract.

5.1.5. Implementation of Proposed Statement of Work. Upon acceptance by DNR of the Final Project Timetable and Detailed Design Document, the development and implementation of the Final Project Timetable and Detailed Design Document shall proceed promptly and in accordance with the terms of this Contract.

5.2 Non-Exclusive Rights. This Contract is not exclusive. DNR reserves the right to select other contractors to provide services similar or identical to the Statement of Work described in this

Contract during the term of this Contract.

5.3 Stop Services. In addition to its other remedies described herein, DNR shall have the right at any time during the Contract term to direct the services of Contractor fully or partially suspended or stopped, if the Deliverables fail to conform to applicable specifications and requirements in this Contract. DNR shall give Contractor written notice of a stop work directive. DNR shall provide to Contractor the reasons for the stop work directive.

5.4 Industry Standards. Services rendered pursuant to this Contract shall be performed in a professional and workmanlike manner in accordance with the terms of this Contract and the standards of performance considered generally acceptable in the relevant industry for similar tasks and projects. In the absence of a detailed specification for the performance of any portion of this Contract, the parties agree that the applicable specification shall be the generally accepted industry standard.

5.5 Amendments to Statement of Work – Change Order Procedure. Modifications, deletions and additions may be made to a Statement of Work at any time during the term of this Contract by mutual written consent of the parties. Any amendment to a Statement of Work shall be called a Change Order, and the following procedures shall be followed:

5.5.1 Written Request. DNR shall specify in writing the desired modifications to the same degree of specificity as in the original Statement of Work.

5.5.2 The Contractor's Response. The Contractor shall submit to DNR a time and cost estimate for the requested Change Order within five business days of receiving the Change Order request.

5.5.3 Acceptance of the Contractor Estimate. If DNR accepts the estimate presented by the Contractor within five business days of receiving the Contractor's response, the Contractor shall perform the modified services subject to the time and cost estimates included in the Contractor response. The Contractor's performance and the modified services shall be governed by the terms and conditions of this Contract.

5.5.4 Adjustment to Compensation. The parties acknowledge that a Change Order for this Contract may or may not entitle the Contractor to an equitable adjustment in the Contractor's compensation or the performance deadlines under this Contract and that such Change Order may require approval of the Natural Resource or Environmental Protection Commission.

5.6 Incorporation of Documents. The following documents, and any amendments thereto existing on the date this Contract is signed by DNR, are incorporated into this Contract by this reference: (1) the Contractor's Proposal of January 26, 2016 submitted in response to the RFP, attached as Exhibit A; (2) the Request for Proposal issued on November 24, 2016 and written responses to bidders' questions (collectively referred to as the RFP), attached as Exhibit B; and the Final Project Timetable and Detailed Design Document.

5.7 Preference. In the case of any inconsistency or conflict between the provisions of this document (including all related schedules and Statements of Work), the RFP or the Contractor's Proposal, the inconsistency or conflict shall be resolved as follows: first, by giving preference to the provisions of this document (including any Statement of Work); second, by giving preference to the provisions of the Proposal; and third, by giving preference to the provisions of the RFP.

Section 6 MONITORING AND REVIEW

6.1 Task Milestone Dates. Contractor shall complete its obligations under this Contract by the Task Milestone Dates set out in Section 5.1.

Failure by Contractor to complete the above-designated portions of its obligations by the Task Milestone Dates set out herein shall constitute material breach of this Contract by Contractor and shall be grounds for DNR to immediately terminate this Contract for cause.

6.2 Review Meetings.

6.2.1 Weekly Meetings. Following the Kickoff Meeting described in Section 5.1 and continuing throughout the Contract period, the DNR Project Manager and the Contractor's Implementation Project Management Team Leader, along with any other necessary Contractor personnel, shall meet weekly, in person or by telephone or other electronic means, to discuss progress made by the Contractor during the performance of this Contract. The meetings shall occur, either in person or by telephone conference call, at the following times: every Tuesday at 2:00 pm CST. Meetings may be postponed only on a case-by-case basis by a mutual written agreement of the parties.

6.2.2 Ad Hoc Meetings. Throughout the Contract period, the Contractor shall participate in all Project-related meetings as requested by DNR. The Contractor may be required to prepare materials and make formal presentations at these meetings.

6.3 Status Reports.

6.3.1 Implementation Phase Weekly Status Reports. The Contractor shall provide written and electronic status reports on the Project, which are due to DNR's Project Manager at least 24 hours before each weekly meeting. Weekly status reports shall contain the following items, at a minimum:

- An Executive Summary;
- Accomplishments during the previous period;
- Activities planned for the upcoming period;
- Tasks completed or Deliverables produced during the previous period
- An updated schedule of upcoming Deliverables;
- An explanation of any deviations from the Detailed Design Document and Final Project Timetable;
- Any issues encountered during the previous week and their current disposition;
- Any testing status and test results;
- A list of deadlines that were met and *not* met, and reasons for any missed deadlines;
- Any issues that need to be addressed before proceeding with an uncompleted task;
- Anticipated tasks to be completed in the next week;
- Tasks percentage completed between 0% and 100%;
- An analysis of risk anticipated, proposed mitigation strategies and resolved risks;
- Status of open issues;
- Identification of Contractor employees assigned to specific activities;
- Problems encountered, proposed resolutions and actual resolutions;
- Any updates required in the change management process;
- Proposed changes to the Final Project Timetable, if any; and

- Coordination of responsibilities of DNR staff with those of Contractor staff to ensure overall Project success and transfer of knowledge.

6.3.2 Operations Phase Monthly Status Reports.

Contractor shall submit a hardcopy and electronic status report, which is due to the DNR Project Manager by the close of business, the second working day following the end of each month.

Monthly status reports shall contain the following items, at a minimum:

- A description of the overall completion status of the Project in terms of the approved Final Project Timetable;
- The plans for activities scheduled for the next month;
- The Deliverable status, with percentage of completion and time ahead or behind schedule for particular tasks; and
- Identification of Contractor employees assigned to specific activities.

At the next scheduled meeting after which any party has identified in writing a problem, the party responsible for resolving the problem shall provide a report setting forth activities undertaken, or to be undertaken, to resolve the problem, together with the anticipated completion dates of such activities. Any party may recommend alternative courses of action or changes that shall facilitate problem resolution.

6.4 DNR right to review and observe. DNR shall have the right to review and observe, at any time, completed work or work in progress. Contractor shall allow the State of Iowa or DNR, upon reasonable prior to notice, to inspect its facilities and books and records relating to invoicing and time records for the purpose of monitoring and evaluation performance of this Contract. Upon request by DNR, Contractor shall provide copies of records, but copies of the same records shall not be provided more than once per year, unless agreed to by the parties or otherwise ordered by a court or administrative law judge.

Section 7 COMPENSATION

7.1 Source of Funding. The source of funding for this Contract is Iowa Code section 461A.47. According to that statute, DNR also is authorized to "fix fees for camping and other special privileges which shall be in such amounts as may be determined by the commission upon a basis of the cost of providing and reasonable value of such privileges."

7.2 Method of Compensation to Contractor.

7.2.1 Transaction Fees. The Contractor payment method shall be a fixed price per Internet reservation transaction or Contractor-operated Call Center reservation transaction. The Contractor shall monthly invoice the cost of ongoing maintenance, annual license fees, support fees, the costs of servicing of accounts, cost of credit card processing, and the cost of complying with all contractual requirements. During the Contract period, Transaction Fees shall remain firm and fixed for the initial four-year term of the Contract. Any Contractor requests for adjustments in Transaction Fees if the Contract is extended beyond the original term of the Contract will be negotiated between the Contractor and DNR, but are ultimately subject to the provisions of Iowa Code section 461A.47. The transaction fee structure shall be as contained in Table "A" below.

Table "A"

Internet Reservation	\$4.00
Internet Change	\$5.00
Internet Cancellation	\$5.00
Call Center Reservation	\$6.00
Call Center Change	\$7.00
Call Center Cancellation	\$7.00

7.2.2 Monthly Fee and Submission of Monthly Fee Invoice Convenience Fees. If the language of 571 IAC 61.3(3)"a" states that the internet reservation transaction fee shall be \$4.00 and the telephone reservation transaction fee shall be \$6.00, then the amount of \$11,750.00 shall be paid to Contractor on a monthly basis. This amount shall be added as a line item to the monthly transaction fee invoice. After the first two years of this Contract, the parties agree to make a good faith effort to determine whether the annual fee should be adjusted based on the number of transactions that have occurred in the preceding year. If appropriate, the parties may agree to amend the Contract to adjust the annual fee. However, the parties agree that this Contract shall continue for the entire initial four-year period, through November 8, 2020, regardless of whether the parties are able to reach agreement regarding an adjustment to the annual fee. Failure of the parties to reach agreement shall not impair services of the Contractor during the initial four-year term of the Contract.

Payment of the monthly fees shall be for satisfactory completion of the Statement of Work outlined in this Contract, provided that Contractor has complied with the terms of this Contract.

7.3 Final Notice Acceptance following Implementation Phase. If DNR concludes, after consultation with Contractor during Project Team Meetings and at other times, as necessary, that all the Tasks required by the Statement of Work have been timely completed and all Deliverables required by this Contract have been satisfactorily completed and delivered, and that the implementation of the Statement of Work is completed and successfully deployed, then DNR shall issue a written Final Notice of Acceptance for the Implementation Phase of this Project. In the absence of a Final Notice of Acceptance for the Implementation Phase of this Project, final acceptance shall be deemed granted by DNR as of thirty (30) days after the "Go Live" date.

7.4 Submission of Invoices. All Annual Fee and Transaction Fee invoices shall comply with all applicable rules concerning payment of such claims and shall contain appropriate documentation necessary to support the fees or charges included in the invoice. DNR shall have the right to dispute any invoice item submitted for payment and to withhold payment of any disputed amount if DNR reasonably believes the invoice is inaccurate or incorrect in any way. Original invoices shall be submitted to:

Iowa Department of Natural Resources
 Attention: Jessica Manken
 Iowa Department of Natural Resources
 State Parks Bureau
 502 E. 9th Street
 Des Moines, IA 50319-0034

7.5 Federal Funds. As of the beginning date of this Contract, the parties warrant to each other that no payments are to be made from federal funds obtained by DNR. If federal funds

are later obtained to fund payments under this Contract, then the parties agree to enter into a reasonable amendment, if necessary, to effectuate the receipt and disbursement of the federal funds by DNR.

7.6 Payment of Invoices. DNR shall pay approved invoices in arrears and in conformance with Iowa Code section 8A.514. Unless otherwise agreed to in writing by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the State for any services provided by or on behalf of the Contractor under this Contract. Payment will be issued to:

ACTIVE Network, LLC.
26158 Network Place
Chicago, IL 60673-1261

7.7 No advance payment. No advance payments shall be made for any Deliverables provided by Contractor pursuant to this Contract.

7.8 Delay of Payment Due to Contractor's Failure. If DNR determines that the Contractor has failed to perform or deliver any Deliverable required by this Contract, then the Contractor shall not be entitled to any compensation or any further compensation if compensation has already occurred, under this Contract until such Deliverable is performed or delivered. DNR shall withhold that portion of the invoice amount which represents payment for the Deliverable that was not completed, delivered and successfully deployed. DNR will provide timely written notice of its intent to delay or withhold payments to Contractor to provide Contractor an opportunity to seek clarification and to remedy the performance or delivery issue. Further, all services provided by the Contractor pursuant to this Contract shall be performed to the satisfaction of DNR, as determined in the sole discretion of DNR's Project Manager, and in accordance with all applicable federal, state, and local laws, ordinances, rules and regulations, and the implied obligations of good faith and fair dealing. Contractor shall not receive payment for work found by DNR to be unsatisfactory or performed in violation of federal, state or local law, ordinance, rule or regulation.

7.9 Erroneous Payments and Credits. Contractor shall promptly re-pay or refund to DNR the full amount of any overpayment or erroneous payment within ten business days after either discovery by Contractor or notification by DNR of the overpayment or erroneous payment.

7.10 Set-off Against Sums Owed by Contractor. In the event that Contractor owes DNR or the State any sum (including any State taxes in arrears) under the terms of this Contract, any other contract, pursuant to a judgment, or pursuant to any law, DNR may set off such sum against any sum invoiced to DNR by Contractor. This may be done in DNR's sole discretion unless otherwise required by law.

7.11 Reimbursable Expenses. There shall be no reimbursable expenses associated with this Contract separate from the compensation referred to in this section, unless agreed to by both parties in an amendment to this Contract or in a Change Order executed by both parties. Unless otherwise specifically provided for in this Contract, Contractor shall be solely responsible for all its costs and expenses, including travel, mileage, meals, lodging, equipment, supplies, personnel, training, salaries, benefits, insurance, conferences, long distance telephone, and all other costs

and expenses of the Contractor.

7.12 Stop Services. In addition to its other remedies described herein, DNR shall have the right at any time during the Contract term to direct the services of the Contractor fully or partially suspended or stopped, if the Deliverables fail to conform to applicable specifications and requirements under this Contract. DNR shall give Contractor the reasons for the stop work directive.

7.13 Final Payment. Before final payment or a termination settlement under this Contract, the Contractor shall execute and deliver to DNR a release of all claims against DNR arising under, or by virtue of, this Contract except claims which are specifically exempted by the Contractor. Unless otherwise provided in this Contract, by State law or otherwise expressly agreed to by the parties to the Contract, final payment under a settlement upon termination of this Contract shall not constitute a waiver of DNR's claims against the Contractor, or the Contractor's sureties under this Contract or applicable performance and payment bonds.

Section 8 CREDIT CARD PROCESSING AND DELIVERY OF REVENUE TO DNR

8.1 Credit Card Processing. The Contractor shall pay all fees of any kind associated with the processing of credit cards, including, but not limited to, gateway processor fees, convenience fee processor fees and merchant account fees. The Contractor shall be responsible for the ownership of a merchant account used for the sole purpose of Contractor's duties under this Contract.

The Contractor shall subcontract with third parties to provide the credit card processing services required for the CPRS. No additional fees may be charged to the DNR for credit card processing services. The Contractor shall be fully responsible for any subcontractor non-conformity to the agreed upon deadlines/timeframes in this contract. If at any time the selected credit card subcontractor does not maintain PCI compliance, the Contractor shall cease utilizing subcontractor immediately and shall inform DNR in writing within 3 business days of Contractor becoming aware of the subcontractor's noncompliance. A replacement subcontractor shall be chosen by the Contractor, which must be approved by the DNR, and no fees or penalties will be paid by the DNR regarding the replacement.

8.2 Delivery of Revenue to DNR. The Contractor shall provide daily reconciliation of Call Center and Internet transactions; reconcile transactions from Contractor's system to the credit card processor; identify, correct and record discrepancies in a manner that meets Iowa State auditor and other state and federal mandates; and have all monies from the settlement of credit card transactions, including the associated transaction fees, posted to the State of Iowa's bank account daily during standard business banking hours and state working days. If delivery of revenue falls on a Saturday or Sunday or a state holiday the revenue will be delivered to the DNR the following business day.

The Contractor shall pay stipulated damages of \$300 per day for any failure to comply with these provisions.

Section 9 LOCKBOX

9.1 Managing the Lockbox. The Contractor shall be responsible for all costs associated with a mailbox and lockbox service that is used for reservations that are paid via paper checks

and money orders. The Contractor shall provide daily reconciliation of all check and money orders received in the lockbox at Wells Fargo Bank.

The current address of the DNR lockbox is:

Iowa State Parks Reservations
Po Box 310302
Des Moines, Iowa 50331-0302

Section 10 WEEKLY ELECTRONIC DATA REPORTS

10.1 Weekly Electronic Data Exports. The Contractor shall provide electronic data exports to DNR on a weekly basis, and more often if requested by DNR, as directed in Attachment C, "Technical Requirements", Item 92. These reports shall be provided without additional cost to DNR, and in a consistent data structure, as defined by the DNR. As data evolves and changes, Contractor shall revise the file as directed by the DNR. The purpose of data exports is to provide DNR with extensive, updated, raw source data on a periodic basis, which may be used for trend analyses and ad hoc reporting by DNR. The Contractor shall provide a minimum of weekly data exports.

Section 11 TRANSACTION FEE FOR CHANGES TO RESERVATIONS

11.1 Transaction Fee For Changes to Reservations. The Contractor shall charge a transaction change fee of \$5 for both online and call center transactions due to the reservation system being unable to allow customers to make all the necessary changes to their reservations online. Since a customer is unable to make all necessary changes online this requires the customer to call the call center to make these changes to their reservations. The transaction changes that are currently unable to be completed in the reservation system include: 1) The customer is unable to change their reservation to a different park, 2) The customer is unable to change their reservation to a different site (changing from one campsite to another or a campsite to a cabin etc.) or 3) The customer is unable to change their reservation to a different date of arrival at the same park.

INFORMATION TECHNOLOGY GENERAL CONDITIONS

Section 1 COMPLIANCE WITH THE LAW

The Contractor, and its employees and agents, shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations and orders when performing the services under this Contract, including without limitation, all laws applicable to the prevention of discrimination in employment and the use of targeted small businesses as suppliers. The Contractor, and its employees and agents shall also comply with all federal, state and local laws regarding business permits and licenses that may be required to carry out the work performed under this Contract. Contractor represents and warrants that it has complied with all federal, state, foreign and local laws applicable to the performance of its obligations under this Contract.

Section 2 TERMINATION

2.1 Termination Due to Lack of Funds or Change in Law. DNR shall have the right to terminate this Contract without penalty by giving sixty (60) days written notice to the Contractor as a result of any of the following:

2.1.1 The legislature or governor fail in the sole opinion of DNR to appropriate funds sufficient to allow DNR to either meet its obligations under this Contract or to operate as required and to fulfill its obligations under this Contract; or if funds anticipated for the continued fulfillment of the Contract are, at any time, not forthcoming or are insufficient, either through the failure of DNR to appropriate funds or funding from a federal source is reduced or discontinued for any reason, or through discontinuance or material alteration of the program for which funds were provided; or

2.1.2 If funds are de-appropriated, reduced, not allocated, or receipt of funds is delayed, or if any funds or revenues needed by DNR to make any payment hereunder are insufficient or unavailable for any other reason as determined by DNR in its sole discretion; or

2.1.3 If DNR's authorization to conduct its business or engage in activities or operations related to the subject matter of this Contract is withdrawn or materially altered or modified; or

2.1.4 If DNR's duties, programs or responsibilities are modified or materially altered; or

2.1.5 If there is a decision of any court, administrative law judge or an arbitration panel or any law, rule, regulation or order is enacted, promulgated or issued that materially or adversely affects DNR's ability to fulfill any of its obligations under this Contract.

2.2 Immediate Termination by DNR. DNR may terminate this Contract for any of the following reasons effective immediately without advance notice and without penalty:

2.2.1 In the event the Contractor is required to be certified or licensed as a condition precedent to providing services, the revocation or loss of such license or certification will result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;

2.2.2 DNR determines that the actions, or failure to act, of the Contractor, and its agents and employees have caused, or reasonably could cause, any person's life, health or safety to be jeopardized;

2.2.3 The Contractor fails to comply with confidentiality laws or provisions;

2.2.4 The Contractor furnished any statement, representation or certification in connection with this Contract or the RFP which is materially false, deceptive, incorrect or incomplete.

2.3 Termination for Cause. The occurrence of any one or more of the following events shall constitute cause for DNR to declare the Contractor in default of its obligations under this Contract.

2.3.1 The Contractor fails to perform, to DNR's satisfaction, any material requirement of this Contract or is in violation of a material provision of this Contract, including, but without limitation, the express warranties made by the Contractor;

2.3.2 DNR determines that satisfactory performance of this Contract is substantially endangered or that a default is likely to occur;

2.3.3 The Contractor fails to make substantial and timely progress toward performance of the Contract;

2.3.4 The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or DNR reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;

2.3.5 The Contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of this Contract;

2.3.6 The Contractor has engaged in conduct that has or may expose the State or DNR to liability, as determined in DNR's sole discretion;

2.3.7 The Contractor has infringed any patent, trademark, copyright, trade dress or any other intellectual property right or proprietary right, or the Contractor has misappropriated a trade secret, or

2.3.8 Contractor fails to comply with any of the Task Milestone dates contained in this Contract.

2.4 Notice of Default. If there is a default event caused by the Contractor, DNR shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time, which shall be no less than thirty (30) days, specified in

DNR's written notice to the Contractor. If the breach or noncompliance is not remedied by the date of the written notice, DNR may either:

2.4.1 Immediately terminate the Contract without additional written notice; or,

2.4.2 Enforce the terms and conditions of the Contract and seek any legal or equitable remedies.

2.5 Termination upon Notice. Following thirty (30) days written notice, DNR may terminate this Contract in whole or in part without the payment of any penalty or incurring any further obligation to the Contractor. Following termination upon notice, the Contractor shall be entitled to compensation, upon submission of invoices and proper proof of claim, for services provided under this Contract to DNR up to and including the date of termination.

2.6 Remedies of the Contractor in Event of Termination by DNR. In the event of termination of this Contract for any reason by DNR, DNR shall pay only those amounts, if any, due and owing to the Contractor for services actually rendered up to and including the date of termination of the Contract and for which DNR is obligated to pay pursuant to this Contract. Payment will be made only upon submission of invoices and proper proof of the Contractor's claim. This provision in no way limits the remedies available to DNR under this Contract in the event of termination. However, DNR shall not be liable for any of the following costs:

2.6.1 The payment of unemployment compensation to the Contractor's employees;

2.6.2 The payment of workers' compensation claims, which occur during the Contract or extend beyond the date on which the Contract terminates;

2.6.3 Any costs incurred by the Contractor, including, but not limited to, startup costs, overhead or other costs not directly associated with the performance of the Contract;

2.6.4 Any taxes that may be owed by the Contractor not directly in connection with the performance of this Contract, including, but not limited to, sales taxes, excise taxes, use taxes, income taxes or property taxes.

2.7 The Contractor's Termination Duties. The Contractor upon receipt of notice of termination or upon request of DNR, shall:

2.7.1 Cease work under this Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, and conclusions resulting there from, any other matters DNR may require.

2.7.2 Immediately cease using and return to DNR any personal property or materials, whether tangible or intangible, provided by DNR to the Contractor.

2.7.3 Comply with DNR's instructions for the timely transfer of any active files and work product produced by the Contractor under this Contract.

2.7.4 Cooperate in good faith with DNR, its employees, agents and contractors during the transition period between the notification of termination and the substitution of any replacement contractor.

2.7.5 Immediately return to DNR any payments made by DNR for services that were not rendered by the Contractor.

2.8 Rights in incomplete products. In the event the Contract is terminated, all finished or unfinished documents, data, reports, or other materials prepared by the Contractor under this Contract shall, at the option of DNR, become DNR's property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other material.

Section 3 INDEPENDENT CONTRACTOR

The status of the Contractor shall be that of an independent contractor. The Contractor, and its employees and agents performing under this Contract are not employees or agents of the State of Iowa or any agency, division or department of the state. Neither the Contractor nor its employees shall be considered employees of DNR or the State of Iowa for federal or state tax purposes. DNR will not withhold taxes on behalf of the Contractor. Contractor shall be responsible for payment of all taxes in connection with any income earned from performing this Contract.

Section 4 CONFLICT OF INTEREST

4.1 The Contractor covenants that the Contractor presently has no interest and shall not acquire any interest, direct and indirect, which would conflict in any manner or degree with the performance of services required under this Contract. The Contractor further covenants that in the performance of this Contract no person having any such interest shall be employed.

4.2 During the term of this Contract, Contractor shall not provide services that would create a conflict of interest with the Contractor's duties set out in this Contract. In determining whether a particular activity creates an unacceptable conflict of interest, situations in which an unacceptable conflict shall be deemed to exist shall include, but not to be limited to, any of the following:

4.2.1 The activity involves the use of the state's or DNR's time, facilities, equipment, and supplies or other evidences of employment for purposes other than the performance of Contractor's obligations under this Contract.

4.2.2 The activity involves the receipt of, promise of, or acceptance of money or other consideration by Contractor from anyone other than the state or DNR for the performance of any acts that Contractor is required or expected to perform as a part of Contractor's performance under this Contract.

4.2.3 The outside employment or activity is subject to the official control, inspection, review, audit, or enforcement authority of DNR.

4.3 If the activity creating a conflict of interest is in progress when the term of this Contract begins or is described in paragraph 4.2.1 or 4.2.2 above, then Contractor shall immediately cease the activity. During the term of this Contract, Contractor shall not enter into any activity

described in paragraph 4.2.3 or which constitutes any other unacceptable conflict of interest. Contractor shall immediately disclose to DNR the existence of any conflict of interest, including conflicts of interest which are described in paragraph 4.2.3 and are in progress when the term of this Contract begins.

Section 5 AMENDMENTS

This Contract may be amended only by written mutual consent of the parties.

Section 6 CHOICE OF LAW AND FORUM

The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this Contract without regard to the choice of law provisions of Iowa law. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Contract, the exclusive jurisdiction for the proceeding shall be brought in Polk County District Court for the State of Iowa, Des Moines, Iowa, or in the United States District Court for the Southern District of Iowa, Central Division, Des Moines, Iowa wherever jurisdiction is appropriate. This provision shall not be construed as waiving any immunity to suit or liability including without limitation sovereign immunity in State or Federal court, which may be available to DNR or the State of Iowa.

Section 7 SEVERABILITY

If any provision of this Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Contract.

Section 8 ENTIRE AGREEMENT

This Contract constitutes the entire agreement between DNR and the Contractor with respect to the subject matter hereof, and the Contractor acknowledges that it is entering into the Contract solely on the basis of the terms and conditions herein contained and not in reliance upon any representation, statement, inducement or promise, whether oral or written, not contained herein. This Contract supersedes all prior contracts and agreements between DNR and the Contractor for the services provided in connection with this Contract.

Section 9 ASSIGNMENT AND DELEGATION

This Contract may not be assigned, transferred or conveyed, in whole or in part, without the prior written consent of the other party, except that Contractor may assign this contract to one of its affiliates or in connection with any sale or security interest involving all or substantially all of its assets or any other transaction in which more than fifty percent of its voting securities are transferred. In the event that this exception applies, Contractor shall inform DNR in writing (which may include email) of the specific circumstances as soon as Contractor is aware that the exception will apply.

Section 10 REPRESENTATIONS AND WARRANTIES

10.1 Construction of Warranties Expressed in this Contract with Warranties Implied by Law. All warranties made by the Contractor in all provisions of this Contract and the Proposal by the Contractor, whether or not this Contract specifically denominates the Contractor's promise as a warranty or whether the warranty is created only by the Contractor's affirmation or promise, or is created by a description of the materials and services to be provided, or by provision of samples to DNR, shall not be construed as limiting or negating any warranty provided by law,

including without limitation, warranties which arise through course of dealing or usage of trade. The warranties expressed in this Contract are intended to modify the warranties implied by law only to the extent that they expand the warranties applicable to the goods and services provided by the Contractor. The provisions of this Section apply during the term of this Contract and any extensions or renewals thereof.

10.2 Concepts, Materials, and Works Produced. Contractor represents and warrants that all the concepts, materials and deliverables produced, or provided to DNR pursuant to the terms of this Contract shall be wholly original with the Contractor or that the Contractor has secured all applicable interests, rights, licenses, permits or other intellectual property rights in such concepts, materials and work product produced under this Contract. The Contractor represents and warrants that the concepts, materials and work product produced under this Contract, and DNR's use of same, and the exercise by DNR of the rights granted by this Contract, shall not infringe upon any other work, other than material provided by the Contractor to the Contractor to be used as a basis for such materials, or violate the rights of publicity or privacy of, or constitute a libel or slander against, any person, firm or corporation and that the concepts, materials and work product produced under this Contract will not infringe upon the copyright, trademark, trade name, literary, dramatic, statutory, common law or any other rights of any person, firm or corporation or other entity. The Contractor represents and warrants that it is the owner of or otherwise has the right to use and distribute any software, the materials owned by the Contractor and any other materials, work product produced under this Contract and methodologies used in connection with providing the services contemplated by this Contract.

10.3 Professional Practices. The Contractor represents and warrants that all of the services to be performed hereunder will be rendered using sound, professional practices and in a competent and professional manner by knowledgeable, trained and qualified personnel.

10.4 Conformity with Contractual Requirements. The Contractor represents and warrants that the work product produced under this Contract will appear and operate in conformance with the terms and conditions of this Contract.

10.5 Authority to Enter into Contract. The Contractor represents and warrants that it has full authority to enter into this Contract and that it has not granted and will not grant any right or interest to any person or entity that might derogate, encumber or interfere with the rights granted to DNR.

10.6 Obligations Owed to Third Parties. The Contractor represents and warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the Contractor pursuant to this Contract are or will be fully satisfied by the Contractor so that DNR will not have any obligations with respect thereto.

10.7 Title to Property. The Contractor represents and warrants that title to any property assigned, conveyed or licensed to DNR is good and that transfer of title or license to DNR is rightful and that all property shall be delivered free of any security interest or other lien or encumbrance.

10.8 Industry Standards. The Contractor represents and expressly warrants that all aspects of the goods and services provided or used by it shall conform to the applicable industry standards in the performance of this Contract.

10.9 Technology Updates. The Contractor represents warrants that it shall continually use and integrate the most current and up-to-date technology commercially available.

Section 11 CONFIDENTIALITY

11.1 Access to Confidential Data. The Contractor's employees and agents may have access to confidential data maintained by DNR to the extent necessary to carry out its responsibilities under the Contract. The Contractor shall presume that all information received pursuant to this Contract is confidential unless otherwise designated by DNR. The Contractor shall provide to DNR a written description of its policies and procedures, if any exist, to safeguard confidential information. The Contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Contractor in connection with the performance of the Contract. The Contractor shall provide adequate supervision and training to its agents and employees to ensure compliance with the terms of this Contract. The private or confidential data shall remain the property of DNR at all times. Failure by the Contractor to submit its confidentiality policies or to comply in any way with the requirements of this paragraph shall not affect Contractor's obligations to comply with other requirements herein. Nothing in this paragraph shall be construed to in any way affect the Contractor's obligations to comply with Iowa and DNR statutes and rules applicable to confidentiality, as well as DNR policies and procedures regarding confidentiality, including Department of Administrative Services (DAS) and DNR IT Security policies and procedures.

11.2 No Dissemination of Confidential Data. No confidential data collected, maintained, or used in the course of performance of the Contract shall be disseminated except as authorized by law and with the written consent of DNR, either during the period of the Contract or thereafter. Any data supplied to or created by the Contractor shall be considered the property of DNR. The Contractor must return any and all data collected, maintained, created or used in the course of the performance of the Contract in whatever form it is maintained promptly at the request of DNR.

11.3 Subpoena. In the event that a subpoena or other legal process is served upon the Contractor for records containing confidential information, the Contractor shall promptly notify DNR and cooperate with DNR in any lawful effort to protect the confidential information.

11.4 Reporting of Unauthorized Disclosure. The Contractor shall immediately report to DNR any unauthorized disclosure of confidential information.

11.5 Survives Termination. The Contractor's obligation under this Contract regarding confidential materials and information shall survive termination of this Contract.

Section 12 PROPERTY, INTELLECTUAL PROPERTY, PATENT AND COPYRIGHT

12.1 Title to Property. Title to all property furnished by DNR or the State to Contractor to facilitate the performance of this Contract shall remain the sole property of DNR and the State. All such property shall be used by Contractor only for purposes of fulfilling its obligations under this Contract and shall be returned to DNR upon the earliest of completion, termination, or

cancellation of this Contract or at DNR's request. Contractor acknowledges that it shall acquire no interest or rights in and to such property. Except as expressly provided in this Contract, Contractor shall not disclose or use such property for any purpose, including pledging or encumbering it, selling or using it for monetary gain, using it to compile mailing lists, solicit business or pursue other business activities, or otherwise. Title to all property purchased by Contractor, for which Contractor has been reimbursed or paid by DNR under this Contract, shall pass to and vest in the State, except as otherwise provided in this Contract.

12.2 Care of Property. Contractor shall be responsible for the proper custody and care of any DNR-owned property, including data, databases, software, interfaces, hardware, telecommunications lines and equipment, intellectual property and DNR Property furnished for Contractor's use in connection with the performance of the contract. Contractor shall exercise its best efforts to prevent damage to all such property and shall, at DNR's request, restore damaged property to its condition prior to the damage at the sole expense of Contractor. Such restoration shall be complete when judged satisfactory by DNR. In the event such property cannot be restored to DNR's satisfaction, Contractor shall reimburse DNR for any loss or damage to such property caused by Contractor, or any agent, contractor or subcontractor employed or utilized by Contractor. Contractor shall not take any action that would impair the value of, or goodwill associated with, the name, property and intellectual property rights of DNR and the State. Contractor shall obtain the prior advance written approval from DNR prior to Contractor's use of the name, marks or intellectual property rights of DNR or the State.

12.3 Hardware and Equipment. In the event that any hardware and other equipment owned by Contractor and used in connection with this Contract is subject to the security interest or a legal or equitable interest by a third party who is not a party to this Contract, Contractor shall insure in any such transactions that DNR shall be notified of a default occurring under the instrument and if Contractor does not cure the default within the time allowed, DNR may, in its sole discretion, cure the default by Contractor and assess or set off all costs associated with affecting cure, including the amount in default and reasonable attorneys fees against Contractor.

12.4 Ownership of Deliverables and Intellectual Property. Contractor agrees that the Deliverables and all intellectual property rights and proprietary rights arising out of, embodied in, or related to, such Deliverables, shall become and remain the sole and exclusive property of the DNR and the State. Contractor hereby irrevocably transfers, assigns and conveys to the DNR and the State all right, title and interest in and to such Deliverables and intellectual property rights and proprietary rights. Contractor shall take all actions as may be necessary or requested by the DNR to carry out and effect such transfer, assignment and conveyance. Contractor represents and warrants that the DNR and the State shall acquire good and clear title to such Deliverables, free from any claims, liens, security interests, encumbrances or other rights or interests of Contractor or of any Third Party. The DNR and the State shall have the right to obtain and hold copyrights, patents or such other registrations or intellectual property protections as may be desirable or appropriate to the subject matter, and any extensions or renewals thereof. Contractor shall assist the DNR and the State to obtain and secure copyrights, patents or other intellectual property rights, registrations or protections with respect to all such Deliverables in the United States and any other countries. Contractor agrees to execute all papers and to give all facts known to it necessary to secure United States or foreign country copyrights and patents, and to transfer or cause to transfer to the DNR and the State all the right, title and interest in and to such

Deliverables. Contractor also agrees to waive and not assert any moral rights it may have with regard to such Deliverables. The Contractor shall not retain any property interests or other rights in and to such Deliverables and shall not use such Deliverables, in whole or in part, for any purpose, without the prior written consent of the DNR and the payment of such royalties or other compensation as the DNR deems appropriate. As the owner of such Deliverables, the DNR and the State may, without limitation: (i) adapt, change, modify, edit or use the Deliverables as the DNR or the State sees fit, including in combination with the works of others, prepare derivative works based on the Deliverables, and publish, display and distribute throughout the world any Deliverable(s) in any medium, whether now known or later devised, including, without limitation, any digital or optical medium, and (ii) make, use, sell, license, sublicense, or lease the Deliverables and any intellectual property rights therein or related thereto without payment of additional compensation to Contractor.

12.5 Further Assurances. At the DNR's request, Contractor shall execute and deliver such instruments and take such other action as may be requested by the DNR to establish, perfect or protect the State's and the DNR's rights in and to the Deliverables and to carry out the assignments, transfers and conveyances required by this Contract. Contractor shall execute any instruments, provide all facts known to it, and do all other things requested by the DNR (both during and after the term of this Contract) in order to vest more fully in the State and the DNR any and all ownership rights and intellectual property rights in and to the Deliverables. In the event the DNR is unable, after reasonable effort, to secure Contractor's signature on any letters, patent, copyright, or other analogous protection relating to the Deliverables, for any reason whatsoever, Contractor hereby irrevocably designates and appoints the DNR, and its duly authorized officers, employees and agents, as Contractor's agent and attorney-in-fact, to act for and in its behalf to execute and file any such application or applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent, copyright registrations, and other analogous protection, including extensions and renewals thereon, with the same legal force and effect as if executed by Contractor.

12.6 Disputes. In any dispute over ownership or licensing rights, Contractor shall have the burden of proving prior or independently developed rights by clear and convincing proof.

Section 13 JOINT AND SEVERAL LIABILITY

If the Contractor is a joint entity, consisting of more than one individual, partnership, corporation or other business organization, then all such entities shall be jointly and severally liable for carrying out the activities and obligations of this contract, and for any default activities and obligations.

Section 14 WAIVER

Except as specifically provided for in a waiver signed by duly authorized representatives of DNR and the Contractor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.

Section 15 NOTICE

15.1 Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar

and reliable carrier which shall be addressed to each party as set forth as follows in Section 1, Special Conditions, of this Contract.

15.2 Each such notice shall be deemed to have been provided:

15.2.1 At the time it is actually received; or,

15.2.2 Within one day in the case of overnight hand delivery, courier or services such as Federal Express with guaranteed next day delivery; or,

15.2.3 Within five (5) days after it is deposited in the U.S. Mail in the case of registered U.S. Mail.

15.3 From time to time, the parties may change the name and address of a party designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.

Section 16 CUMULATIVE RIGHTS

The various rights, powers, options, elections and remedies of any party provided in this Contract, shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of any party to pursue any other equitable or legal remedy to which any party may be entitled as long as any default remains in any way unremedied, unsatisfied or undischarged.

Section 17 TIME IS OF THE ESSENCE

Time is of the essence with respect to the performance of the terms of this Contract.

Section 18 RECORD RETENTION AND ACCESS

The Contractor shall maintain books, records and documents which sufficiently and properly document and calculate all charges billed to DNR throughout the term of this Contract for a period of at least five (5) years following the date of final payment or completion of any required audit, whichever is later. Records to be maintained include both financial records and service records. The Contractor shall permit the Auditor of the State of Iowa or any authorized representative of the State and where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of the Contractor relating to orders, invoices or payments or any other documentation or materials pertaining to this Contract, wherever such records may be located. The Contractor shall not impose a charge for audit or examination of the Contractor's books and records.

Section 19 SOLICITATION

The Contractor warrants that no person or selling agency has been employed or retained to solicit and secure this Contract upon an agreement or understanding for commission, percentage, brokerage or contingency excepting bona fide employees or selling agents maintained for the purpose of securing business.

Section 20 OBLIGATIONS BEYOND CONTRACT TERM

This Contract shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to this Contract. All obligations of DNR and the Contractor incurred or existing under this Contract as of the date of expiration, termination or cancellation will survive the termination, expiration or conclusion of this Contract.

Section 21 DELAY OR IMPOSSIBILITY OF PERFORMANCE

The Contractor shall not be in default under this Contract if performance is delayed or if Contractor may not reasonably perform the Contract due to an act of God, flood, fire or similar events. In each such case, the delay or impracticability must be beyond the reasonable control and anticipation of the Contractor, and without the fault or negligence of the Contractor. If delay results from a subcontractor's conduct, from the Contractor's negligence or fault, or from circumstances which by the exercise of reasonable diligence the Contractor should have been able to anticipate or prevent, then the Contractor shall be in default and this paragraph shall not be applicable. It shall be the responsibility of the Contractor to prove that performance was delayed or impracticable within the meaning of this paragraph.

Section 22 SUPERCEDES FORMER CONTRACTS OR AGREEMENTS

Unless this Contract is an amendment to a Contract entered into between DNR and Contractor and is designated as such, then this Contract supersedes all prior contracts or agreements between DNR and the Contractor for the services provided in connection with this Contract.

Section 23 USE OF THIRD PARTIES AND SUBCONTRACTORS

Contractor may not contract with third parties for the performance of any of Contractor's obligations under this Contract, unless and then only to the extent that the Special Conditions of this Contract specify otherwise. If the Special Conditions provide for a subcontractor or subcontractors, then the following conditions shall apply:

23.1 All subcontracts shall be subject to prior approval by the DNR. The DNR's consent shall not be deemed in any way to provide for the incurrence of any obligation of DNR in addition to the remuneration agreed upon in this Contract. Any subcontract to which DNR has consented shall be in writing and shall in no way alter the terms and conditions of this Contract.

23.2 The Contractor may enter into subcontracts to complete the work required by this Contract provided that the Contractor remains responsible for all services performed under this Contract. No subcontract or delegation of work shall relieve or discharge the Contractor from any obligation, provision, or liability under this Contract. The Contractor shall remain responsible for such performance and shall be fully responsible and liable for all acts or omissions of any subcontractor.

23.3 All restrictions, obligations and responsibilities of the Contractor under this Contract also shall apply to the subcontractors.

23.4 DNR shall have the right to request the removal of a subcontractor from the Contract for good cause. The Contractor shall indemnify, defend and hold harmless DNR and 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 breach of any

subcontract in which it enters, including Contractor's failure to pay any and all amounts due by Contractor to any subcontractor.

23.5 Each subcontract shall contain provisions for DNR access to the subcontractor's books, documents, and records and for inspections of work, as required of Contractor herein.

23.6 Any action of a subcontractor, which, if done by Contractor, would constitute a breach of this Contract, shall be deemed a breach by Contractor and have the same legal effect.

23.7 If delay results from a subcontractor's conduct, from the Contractor's negligence or fault, or from circumstances which by the exercise of reasonable diligence the Contractor should have been able to anticipate or prevent, then the Contractor shall be in default and Section 21, "Delay of Impossibility of Performance," shall not be applicable.

23.8 If the Contract is subject to the provisions of Iowa Code chapter 8F, then the Contractor shall comply with Iowa Code chapter 8F with respect to any subcontract Contractor enters into pursuant to this Contract. Any compliance documentation, including but not limited to certification, received from any subcontractor shall be forwarded to DNR immediately.

Section 24 SELF-INSURANCE BY THE STATE OF IOWA

Pursuant to Iowa Code chapter 669, DNR and the State of Iowa are self-insured against all risks and hazards related to this Contract. No separate fund has been established to provide self-insurance, and the State of Iowa is not obligated to establish any such fund during the term of this Contract.

Section 25 INDEMNIFICATION

25.1 Indemnification By the Contractor. Consistent with the provisions in Section 26, Immunity from Liability, the Contractor agrees to indemnify and hold harmless the State of Iowa and the Agency, its officers, employees, and agents appointed and elected and volunteers from any and all costs, expenses, losses, claims, damages, liabilities, settlements and judgments, including reasonable value of the time spent by the Attorney General's Office, and the costs and expense and reasonable attorneys' fees of other counsel required to defend the State of Iowa or the Agency, related to or arising from:

25.1.1 Contractor's breach of this Contract;

25.1.2 Any negligent, intentional or wrongful act or omission of the Contractor or any agent or subcontractor utilized or employed by the Contractor;

25.1.3 Any failure by the Contractor to comply with the compliance with the Law provision of this Contract;

25.1.4 Contractor's failure to make all reports, payments and withholdings required by federal and state law with respect to social security, employee incomes and other employment-related taxes, fees or costs required by the Contractor to conduct business in the State of Iowa;

25.1.5 Contractor's infringement or any copyright, trademark, patent, trade dress, or other intellectual property right in violation of Section 10 and 12; or

25.1.6 Contractor's failure to adhere to the confidentiality provisions of this Contract.

25.2 Indemnification by the State. The state shall, only to the extent consistent with and permitted by Article VII, Section 1 of the Iowa Constitution and Iowa Code Chapter 669, Indemnify the Contractor from and against any claim, as defined in Iowa Code Chapter 669.2 caused directly by the negligent or wrongful acts or omissions of any employee of the State while acting within the scope of the employee's office or employment in connection with the performance of this Agreement. Contractor agrees that any claim for which indemnification is sought pursuant to this Section 25 shall be subject to the provisions of Iowa Code Chapter 669 and 543 Iowa Administrative Code 1, including without limitation, those provisions which address the making and filing of claims.

If the State makes any indemnity payments to the Contractor pursuant to this Section 25 and the Contractor thereafter collects or recovers all or a portion of such amounts from any person or third party, including from any insurance carrier, Contractor shall promptly repay such collected or recovered amounts to the State.

26.3 Survives Termination. Indemnification obligation of the parties shall survive termination of this Contract.

Section 26 IMMUNITY FROM LIABILITY

Every person who is a party to the Contract, including its Amendments, is hereby notified and agrees that the State, DNR, and all of their employees, agents, successors, and assigns, to the extent required by law, are immune from liability and suit for Contractor's and subcontractors' activities involving third parties arising from the Contract. The State's liability shall be limited as stated above and the State's sovereign immunity shall in no way be waived and shall be preserved, as required by the Iowa Constitution Article VII, Section 1; Iowa Code chapter 669.

Neither party shall be liable for consequential, special or indirect damages of any kind under the Contract, including its Amendments, whether or not they have been advised of the possibility of such damages. The Contractor's maximum liability for any direct damages arising out of or related to this Contract, including its amendments, is limited to the amount of annual and transaction fees actually received by Contractor pursuant to this Contract, including its amendments, as consideration for the products and services performed hereunder, during the twelve month period preceding the date on which the cause of action arose.

The foregoing limitation of Contractor's liability shall not apply to: (a) intentional torts, criminal acts, fraudulent conduct, intentional or willful misconduct, or gross negligence; (b) claims related to death, bodily injury, or damage to real or personal property; (c) any contractual obligations of the Contractor pertaining to its indemnification obligations as set forth in Section 26.1.5; or (d) claims arising under provisions of this Contract, including its amendments, calling for indemnification of the State for third-party claims against the State for bodily injury to persons or for damages to real or tangible personal property caused by the Contractor's negligence or willful conduct.

This Contract, including its amendments, shall limit that Contractor's liability for consequential, incidental, indirect, special, or punitive damages to the extent the Contractor's liability for such damages arises out of the items identified in items (a) and (d), above.

Without limiting the foregoing, Contractor's total aggregate liability for all matters arising out of its indemnification obligations set forth in Sections 25.1.1, 25.1.2, 25.1.3, 25.1.4, or 25.1.6, and out of the credit monitoring obligation set forth in Attachment F (Operation Requirements), Item #31 is limited to the greater of: (1) three (3) times the amount of annual and transaction fees actually received by Contractor pursuant to this Contract, including its amendments, as consideration for the products and services performed hereunder, during the twelve-month period preceding the date on which the cause of action arose; or (2) the amount of \$1,000,000 (one million dollars).

Section 27 NON-SUPPLANTING REQUIREMENT

To the extent required by federal or state law, federal and state funds made available under this Contract shall be used to supplement and increase the level of state, local, and other non-federal funds that would in the absence of such federal and state funds be made available for the programs and activities for which funds are provided and will in no event take the place of state, local, and other non-federal funds.

Section 28 CERTIFICATION REGARDING SALES AND USE TAX

By executing this Contract, the Contractor certifies that it is either (a) registered with the Iowa Department of Revenue, collects and remits sales and use taxes as required by Iowa Code chapter 432; or (b) not a "retailer" or a "retailer maintaining a place of business in this state" as those terms are defined in Iowa Code section 423.1. The Contractor also acknowledges that the DNR may declare the Contract void if the above certification is false. The Contractor also understands that fraudulent certification may result in the Agency or its representatives filing action for damages for breach of contract.

Section 29 TAXES

The State is exempt from federal excise tax, and no payment will be made for any taxes levied on Contractor's employees' wages. The State is exempt from state and local sales and use taxes on the Deliverables.

Section 30 NONDISCRIMINATION IN EMPLOYMENT

The Contractor, its employees, agents, and subcontractors shall not engage in discriminatory employment practices which are forbidden by federal or state law, executive orders, and rules of the Iowa Department of Administrative Services. The Contractor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations, orders when performing under the Contract, including without limitation, all laws applicable to the prevention of discrimination in employment (e.g., Iowa Code chapter 216 and section 19B.7) and the use of targeted small businesses as subcontractors and suppliers. Upon the State's written request, the Contractor shall submit to the State a copy of its affirmative action plan, containing goals and time specifications, and accessibility plans and policies as required under 11 Iowa Administrative Code chapter 121.

The Contractor, its employees, agents and subcontractors shall also comply with all federal, state, and local laws, including any permitting and licensure requirements, in carrying out the work performed under this Contract.

In the event Contractor contracts with third parties for the performance of any of the Contractor obligations under this Contract, Contractor shall take such steps as necessary to ensure such third parties are bound by the terms and conditions contained in this section.

Notwithstanding anything in this Contract to the contrary, Contractor's failure to fulfill any requirement set forth in this section shall be regarded as a material breach of this Contract and the State may cancel, terminate, or suspend, in whole or in part, this Contract. The State may further declare Contractor ineligible for future state contracts in accordance with authorized procedures or the Contractor may be subject to other sanctions as provided by law or rule.

Section 31 FEDERALLY-FUNDED AGREEMENTS

If this Contract is funded by federal monies, then the Contractor has read and understands the provisions of Attachment A, Additional Requirements for Federally-Funded Agreements, attached hereto and made part of this Contract by this reference, and the Contractor agrees to conform to the requirements contained therein.

Section 32 INSURANCE MAINTAINED BY CONTRACTOR

The Contractor has read and understands the provisions in Attachment B, Insurance Clause, attached hereto and made part of this Contract by this reference, and the Contractor agrees to conform to the requirements contained therein.

Section 33 INFORMATION TECHNOLOGY SECURITY

The Contractor and all Contractor personnel shall comply with Iowa information technology security statutes, rules and policies. By signing this contract, the Contractor acknowledges that the Contractor has read and understands the provisions of the information technology security policies adopted by the Iowa Department of Administrative Services (DAS) and DNR in effect on the date of signing. The Contractor further agrees to read and abide by any revised DAS and DNR policies, posted on the respective agency websites, that come into effect during the term of this Contract.