

REQUEST FOR PROPOSALS

**Iowa Department of Justice
Crime Victim Assistance Division**

Statewide Victim Information and Notification System

September 13, 2019

Section 1 Introduction

1.1 Purpose

The purpose of this Request for Proposals (RFP) is to solicit proposals from Responsible Respondents to provide a statewide victim information and notification system that will notify victims and survivors about the custody status of an offender and to provide such other services and deliverables as described in Section 4 of this RFP.

1.2 Definitions

For purposes of this RFP and any resulting contract, the following terms shall mean:

1.2.1 "Contract" means any contract(s) entered into with the successful Contractor(s) as described in Section 6.1.

1.2.2 "Contractor" means the successful Respondent to this RFP.

1.2.3 "CVAD" means the Iowa Department of Justice, Crime Victim Assistance Division.

1.2.4 "Proposal" means a Respondent's proposal submitted in response to this RFP.

1.2.5 "Respondent" means a vendor submitting a Proposal in response to this RFP.

1.2.6 "Responsible Respondent" means a Respondent that has the capability in all material respects to perform the scope of work and specifications of the Contract. In determining whether a Respondent is a Responsible Respondent, CVAD may consider various factors including, but not limited to, the Respondent's experience, competence and qualifications to provide the goods or services requested, the Respondent's integrity and reliability, the past performance of the Respondent, and the best interest of CVAD and the State.

1.2.7 “Responsive Proposal” means a Proposal that complies with the material provisions of this RFP.

1.2.8 “RFP” means this Request for Proposals and any attachments, exhibits, schedules, amendments, or addenda to this RFP.

1.2.9 “State” means the State of Iowa.

1.3 Overview of the RFP Process

This RFP is intended to provide CVAD with competitive and other information that will assist it in the selection process. It is not intended to be comprehensive. Each Respondent is responsible for determining all factors necessary for the submission of a comprehensive proposal.

Respondent should review Attachment 3, Form 22 Request for Confidentiality for more information if its Proposal contains confidential information. Any Proposal marked “Confidential” or “Proprietary” on every page may be disqualified.

It is CVAD’s intention to evaluate Proposals from all Respondents that submit timely Responsive Proposals and award the Contract(s) in accordance with Section 5, Evaluation and Selection.

1.4 Overview of the goods and services being sought in this RFP

CVAD was established in 1989 to provide services and assistance to victims of violent crimes. It administers programs that directly benefit victims of crime, including those that assist victims with the financial burden resulting from injuries of crime, that assist local crime victim service programs, and that assist the criminal justice system in holding offenders responsible for the effects of their crimes.

CVAD’s current Victim Information and Notification System is called IowaVINE. IowaVINE uses technology to automatically notify crime victims and survivors about changes in an offender’s apprehension, custody status, transfer, release, or death. IowaVINE is a free and anonymous service that provides victims and survivors two important features: (1) information concerning the custody status and location of the offender and (2) notification of the following: an offender’s change in custody status, transfer, release, escape, apprehension, return to custody for probation and parole

violations, or death. Across the state, crime victims and survivors use IowaVINE for access to timely and reliable information about the custody status of an offender. It also tracks criminals who have been arrested by law enforcement or convicted of a crime by the judicial system.

IowaVINE is a statewide notification system covering all 99 of Iowa's counties. IowaVINE receives information concerning an offender's status from all Iowa jails and the Iowa Department of Corrections.

Appriss, Inc. is currently providing the technology and services to operate and maintain the present IowaVINE system. Pursuant to the policy of the Iowa Attorney General's office, CVAD is rebidding these services. CVAD is seeking a Respondent that will be able to provide the system, services and deliverables described in this RFP.

CVAD anticipates entering into a four-year contract with the successful vendor, with the option of two three-year renewals.

Section 2 Administrative Information

2.1 Issuing Officer

The Issuing Officer for this RFP is

Brynne Howard
Iowa Department of Justice, Crime Victim Assistance Division
Lucas State Office Building
321 E. 12th Street
Des Moines, Iowa 50319
Email : Brynne.Howard@ag.iowa.gov

The Issuing Officer is the sole point of contact regarding the RFP from the date of issuance until CVAD issues a notice of intent to award the contract.

2.2 Restriction on communications

From the issue date of this RFP until a Notice of Intent to Award the Contract is issued, Respondents may contact only the Issuing Officer concerning the RFP. The Issuing Officer will respond only to written questions regarding the procurement process. Questions related to the interpretation of this RFP must be submitted as provided in § 2.4. Oral questions related to the interpretation of this RFP will not be accepted. CVAD may disqualify Respondents if they contact any State employee other than the Issuing Officer about the RFP except that Respondents may contact the State Targeted Small Business Office on issues related to the preference for Targeted Small Businesses.

This section shall not be construed as restricting communications related to the administration of any contract currently in effect between a Respondent and the State.

2.3 Procurement timetable

Relevant Action	Date/Time (Local Time)
.1 CVAD issues RFP:	September 13, 2019
.2 Written questions, requests for clarification, and suggested changes from Respondents due:	September 27, 2019
.3 CVAD's written response to questions, requests for clarifications, and suggested changes:	October 4, 2019
.4 Proposals Due:	October 25, 2019 by 4:30pm CST
.5 Presentations (if requested by CVAD):	Week of November 18, 2019
.6 Anticipated Date to issue Notice of Intent to Award:	December 3, 2019
.7 Anticipated Date to execute contract:	January 2, 2020

2.4 Questions and requests for clarification

Respondents are invited to submit written questions and requests for clarifications regarding the RFP on or before the date and time identified in § 2.3.2. CVAD will not accept oral questions. If the questions or requests for clarifications pertain to a specific section of the RFP, Respondents must reference the page and section number(s). CVAD will provide written responses to questions or requests for clarifications, received from Respondents on or before the date listed in § 2.3.3 to all Respondents. CVAD's written responses will become an addendum to the RFP and will be posted online.

CVAD assumes no responsibility for oral representations made by its officers or employees unless such representations are confirmed in writing and incorporated into the RFP through an addendum.

2.5 Amendments to the RFP

CVAD reserves the right to amend the RFP at any time using an addendum. CVAD will post all amendments to the RFP to its website located at <https://www.iowaattorneygeneral.gov/for-crime-victims/iowavine>

Each Respondent must acknowledge receipt of all addenda in its Proposal. If CVAD issues an addendum after the due date for receipt of Proposals, CVAD may, in its sole discretion, allow Respondents to amend their Proposals in response to the addendum.

2.6 Amendment or withdrawal of proposal

A Respondent may amend or withdraw and resubmit its Proposal at any time before the Proposals are due. The amendment or resubmission must be in writing, signed by the Respondent, and actually received by CVAD no later than the date and time established herein for receipt of Proposals. Respondents must notify the Issuing Officer in writing before the deadline for Proposals if they wish to completely withdraw their Proposals.

2.7 Submission of proposals

The Issuing Officer must receive the Proposal at the e-mail address listed below no later than the date and time set forth under "Proposals Due" listed in § 2.3 of the RFP.

This is a mandatory requirement. CVAD will not waive this requirement. CVAD will reject any Proposal received after this deadline and will return the Proposal unopened to the Respondent.

Respondents must submit PDF copies of their Technical and Cost Proposals separately to the Issuing Officer at the e-mail address identified below. CVAD will not accept paper or faxed Proposals. Each Respondent must ensure that the Proposal is received by the Issuing Officer no later than the deadline.

A Respondent must submit a PDF copy of its Technical Proposal to the Issuing Officer at the following e-mail address: Brynne.Howard@ag.iowa.gov

A Respondent must submit a PDF copy of its Cost Proposal to the Issuing Officer at the following e-mail address: Brynne.Howard@ag.iowa.gov

2.8 Completeness of proposals

Respondents must furnish all information necessary to enable CVAD to evaluate the Proposal. CVAD will not consider oral information provided by the Respondent as part of the Respondent's Proposal unless it is provided timely in writing as part of the Proposal.

2.9 Proposal opening

CVAD will open Proposals after the deadline for submission of Proposals has passed. The Proposals will remain confidential until the CVAD's Evaluation Committee has reviewed all proposals timely submitted in response to this RFP and CVAD has issued a Notice of Intent to Award a contract. See Iowa Code § 72.3. However, the names of the Respondents who timely submitted Proposals will be made publicly available after the Proposal opening. The announcement of Respondents who timely submitted Proposals does not mean an individual Proposal is a Responsive Proposal or has been deemed technically compliant or accepted for evaluation.

2.10 Cost of preparing proposal

Each Respondent is solely responsible for all costs associated with preparing and delivering its Proposal.

2.11 No commitment to contract

At any time before the execution of a written Contract, CVAD reserves the right to reject any or all Proposals received in response to this RFP, and CVAD further reserves the right to cancel this RFP. Issuance of this RFP in no way constitutes a commitment by CVAD to either award or enter into a Contract.

CVAD further reserves the right to cancel this RFP, to issue a new RFP, to Award a Contract, or to perform any or all of the services described in this RFP if it is in the best interests of the State.

2.12 Rejection of proposals

CVAD may, but is not obligated to, reject outright and not evaluate any and all Proposals for any reason, including, but not limited to, any one or more of the following reasons, as determined by CVAD in its sole discretion:

2.12.1 The Respondent acknowledges it cannot meet a mandatory specification of the RFP, or CVAD determines, in its sole discretion, that the Respondent is unable to meet a mandatory specification of the RFP or that the Respondent's proposal is not a Responsive Proposal.

2.12.2 The Respondent's Proposal changes a material specification of the RFP or the Proposal does not materially comply with the specifications of the RFP.

2.12.3 The Respondent's Proposal limits the rights of CVAD or the State.

2.12.4 The Respondent fails to include information necessary to enable CVAD to substantiate the Respondent's ability to meet a specification of the RFP.

2.12.5 The Respondent fails to respond timely to CVAD's request for information, documents, or references.

2.12.6 The Respondent fails to include any signature, certification, authorization, stipulation, disclosure, or guarantee requested in this RFP.

2.12.7 The Respondent presents the information requested by this RFP in a format inconsistent with the instructions of the RFP or otherwise fails to comply with the specifications of this RFP.

2.12.8 The Respondent initiates unauthorized contact regarding the RFP with a State employee other than the Issuing Officer.

2.12.9 The Respondent provides misleading or inaccurate responses.

2.12.10 The Respondent's Proposal is materially unbalanced.

2.12.11 There is insufficient evidence (including evidence submitted by the Respondent and evidence obtained by CVAD from other sources) to satisfy CVAD that the Respondent is a Responsible Respondent.

2.12.12 The Respondent marks the entire Proposal as confidential, makes excessive or unsupported claims for confidential treatment (as determined by CVAD in its sole discretion), or identifies pricing information in its cost proposal as confidential.

2.12.13 The Respondent is a "scrutinized company" included on a "scrutinized company list" created by a public fund pursuant to Iowa Code section 12J.3.

2.12.14 The Respondent alters the language in Attachment 1, Certification Letter or Attachment 2, Authorization to Release Information Letter.

2.13 Nonmaterial variances

CVAD reserves the right to waive or permit cure of nonmaterial variances in the Proposal if, in CVAD's judgment, it is in CVAD's or the State's best interest to do so. Nonmaterial variances include, but are not limited to: minor failures to comply that: do not affect overall responsiveness, are merely a matter of form or format, do not change the relative standing or otherwise prejudice other Respondents, do not change the meaning or scope of the RFP, or do not reflect a material change in the specifications of the RFP. If CVAD waives or permits cure of nonmaterial variances, the waiver or cure will not modify the RFP specifications or excuse the Respondent from full compliance with RFP specifications or other Contract specifications if the Respondent is awarded the Contract. The determination of materiality is in the sole discretion of CVAD.

2.14 Reference checks

CVAD reserves the right to contact any reference to assist in the evaluation of the Proposal, to verify information contained in the Proposal, and to discuss the Respondent's qualifications and the qualifications of any subcontractor identified in the Proposal.

2.15 Information from other sources

CVAD reserves the right to obtain and consider information from other sources concerning a Respondent, such as the Respondent's capability and performance under other contracts, the qualifications of any subcontractor identified in the Proposal, the Respondent's financial stability, past or pending litigation, and publicly available information.

2.16 Verification of proposal contents

CVAD may verify the content of a Proposal submitted by a Respondent. If CVAD determines in its sole discretion that the content of a Proposal is in any way misleading, inaccurate, or nonresponsive, CVAD may reject the Proposal.

2.17 Proposal clarification process

CVAD reserves the right to contact a Respondent in writing after the submission of Proposals for the purpose of clarifying a Proposal. This contact may include written questions, interviews, site visits, a review of past performance if the Respondent has provided goods and/or services to the State or any other political subdivision wherever located, or requests for corrective pages in the Respondent's Proposal. CVAD will not consider information received from or through Respondent if the information materially alters the content of the Proposal or the type of goods and/or services the Respondent is offering to CVAD. An individual authorized to legally bind the Respondent must sign responses to any request for clarification. Responses must be submitted to CVAD within the time specified in CVAD's request. CVAD may reject a Proposal of any Contractor that fails to timely comply with requests for additional information.

2.18 Disposition of proposals

All Proposals become the property of the State and will not be returned to the Respondent. Once CVAD issues a Notice of Intent to Award the Contract, the contents of all Proposals will be public records available for inspection by interested parties, except for information for which a Respondent properly requests confidential treatment and according to exceptions provided in Iowa Code chapter 22 or other applicable law.

2.19 Public records and requests for confidential treatment

CVAD's release of public records is governed by Iowa Code chapter 22. Respondents are encouraged familiarize themselves with Iowa Code chapter 22 before submitting a Proposal. CVAD will copy and produce or otherwise disclose public records upon request pursuant to Iowa Code chapter 22 or other applicable law. CVAD will treat all information submitted by a Respondent as non-confidential records unless Respondent requests specific parts of the proposal to be treated as confidential at the time of submission as set forth herein **AND CVAD or its legal counsel determines the information is allowed to be treated as confidential under Iowa or other applicable law.**

2.20 Form 22 – Request for confidentiality

FORM 22 MUST BE COMPLETED AND INCLUDED WITH RESPONDENT'S PROPOSAL. COMPLETION AND SUBMITTAL OF FORM 22 IS REQUIRED WHETHER THE PROPOSAL

DOES OR DOES NOT CONTAIN INFORMATION FOR WHICH CONFIDENTIAL TREATMENT WILL BE REQUESTED. FAILURE TO SUBMIT A COMPLETED FORM 22 WILL RESULT IN THE PROPOSAL BEING CONSIDERED NON-RESPONSIVE AND ELIMINATED FROM EVALUATION.

2.21 Copyright permission

By submitting a Proposal, the Respondent agrees that CVAD may copy the Proposal for purposes of facilitating the evaluation of the Proposal or to respond to requests for public records. By submitting a Proposal, the Respondent consents to such copying and warrants that such copying will not violate the rights of any third party. CVAD will have the right to use ideas or adaptations of ideas that are presented in Proposals.

2.22 Release of claims

By submitting a Proposal, the Respondent agrees that it will not bring any claim or cause of action against CVAD or the State of Iowa based on any misunderstanding concerning the information provided in this RFP or concerning CVAD's failure, negligent or otherwise, to provide the Respondent with pertinent or accurate information in or relating to this RFP.

2.23 Presentations

The Evaluation Committee may, at its sole discretion, require one or more Respondents to provide a presentation regarding and/or a demonstration of the products and services sought by this RFP and allowing the Evaluation Committee to ask questions about the products and services offered by Respondents in their Proposals. The Evaluation Committee may elect for the presentations to be done in person or by use of a virtual meeting tool such as GoToMeeting. During the presentation, a Respondent may demonstrate the product and services and answer questions, but the presentation cannot materially change or supplement the Respondent's Proposal.

2.24 Evaluation of proposals

An Evaluation Committee will review Proposals that are timely submitted and are not rejected pursuant to the terms of this RFP. See § 5 for information regarding the evaluation process. CVAD will not necessarily award a Contract resulting from this RFP to the Respondent offering the lowest cost. Instead, CVAD will award Contract(s) to the

Responsible Respondent(s) whose Responsive Proposal CVAD believes will provide the best value to CVAD and the State.

2.25 Notice of award and acceptance period

If one or more Contractors are selected, CVAD will send a Notice of Intent to Award the Contract(s) to all Respondents who submitted timely Proposals. Alternatively, CVAD may post the notice on its website. A Notice of Intent to Award does not constitute the formation of a contract between CVAD and the apparent successful Respondent. Negotiation and execution of the Contract(s) must be completed no later than 30 business days from the date of the Notice of Intent to Award or such other time as designated by CVAD. If a successful Respondent fails to negotiate and deliver an executed Contract by that date, CVAD, in its sole discretion, may cancel the award and award the Contract to another Respondent that CVAD believes will provide the best value to CVAD and the State (and not necessarily the next highest-scoring Respondent). CVAD may extend the period for negotiation of the Contract, in its sole discretion. CVAD further reserves the right to cancel the Notice of Intent to Award at any time prior to the execution of a written Contract.

2.26 No contract rights until a contract is signed

No Respondent will acquire any legal or equitable rights regarding the Contract unless and until the Contract has been fully executed by the successful Respondent and CVAD.

2.27 Choice of law and forum

The laws of the State of Iowa will govern this RFP and any Contract that results from this process. Changes in applicable laws and rules may affect the award process or the Contract. Respondents are responsible for ascertaining pertinent legal requirements and restrictions. Any and all litigation or actions commenced in connection with this RFP must be brought in the appropriate Iowa forum.

2.28 Restrictions on gifts and activities

Iowa Code chapter 68B restricts gifts that may be given or received by State employees and requires certain individuals to disclose information concerning their activities with State government. Respondents are responsible to determine whether chapter 68B

applies to their activities and must comply with the its requirements. In addition, pursuant to Iowa Code section 722.1, it is a felony offense to bribe or attempt to bribe a public official.

2.29 Post solicitation debriefing

A debriefing is available to any Respondent who submitted a proposal in response to this RFP. The Respondent may submit a written request for a debriefing to the Issuing Officer via email or other delivery method. All Respondents will be accorded fair and equal treatment with respect to the opportunity for debriefing. The debriefing will be scheduled by CVAD as soon as practicable after the receipt of a debriefing request.

Section 3 Form and Content of Proposals

3.1 Instructions

These instructions prescribe the format and content of the Proposal. They are designed to facilitate a uniform review process. CVAD may reject any Proposal that it determines, in its sole discretion, fails to adhere to these instructions.

3.1.1 The Proposal must be typewritten and printable on 8.5" x 11" paper, no smaller than 12-point, Times New Roman font and submitted as PDF documents.

3.1.2 The Proposal must be divided into two parts: (1) the Technical Proposal and (2) the Cost Proposal. The Technical Proposal and the Cost Proposal must be submitted in separate emails to the e-mail address or addresses identified in § 2.7 of the RFP. The first page of both the Technical and Cost Proposals must be labeled with the following information:

Response to RFP: Statewide Victim Information and Notification System

Iowa Department of Justice, Crime Victim Assistance Division
Lucas State Office Building
321 E. 12th Street
Des Moines, Iowa 50319

[Contractor's Name and Address]

CVAD is not responsible for misdirected e-mails or premature opening of Proposals if a Proposal is not properly labeled or not sent to the designated email addresses.

3.1.3 The Proposal must be timely submitted to the designated e-mail addresses by the deadline set forth in Section 2 of this RFP.

3.1.4 If the Respondent designates any information in its Proposal as confidential in accordance with the requirements of §§ 2.19 and 2.20 of the RFP, the Respondent must also submit a PDF copy of the Proposal from which confidential information has been redacted as provided in §§ 2.19 and 2.20.

3.1.5 Attachments must be referenced in the Proposal.

3.1.6 Proposals must not contain promotional or display materials.

3.1.7 If a Respondent proposed more than one solution to the RFP specifications, each must be submitted in a separate Proposal and each will be evaluated separately.

3.2 **Transmittal Letter**

An individual authorized to legally bind the Respondent must sign the transmittal letter. The letter must include the Respondent's mailing address, electronic mail address, fax number, and telephone number. The transmittal letter must also include any request for confidential treatment of information, and such request must comply with the requirements stated in § 2.20 of the RFP.

3.3 **Technical proposal**

The Technical Proposal must include the following documents and responses in the order given below. Items listed in § 3.3 will be considered in the evaluation and scoring of the Technical Proposals:

3.3.1 **Scored technical specifications**

The Respondent must answer whether, or not it will comply with each specification in § 4.2 of the RFP. Where the context requires more than a yes or no answer or the specific specification so indicates, Respondent must explain how it will comply with the specification. Merely repeating the § 4.2

specifications may be considered non-responsive and result in the rejection of the Proposal. Proposals must identify any deviations from the specifications of this RFP or any specifications the Respondent cannot satisfy. If the Respondent deviates from or cannot satisfy the specification(s), CVAD may reject the Proposal.

3.3.2 Respondent background information

The Respondent must provide the following general background information:

- .1 Name, address, telephone number, fax number, and e-mail address of the Respondent including all d/b/a's, assumed, or other operating names of the Respondent and any local addresses and phone numbers.
- .2 Form of business entity, e.g., corporation, partnership, proprietorship, limited liability company.
- .3 State of incorporation, state of formation, or state of organization.
- .4 The location(s) including address and telephone numbers of the offices and other facilities that relate to the Respondent's performance under the terms of this RFP.
- .5 Number of employees.
- .6 Type of business.
- .7 Name, address, telephone number, and e-mail address of the Respondent's representative to contact regarding all contractual and technical matters concerning the Proposal.
- .8 Name, address, telephone number, and e-mail address of the Respondent's representative to contact regarding scheduling and other arrangements.
- .9 The successful Respondent will be required to register to do business in Iowa before payments can be made. If already registered, provide the date of the Respondent's registration to do business in Iowa and the name

of the Respondent's registered agent. For vendor registration documents, go to:

<https://das.iowa.gov/procurement/vendors/how-do-business>

.10 The number of lawyers, technology, and other support staff in each of the Contractor's offices.

.11 Name, contact information, and qualifications of any subcontractors the Respondent proposes to use in providing goods and/or services required by the RFP and the nature of the goods and/or services the subcontractor would perform.

3.3.3 Experience

The Contractor must provide the following information about its experience:

- .1 Number of years in business.
- .2 Number of years of experience in providing the types of goods and/or services sought by the RFP.
- .3 The level of technical experience in providing the types of goods and/or services sought by this RFP.
- .4 A description of all goods and/or services similar to those sought by this RFP that the Respondent has provided to private and governmental entities. For each similar project, the description must include:
 - (a) Project title;
 - (b) Project role (prime contractor or subcontractor);
 - (c) Start and end dates of service;
 - (d) Contract value;
 - (e) General description of the scope of work;
 - (f) Whether the goods and/or services were provided timely and within budget; and
 - (g) Contact information for the client's project manager including address, telephone number, and email address.

.5 Letters of reference or detailed contact information from three (3) previous customers or clients knowledgeable of the Respondent's performance in providing goods and/or services similar to those sought in this RFP, including a contact person, telephone number, and email address for each reference. CVAD prefers that Respondents submit letters of reference for services that were procured using a competitive selection process.

3.3.4 Termination, debarment, litigation, and investigation

The Respondent must provide information on whether any of the following conditions or circumstances are applicable to the Respondent—or a holding company, parent company, subsidiary, or intermediary company of the Respondent—during the past five years. If any of the following conditions or circumstances apply, the Respondent must state the details of the occurrence set forth below. If none of these conditions or circumstances is applicable to the Respondent, the Respondent must so indicate.

.1 Has the Respondent had a contract for goods and/or services terminated for any reason? If so, provide full details regarding the termination.

.2 Describe any occurrences where the Respondent either has been subject to default or has received notice of default or failure to perform on a contract. Provide complete details related to the default or notice of default including the other party's name, address, telephone number, and email address.

.3 Describe any order, judgment, or decree of any federal or state authority barring, suspending, or otherwise limiting the right of the Respondent to engage in any business, practice, or activity.

.4 Describe any damages, penalties, disincentives assessed, or payments withheld, or anything of value traded or given up by the Respondent under any of its existing or past contracts as it relates to goods and/or services provided that are similar to those sought by this RFP. Include the estimated cost of that incident to the Respondent with the details of the occurrence.

.5 List and summarize all litigation or threatened litigation, administrative or regulatory proceedings, or similar matters to which the Respondent or its officers have been a party.

.6 List any irregularities that have been discovered in any of the accounts maintained by the Respondent on behalf of others. Describe the circumstances of irregularities or variances and detail how the issues were resolved.

Failure to disclose any of the above matters may result in rejection of the Proposal or termination of any Contract between the Respondent and CVAD (or the State). The above disclosures are a continuing requirement of the Respondent. The Respondent shall provide written notification to CVAD of any such matter commencing or occurring after submission of a Proposal, and with respect to any successful Respondent, following execution of a Contract.

3.3.5 Acceptance of terms and conditions

A Contractor's submission of a Proposal constitutes: (1) acceptance of the terms and conditions, criteria, specifications, and requirements set forth in this RFP and any attachment or amendment hereto, without change; and (2) operates as a waiver of any and all objections to the contents of the RFP and all related terms, conditions and specifications. The Respondent must specifically agree and state in its transmittal letter that the Proposal is predicated upon the acceptance of all contractual terms and conditions stated in this RFP, including, without limitation, § 6 of the RFP and any contract(s) attached to or incorporated by reference into this RFP. If the Respondent objects or takes exception to any term or condition, the Contractor must comply with all of the requirements and procedures stated in § 6. Should the apparent successful Respondent take exception(s) to such terms and conditions, CVAD reserves the right to reject such exception(s) and may elect to terminate negotiations with the apparent successful Respondent. Without limiting CVAD's rights, CVAD may, in its sole discretion, reject a Proposal where any objection, exception or response materially alters any term, condition or specification of this RFP (including any attachment or amendment hereto), or if the Respondent submits its own terms and conditions or otherwise fails to follow the process described herein.

3.3.6 Certification letter

The Respondent must sign and submit with the Proposal the document included as Attachment #1 (Certification Letter) in which the Respondent shall make the certifications included in Attachment #1.

3.3.7 Authorization to release information

The Respondent must sign and submit with the Proposal the document included as Attachment #2 (Authorization to Release Information Letter) in which the Respondent authorized the release of information to CVAD.

3.3.8 Firm proposal terms

The Respondent must guarantee in writing the availability of the goods and/or services offered and that all Proposal terms, including price, will remain firm for a minimum of 120 days following the deadline for submitting Proposals.

3.4 Cost proposal

The Respondent shall provide its Cost Proposal by e-mail separately from the Technical Proposal. See Instructions in Section 4.3 as well as Attachment #4.

3.4.1 Payment methods

The State of Iowa, in its sole discretion, will determine the method of payment for goods and/or services as part of the Contract. The State Warrant is the preferred payment method. The State of Iowa's warrant drawn on the Treasurer of State is used to pay claims against departments of the State of Iowa. The warrant is issued upon receipt of proper documentation from the issuing department.

Respondents shall indicate in their cost Proposals all of the payment methods they will accept. **This information will not be scored as part of the Cost Proposal or evaluated as part of the Technical Proposal.**

3.4.2 **Payment terms**

Per Iowa Code section 8A.514, the State of Iowa is allowed sixty (60) days to pay an invoice submitted by a Contractor. Respondents are encouraged to familiarize themselves with Iowa Code section 8A.514.

3.4.3 **Respondent discounts**

Respondents shall state in their Cost Proposals whether they offer any payment discounts, including but not limited to:

.1 Prompt payment discount

The State can agree to pay in less than sixty (60) days if an incentive for earlier payment is offered.

.2 Cash discount

The State may consider cash discounts when scoring Cost Proposals.

Section 4 Specifications

4.1 Overview

The successful Respondent will provide the goods and/or services to CVAD in accordance with the specifications as provided in this section. The Respondent must address in its Proposal each specification in this section and indicate whether or not it will comply with the specification and provide information or explanation in support of how it will comply with each specification. If the context requires more than a yes or no answer or the section specifically indicates, Respondent shall explain how it will comply with the specification. Proposals must be fully responsive to and address each specification. Merely repeating the specifications may be considered non-responsive and may disqualify the Respondent. Proposals must identify any deviations from the specifications of this RFP or specifications the Respondent cannot satisfy. CVAD may reject any Proposal that deviates from or cannot satisfy the specifications identified in this section.

4.2 Statewide Victim Information and Notification System

The following preferred specifications for the Statewide Victim Information and Notification system must be addressed in each Proposal:

1. General Requirements. The Statewide Victim Information and Notification System must:
 - 1.1. Provide offender custody status information (including whether the offender is in custody, and offender location while in custody) on offenders in all of Iowa's 99 counties and the Iowa Department of Corrections [hereinafter "the Sites"].
 - 1.2. Obtain updated data from all 99 counties at a minimum of every fifteen minutes and at a minimum of once every 24 hours from the Iowa Department of Corrections. Data to be collected includes offender full name, aliases, age, date of birth, gender, parole status (even when out on supervised release; for the term of the sentence), offender ID, custody status, charge, contact facility, booking date and offender's photo. Data should be collected for all offenders in each site.

- 1.3. Allow victims and survivors to anonymously register for automated notification of changes in offender status.
- 1.4. Allow victims or survivors to complete registration using a telephone number, email address or both.
- 1.5. Allow victims and survivors to register by calling a toll-free telephone number or by using a dedicated website.
- 1.6. Allow notifications to be sent to multiple phone numbers, including cell phones and landlines.
- 1.7. Allow registered victims or survivors to update, change or cancel their registration information by calling a toll-free telephone number or by using a dedicated website.
- 1.8. Update any changes in an offender's location or custody status without requiring registered victims and survivors to update their registration or re-register.
- 1.9. Disseminate automated notifications by telephone, the Internet, email and text message 24 hours a day, 7 days a week, 365 days a year to registered victims and survivors within 15 minutes of a custody status change. Respondent proposals must describe the notification pattern for each notification type including the following information:
 - 1.9.1. How notification is initiated;
 - 1.9.2. How often notifications on a single event are triggered;
 - 1.9.3. How notifications are stopped;
 - 1.9.4. Whether any confirmation of delivery occurs.
- 1.10. Allow registered victims and survivors to be able to contact a live operator who is trained in victim sensitivity.
- 1.11. Maintain, enhance and provide updates for a portal which allows the CVAD to view all profiles and registrations as well as notifications sent. This

portal will also allow the CVAD to stop calls, modify a profile and/or delete a registration; as well as set up users at local agencies to have similar abilities.

- 1.12. Provide the ability within the system for the CVAD to create ad hoc reports reflecting any and all data fields captured by the system.
- 1.13. Provide the ability within the system for the CVAD to track statistics for usage of the system including number of registrations by type (phone, website, etc.) notifications by time (text, phone, email), failed notifications and registration cancellations broken down by Site and any other useful statistics.
2. Each proposal shall demonstrate how the Respondent's proposed Statewide Victim Information and Notification System will do the following:
 - 2.1. Comply with the Americans with Disabilities ACT (ADA) including, but not limited to providing access to individuals who are deaf, hard of hearing, blind or partially sighted.
 - 2.2. Provide system access and support services in languages other than English.
3. Victims and survivors must have access to all features regardless of device access (i.e. smart phone, smart watch, tablet, computer).
4. The Statewide Victim Information and Notification System will allow for capabilities of web service or API with third-party systems.
5. The Statewide Victim Information and Notification System must include the ability for victims and survivors to exit quickly the application via a "quick escape" function.
6. The Statewide Victim Information and Notification System must allow victims and survivors to perform a nationwide search of offenders of the states participating on the platform.
7. The Statewide Victim Information and Notification System must allow victims and survivors to view all available registrations and registration types based on person. This includes the following:

- 7.1. Various offender records – incarceration, probation and parole – will be linked to maximize search results for victims and survivors.
- 7.2. Victims and survivors can register once to receive notifications on a specific offender regardless of movement through the criminal justice system.
8. Victims, survivors, criminal justice professionals and members of the general public must have the ability to access the offender search and register for notification as an anonymous guest.
 - 8.1. Registrants will not need to provide their names, addresses or types of crimes associated with the registration requests.
9. CVAD and its designees will have 24/7 access to a password protected private portal used for the following:
 - 9.1. Ability to review all notifications that were delivered to victims and survivors.
 - 9.2. Stop current notification calls.
 - 9.3. Delete phone numbers and updating registrations.
 - 9.4. Provide reports based on any and all data fields captured by the system.
 - 9.5. Provide analytics-based reporting on system usage, performance and outcomes.
 - 9.6. Undeliverable notifications by telephone, email and text message must be tracked and recorded in a report based on user-identified timeframes.
 - 9.7. Access to robust reporting tool that allows for customized reports for administrative users.
 - 9.8. Performance dashboards (measure program “success” and “health”) must be available.

9.9. Administrators must have the access to all available enhancements and features regardless of device access (i.e. smart phone, tablet, computer).

10. Each proposal shall demonstrate how the Respondents will do the following

10.1. Train CVAD staff on the system & system user manual.

10.2. Train external users and related professionals on the system.

10.3. Assist the CVAD in branding, marketing and outreach for the system.

11. Plan for implementing the new Statewide Victim Information and Notification System

The Proposal must include a plan for implementing the Statewide Victim Information and Notification System. The plan must include a timeline indicating when the Respondent will meet the following milestones:

- System build, by deliverable and/or system feature
- Testing Period
- System fully functional
- Go-Live Date

12. Maintenance and support

Each Respondent must describe in its proposal the maintenance and support for the system that it proposes for the term of the contract. At minimum, each Proposal must address how the following will be provided:

12.1 Data monitoring, including staffing plan, to ensure the appropriate flow of data from the Sites to the Statewide Victim Information and Notification System. Data monitoring shall occur 24 hours a day, 365 days a year.

12.2 Support, including staffing plan, for system failures, outages, booking system changes, or any other system disruption, including a definition of what each term means to the Respondent, as well as a description of response time for each, a resolution process and time for each and an outline for any penalties to be assessed to the Respondent for failing to adhere to these standards.

12.3 Respondent should submit a copy of their standard service level agreement. If no standard or template agreement is available, Respondent should so indicate.

4.3 **Cost**

The Respondent must provide the following information in its Cost Proposal. It must provide both a lump sum amount and an individual cost breakdown for the following:

4.3.1 Development and Implementation of the Statewide Victim Information and Notification System (By deliverable and/or each system feature)

In addition to the costs described above, Respondent must provide the following information:

4.3.2 Any ongoing monthly fees for service and support for the first four years.

Attachment #4 is the form that Respondents must use when submitting its Cost Proposal.

Section 5 Evaluation and Selection

5.1 Introduction

This section describes the evaluation process CVAD will use to determine which Proposal or Proposals provides the greatest benefit and value to CVAD and the State. CVAD will not necessarily award any Contract resulting from this RFP to the Respondent offering the lowest cost to CVAD. Instead, CVAD will award the Contract to the Responsible Respondent whose Responsive Proposal CVAD believes will provide the best value to CVAD and the State.

5.2 Evaluation committee

CVAD will use an evaluation committee to review and evaluate timely-received, Responsive Technical Proposals. The evaluation committee will present a recommendation in accordance with § 5.8 below. Evaluation committee members will provide a written assurance there is no conflict of interest with any submitted proposal. Evaluation committee members will remain anonymous in order to protect the integrity of the review process.

5.3 Technical Proposal Evaluation criteria

All Technical Proposals will first be reviewed to determine if they comply with the specifications. The Technical Proposals will then be evaluated and scored based on the technical specifications described in Section 4.

5.4 Technical Proposal scoring

The Evaluation Committee will award points for each criterion of the Technical Proposals as set forth below.

The maximum number of points available for the Technical Proposal is 17,200.

5.4.1 Scoring guide

The evaluation committee will evaluate the Technical Proposals using the following point system:

4	Contractor's Proposal or capability is exceptional and exceeds expectations for this criterion.
3	Contractor's Proposal or capability is superior and slightly exceeds expectations for this criterion.
2	Contractor's Proposal or capability is satisfactory and meets expectations for this criterion.
1	Contractor's Proposal or capability is unsatisfactory and contains multiple deficiencies for the criterion.
0	Contractor's Proposal or capability is not acceptable or is not applicable for this criterion.

5.4.2 Technical Proposal Criteria.

Each evaluation committee member will review the Technical Proposals against the evaluation criteria listed below by assigning a point total for each criterion. Each member will evaluate and score each criterion below by taking the weight of the criterion and multiplying it by the committee member's score (0-4) to arrive at a score for that criterion. Each member's points for all criteria will be added together to arrive at the member's total points for the Technical Proposal. The total scores awarded by each evaluation committee member for the Technical Proposal will be averaged to arrive at the final score for the Technical Proposal. The evaluation criteria, including maximum points that can be awarded, are as follows:

<u>Technical Proposal Criteria</u>	<u>Weight</u>	<u>Score (0-4)</u>	<u>Potential Maximum Points</u>
How the Proposal ensures the system will:			
1.1 Provide offender status information on offenders in all Iowa counties and Iowa Department of Corrections.	100		400
1.2 Obtain updated information from all Iowa counties and Iowa Department of Corrections.	100		400
1.3 Allow victims/survivors to anonymously register for automated notification or changes.	100		400
1.4 Allow victims/survivors to complete registration using various formats.	50		200
1.5 Allow victims to register by calling a toll-free line, or by using a dedicated website.	100		400
1.6 Allow notifications to be sent to multiple phone numbers.	25		100
1.7 Allow registered victims/survivors to update, change or cancel registration.	100		400
1.8 Update any changes in an offender's location or custody status without requiring re-registration.	100		400
1.9 Disseminate automated notifications using various formats 24 hours a day, 7 days a week, 365 days a year to registered victims.	100		400
1.10 Allow registered victims/survivors to contact a live operator.	50		200
1.11 Maintain, enhance and provide updates for a portal with CVAD access.	100		400
1.12 Provide the ability within the system for ad hoc reports.	100		400
1.13 Provide the ability within the system for tracking usage statistics.	100		400
2.1 Comply with the ADA.	50		200
2.2 Provide system access and support services in languages other than English.	50		200
How the Proposal accommodates each of the following:			
3. Victim and survivor access regardless of device.	50		200

4.Capability of web service API with third-party systems.	50		200
5.Ability for victims/survivors to quickly exit the application.	50		200
6.Ability for victims/survivors to perform a nationwide search of offenders.	25		100
7.Ability for victims/survivors to view all available registration types.	100		400
8.Ability for all users to use the application as an anonymous guest.	100		400
9.Availability of a password protected private portal for CVAD and its designees.	200		800
10. Training for CVAD staff and external users. Branding, marketing and outreach for the system.	100		400
11.Project Timeline for Implementation.	200		800
12.How the Respondent will provide maintenance and support for the system.	300		1200
Contractor Background and Experience			
Background and Experience of Contractor	150		600
Total Potential Score			10,200

3.1.3 Cost proposal scoring

The Cost Proposals will remain sealed during the evaluation of the Technical Proposals and any Respondent presentations. Only prospective Respondents whose Proposals are determined to be Responsive Proposals by the evaluation committee will be considered during the cost evaluation phase of the review process. Cost Proposal pricing will be scored based on a ratio of the lowest cost proposal versus the cost of each higher priced Contractor Proposal. Under this formula, the lowest Cost Proposal receives all of the points assigned to pricing. A Cost Proposal twice as expensive as the lowest Cost Proposal would earn half of the available points. Percentages and points will be rounded to the nearest whole value. The formula is:

Weighted Cost Score = (price of lowest Cost Proposal/price of each higher priced Cost Proposal) X (points assigned to pricing)

Example:

Respondent A quotes \$35,000; Respondent B quotes \$45,000 and Respondent C quotes \$65,000.

Respondent A: $\frac{\$35,000}{\$35,000}$ = receives 100% of available points for cost.

Respondent B: $\frac{\$35,000}{\$45,000}$ = receives 78% of available points for cost.

Respondent C: $\frac{\$35,000}{\$65,000}$ = receives 54% of available points for cost.

Total Points Assigned to Cost: 7,000.

5.7 Total Scores

Each Respondent's Technical Proposal points will be added to its Cost Proposal points, to obtain the total points awarded for the Proposal.

5.8 Recommendation of the Evaluation Committee

The Evaluation Committee will present a final ranking and recommendation(s) to the Division Director of CVAD. This recommendation may include, but is not limited to, the name of one or more Respondents recommended for selection or a recommendation that no Respondent be selected.

5.9 Decision of Director

The Director shall consider the evaluation committee's recommendation when making the final decision, but the Director is not bound by the recommendation. The Director may either accept or reject the recommended Respondent, or accept the Proposal of another Respondent, or elect not to select any Respondent. The decision of the Director shall be final and binding and shall constitute final agency action.

5.10 Total possible points for technical and cost proposals

The total possible points for technical and cost proposals is **17,200**.

Section 6 Contractual Terms and Conditions

6.1 Contract Terms and Conditions

Any Contract(s) resulting from this RFP between CVAD and any Respondent(s) selected by CVAD shall be a combination of the specifications, terms and conditions of the RFP, the Professional Services Agreement contained in Attachment 5, the offer of the Respondent contained in the Respondent's Proposal (excluding any exceptions taken by Respondent in accordance with this Section 6.1 that are not accepted by CVAD specifically in writing and contained in the executed Contract), written clarifications or changes made in accordance with the provisions herein, and any other terms deemed necessary by CVAD. CVAD reserves the right either to award a Contract without further negotiation with any successful Contractor or to negotiate Contract terms with any selected Contractor if CVAD determines the best interest of the State would be served.

The Contract terms and conditions contained in Attachment 5 are not intended to be a complete listing of all Contract terms and conditions that may be deemed necessary by CVAD but are provided only to assist Respondents with evaluating the costs associated with the RFP and any potential resulting Contract. All costs associated with complying with these requirements should be included in any pricing quoted by the Respondent.

By submitting a Proposal, each Respondent acknowledges its acceptance of the terms, conditions, and specifications contained in this RFP, including those contained in Attachment 5, without change except as otherwise expressly stated in its Proposal. If a Respondent takes exception to any term, condition, specification or other provision of this RFP (including those in Attachment 5), it must state the reason for the exception and set forth in its Proposal the specific Contract language it proposes to substitute in place of the excepted provision. If a Respondent takes exception to any term or condition contained in Attachment 5, the Respondent must produce a redlined draft of Attachment 5, and such redlined draft must clearly reflect all of Respondent's exceptions thereto and all alternative language or other changes that Respondent specifically proposes to make to

Attachment 5. Exceptions and/or proposed changes that materially change the terms, conditions, specifications, or provisions of the RFP (including Attachment 5) may be deemed non-responsive by CVAD, as determined in its sole discretion, resulting in possible disqualification of the Respondent's Proposal. A Respondent's failure to state an exception to any term, condition, specification, or other provision of this RFP (including those in Attachment 5 and propose alternative language in accordance with this Section 6.1 may be deemed by CVAD to constitute Respondent's acceptance thereof. Any term, condition, provision, or specification, to which a Respondent fails to take exception and propose changes in accordance with this Section 6.1 will not be subject to negotiation. A Respondent may not take exception to all of the provisions or terms contained in Attachment 5. A Respondent may not state that it takes exception to any terms, conditions, specifications, or other provisions of the RFP (including those contained in Attachment 5) to the extent any of the foregoing conflict with any terms or conditions contained in the Respondent's standard form contracts. A Respondent may submit its standard form contract(s) template for consideration in lieu of Attachment 5. Any provision in Respondent's form contract that conflicts with a provision in Attachment 5 will be superseded and replaced by the latter, unless otherwise agreed upon by CVAD. By submitting a Proposal in response to this RFP, Respondents acknowledge and agree that CVAD and any successful Respondent will be negotiating from and utilizing Attachment 5, and will not be negotiating from or utilizing the successful Respondent's standard form contract(s), unless CVAD agrees to do so. CVAD reserves the right to refuse to enter into a Contract with the successful Respondent for any reason, even after delivery of Notice of Award or Intent to Award a contract. CVAD further reserves the right to negotiate Contract terms with the successful Respondent(s).

6.2 Prohibited Contract Provisions

By submitting proposals in response to this RFP, Respondents acknowledge and agree that any contract(s) resulting from this RFP will not contain or incorporate the following types of provisions:

- a. Provisions that require CVAD to indemnify, hold harmless or defend the Respondent or any party, person or entity.
- b. Provisions that: (1) are not permitted or authorized by any laws, rules or regulations applicable to CVAD; or (2) establish or impose any duties or

obligations on CVAD that are not permitted or authorized by any laws, rules or regulations applicable to CVAD.

- c. Provisions that: (1) limit the liability of the Respondent or any party, person or entity for specified types of damages (including, without limitation, consequential, indirect, direct, incidental, special, punitive, exemplary, loss of business, lost profits, lost revenues, business interruption, loss or corruption of business information or data, etc.); (2) establish a cap on or otherwise limit the amount of damages for which the Respondent or any party, person or entity could be held liable under an agreement; (3) establish sole and exclusive remedies, or (4) otherwise limit any remedies or legal recourse that may be available to CVAD or the State of Iowa.
- d. Confidentiality or nondisclosure provisions that conflict with, violate or are otherwise contrary to applicable laws such as Iowa Code chapter 22 (open records), or CVAD's obligations under such laws.
- e. Payment and interest (for overdue payments or late fees) provisions that conflict with or are contrary to Iowa law, such as Iowa Code section 8A.514, or any provisions that establish penalties for nonperformance by CVAD.
- f. Provisions that limit the time period during which CVAD or the Iowa Attorney General's office may bring an action against the Respondent, or any party, person or entity, or that otherwise waive, limit or negate any legally available rights.
- g. Provisions that: (1) require CVAD to comply with laws that are not applicable to the State and its agencies, governmental entities and officials; (2) provide that the laws of any state other than Iowa shall govern the agreement; (3) contractually establish exclusive jurisdiction or venue in courts in any state or jurisdiction other than Iowa; and (4) provide that all or any disputes will be decided through binding arbitration or other alternative dispute mechanisms.
- h. Indemnification provisions (in which the Respondent or any other person or entity is indemnifying CVAD) that allow the Respondent or such other person or entity to defend CVAD and have sole control over the defense and settlement of any claims against CVAD.
- i. Provisions that would require CVAD to waive any immunity to suit or liability or irrevocably waive sovereign or governmental immunity, or any defenses available to CVAD under Iowa or Federal law. This is not intended to eliminate waivers of immunity that presently exist via statute (e.g., chapter 669 relating to tort claims) or

case law (e.g., the State, by entering into a contract, waives its defense of governmental immunity and may be sued for breach of contract).

6.3 Term

The initial term of any Contract entered into between CVAD and a selected Respondent will be for four years from the date the Contract is executed, unless terminated earlier in accordance with the terms of the Contract. After expiration of the initial term, CVAD shall have the option to extend/renew the Contract for up to two (2) additional three-year renewal terms, upon the same terms and conditions set forth in the Contract. The decision to extend the Contract will be at the sole option of CVAD and may be exercised by CVAD by providing written notice to the Respondent.

**Attachment # 1
Certification Letter**

[Date]

Brynne Howard, Issuing Officer
Iowa Department of Justice, Crime Victim Assistance Division
Lucas State Office Building
321 E. 12th Street
Des Moines, Iowa 50319
Brynne.Howard@ag.iowa.gov

Re: Statewide Victim Information and Notification System
Request for Proposal
PROPOSAL CERTIFICATIONS

Dear Ms. Howard:

I certify that the contents of the Proposal submitted on behalf of **[Name of Respondent]** ("Respondent") in response to the Iowa Department's for Request for a Statewide Victim Information and Notification System ("RFP") are true and accurate. I also certify that Respondent has not knowingly made any false statements in its Proposal.

Certification of Independence

I certify that I am a representative of "Respondent" expressly authorized to make the following certifications on behalf of Respondent. By submitting a Proposal in response to the RFP, I certify on behalf of Respondent that:

1. Respondent has developed the Proposal independently, without consultation, communication, or agreement with any employee or consultant to CVAD, or with any person serving as a member of the evaluation committee.
2. Respondent has developed the Proposal independently, without consultation, communication, or agreement with any other contractor or parties for the purpose of restricting competition.
3. Unless otherwise required by law, Respondent has not and will not knowingly disclose, directly or indirectly, information found in the Proposal before CVAD's issuance of the Notice of Intent to Award the contract.

4. Respondent has not attempted to induce any other Respondent to submit or not to submit a Proposal for the purpose restricting competition.
5. No relationship exists or will exist during the contract period between Respondent and CVAD or any other State of Iowa entity that interferes with fair competition or constitutes a conflict of interest.

Certification Regarding Debarment

6. I certify that, to the best of my knowledge, neither Respondent nor any of its principals: (a) are presently or have been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a Federal agency or State agency; (b) have, within a three year period preceding this Proposal, been convicted of, or had a civil judgment rendered against them for: commission of fraud, a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction, violation of antitrust statutes; commission of embezzlement, theft, forgery, falsification or destruction of records, making false statements, or receiving stolen property; (c) are presently indicted for, or criminally or civilly charged by a government entity (federal, state, or local) with the commission of any of the offenses enumerated in (b) of this certification; and (d) have not within a three year period preceding this Proposal had one or more public transactions (federal, state, or local) terminated for cause.

This certification is a material representation of fact upon which CVAD has relied upon when this transaction was entered into. If it is later determined that Contractor knowingly rendered an erroneous certification, in addition to other remedies available, CVAD may pursue available remedies including debarment of the Respondent, or suspension or termination of the contract.

Respondent also acknowledges that CVAD may declare the Respondent's Proposal or resulting contract void if the above certification is false. The Respondent also understands that fraudulent certification may result in CVAD or its representative filing for damages for breach of contract in addition to other remedies available to CVAD.

Sincerely,

[Name and Title]

Attachment # 2
Authorization to Release Information Letter

[Date]

Brynne Howard, Issuing Officer
Iowa Department of Justice, Crime Victim Assistance Division
Lucas State Office Building
315 E. 12th Street
Des Moines, Iowa 50319
Brynne.Howard@ag.iowa.gov

Re: Statewide Victim Information and Notification System
AUTHORIZATION TO RELEASE INFORMATION

Dear Ms. Howard:

[Name of Respondent] ("Respondent") hereby authorizes the Iowa Department of Justice, Crime Victim Assistance Division ("CVAD") or a member of the Evaluation Committee to obtain information regarding its performance on other contracts, agreements or other business arrangements, its business reputation, and any other matter pertinent to evaluation and the selection of a successful Respondent in response to the RFP for a Statewide Victim Information and Notification System.

Respondent acknowledges that it may not agree with the information and opinions given by such person or entity in response to a reference request. Respondent acknowledges that the information and opinions given by such person or entity may hurt its chances to receive contract awards from the State or may otherwise hurt its reputation or operations. Respondent is willing to take that risk.

Respondent hereby releases, acquits and forever discharges the State of Iowa, CVAD, their officers, directors, employees and agents from all liability whatsoever, including all claims, demands and causes of action of every nature and kind affecting the Respondent that it may have or ever claim to have relating to information, data, opinions, and references obtained by CVAD or the Evaluation Committee in the evaluation and selection of a successful Respondent in response to the RFP.

Respondent authorizes representatives of CVAD and the Evaluation Committee to contact any of the persons, entities, and references that are, directly or indirectly, listed, submitted, or referenced in the Respondent's Proposal submitted in response to the RFP.

Respondent further authorizes all persons, entities to provide information, data, and opinions about Respondent's performance under any contract, agreement, or other business arrangement, its ability to perform, business reputation, and any other matter pertinent to the evaluation of the Respondent's Proposal. Respondent hereby releases, acquits, and forever discharges any such person or entity and their officers, directors, employees and agents from any and all liability whatsoever, including all claims, demands and causes of action of every nature and kind affecting Respondent that it may have or ever claim to have relating to information, data, opinions, and references supplied to CVAD or the Evaluation Committee in the evaluation and selection of a successful respondent in response to the RFP.

A photocopy or facsimile of this signed Authorization is as valid as an original.

Sincerely,

[Printed Name of Respondent Organization]

[Name and Title of Authorized Representative]

Date

Attachment #3
Form 22 – Request for Confidentiality
SUBMISSION OF THIS FORM 22 IS REQUIRED

THIS FORM 22 (FORM) MUST BE COMPLETED AND INCLUDED WITH YOUR PROPOSAL. THIS FORM 22 IS REQUIRED WHETHER THE PROPOSAL DOES OR DOES NOT CONTAIN INFORMATION FOR WHICH CONFIDENTIAL TREATMENT WILL BE REQUESTED. FAILURE TO SUBMIT A COMPLETED FORM 22 WILL RESULT IN THE PROPOSAL TO BE CONSIDERED NON-RESPONSIVE AND ELIMINATED FROM EVALUATION. COMPLETE PART 1 OF THIS FORM 22 IF PROPOSAL DOES NOT CONTAIN CONFIDENTIAL INFORMATION. COMPLETE PART 2 OF THIS FORM 22 IF PROPOSAL DOES CONTAIN CONFIDENTIAL INFORMATION.

1. Confidential Treatment Is Not Requested

A Respondent not requesting confidential treatment of information contained in its Proposal shall complete Part 1 of Form 22 and submit a signed Form 22 Part 1 with the Proposal.

2. Confidential Treatment of Information is Requested

A Respondent requesting confidential treatment of specific information shall: (1) fully complete and sign Part 2 of Form 22, (2) conspicuously mark the outside of its Proposal as containing confidential information, (3) mark each page upon which the Respondent believes confidential information appears **and CLEARLY IDENTIFY EACH ITEM for which confidential treatment is requested; MARKING A PAGE IN THE PAGE MARGIN IS NOT SUFFICIENT IDENTIFICATION**, and (4) submit a “Public Copy” from which the confidential information has been excised.

Form 22 will not be considered fully complete unless, for each confidentiality request, the Respondent: (1) enumerates the specific grounds in Iowa Code Chapter 22 or other applicable law that supports treatment of the information as confidential, (2) justifies why the information should be maintained in confidence, (3) explains why disclosure of the information would not be in the best interest of the public, and (4) sets forth the name, address, telephone, and e-mail for the person authorized by Respondent to respond to inquiries by the Agency concerning the confidential status of such information.

The Public Copy from which confidential information has been excised is in addition to the number of copies requested in Section 3 of this RFP. The confidential information must be excised in such a way as to allow the public to determine the general nature of the information removed and to retain as much of the Proposal as possible.

Failure to request information be treated as confidential as specified herein shall relieve Agency and State personnel from any responsibility for maintaining the information in confidence. Respondents may not request confidential treatment with respect to pricing information and transmittal letters. A Respondent’s request for confidentiality that does not comply with this form or a Respondent’s request for confidentiality on information or material that cannot be held in confidence as set forth herein are grounds for rejecting Respondent’s Proposal as non-responsive. Requests to maintain an entire Proposal as confidential will be rejected as non-responsive.

If Agency receives a request for information that Respondent has marked as confidential and if a judicial or administrative proceeding is initiated to compel the release of such information, Respondent shall, at its sole expense, appear in such action and defend its request for confidentiality. If Respondent fails to do so, Agency may release the information or material with or without providing advance notice to Respondent and with or without affording Respondent the opportunity to obtain an order restraining its release from a court possessing

competent jurisdiction. Additionally, if Respondent fails to comply with the request process set forth herein, if Respondent's request for confidentiality is unreasonable, or if Respondent rescinds its request for confidential treatment, Agency may release such information or material with or without providing advance notice to Respondent and with or without affording Respondent the opportunity to obtain an order restraining its release from a court possessing competent jurisdiction.

Part 1 – No Confidential Information Provided

Confidential Treatment Is Not Requested

Respondent acknowledges that proposal response contains no confidential, secret, privileged, or proprietary information. There is no request for confidential treatment of information contained in this proposal response.

This Form must be signed by the individual who signed the Respondent’s Proposal. The Respondent shall place this Form completed and signed in its Proposal.

- ***Fill in and sign the following if you have provided no confidential information. If signing this Part 1, do not complete Part 2.***

Company

RFP Title

Signature (required)

Title

Date

(Proceed to the next page only if Confidential Treatment is requested.)

Part 2 - Confidential Treatment is Requested

*The below information is to be completed and signed **ONLY** if Respondent is requesting confidential treatment of any information submitted in its Proposal.*

NOTE:

- **Completion of this Form is the sole means of requesting confidential treatment.**
- **A RESPONDENT MAY NOT REQUEST PRICING INFORMATION IN PROPOSALS BE HELD IN CONFIDENCE.**

Completion of the Form and Agency’s acceptance of Respondent’s submission does not guarantee the agency will grant Respondent’s request for confidentiality. The Agency may reject Respondent’s Proposal entirely in the event Respondent requests confidentiality and does not submit a fully completed Form or requests confidentiality for portions of its Proposal that are improper under the RFP.

Please provide the information in the table below. Respondent may add additional lines if necessary or add additional pages using the same format as the table below.

RFP Section :	Respondent must cite the specific grounds in <i>Iowa Code Chapter 22</i> or other applicable law which supports treatment of the information as confidential.	Respondent must justify why the information should be kept in confidence.	Respondent must explain why disclosure of the information would not be in the best interest of the public.	Respondent must provide the name, address, telephone, and email for the person at Respondent’s organization authorized to respond to inquiries by the Agency concerning the status of confidential information.

This Form must be signed by the individual who signed the Respondent’s Proposal. The Respondent shall place this Form completed and signed in its Proposal. A copy of this document shall be placed in all Proposals submitted including the Public Copy.

- ***If confidentiality is requested, failure to provide the information required on this Form may result in rejection of Respondent’s submittal to request confidentiality or rejection of the Proposal as being non-responsive.***

- ***Please note that this Form is to be completed and signed only if you are submitting a request for confidential treatment of any information submitted in your Proposal. If signing this Part 2, do not complete Part 1.***

Company

RFP Title

Signature (required)

Title

Date

Attachment #4

Cost Proposal Form

Costs		
Description		Cost Breakdown
Development and Implementation, by deliverable, or system feature (insert additional rows if necessary) of the Statewide Victim Information and Notification System		
Monthly fee for service and support for the first four years		/month
Total		

Please note that a Respondent is not required to provide a lump sum amount to provide a specific service if that Respondent will not incur the cost.

Attachment #5

PROFESSIONAL SERVICES AGREEMENT

This Agreement for professional services and other deliverables (this “Agreement”), is made and effective as of [Month DD, YYYY] (“Effective Date”), by and between the Iowa Department of Justice on behalf of its Crime Victim’s Assistance Division (the “Department”) and [name of vendor], a [corporation] organized under the laws of [_____] (the “Vendor” or “Contractor”). The parties agree as follows:

SECTION 1. PURPOSE AND TERM

1.1 Purpose. The parties have entered into this Agreement for the purpose of retaining Vendor to provide professional services and other deliverables in connection with the development and implementation of the Department’s Iowa Victim Information and Notification System (Iowa VINE), as more fully described in this Agreement and for the RFP Statewide Victim Information and Notification System.

1.2 Term. The initial term of this Agreement is from [Month DD, YYYY], through [Month DD, YYYY], unless terminated earlier in accordance with the terms of this Agreement. After expiration of the initial term, the Department shall have the option to extend/renew this Agreement for up to two (2) additional three-year renewal terms. The decision to extend the Agreement will be at the sole option of the Department and may be exercised by the Department by providing written notice to Vendor.

SECTION 2. DEFINITIONS

In addition to any other terms that may be defined elsewhere in this Agreement (including in the Schedules), the following terms shall have the following meanings:

“Acceptance” means that the Department has determined that one or more Deliverables satisfy the Department’s Acceptance Tests.

“Acceptance Criteria” means the Specifications, goals, performance measures, testing results and/or other criteria designated by the Department and against which the Deliverables may be evaluated for purposes of Acceptance or Non-acceptance thereof.

“Acceptance Tests” or “Acceptance Testing” means the tests, reviews and other activities that are performed by or on behalf of the Department to determine whether the Deliverables meet relevant Acceptance Criteria, are free from Deficiencies, and are otherwise acceptable, all as determined by the Department in its sole discretion. Acceptance Testing may include testing of individual or multiple units, modules or components, system or integration testing, user-acceptance testing, load/stress testing, system security testing, network testing, recovery/backup testing, data transfer, migration and conversion testing, and Documentation review.

“Authorized Contractors” means independent contractors, consultants or other Third Parties who are retained or hired by the State, the Department or any other Governmental Entity of the State to use, maintain, support, modify, or enhance any Deliverables, or to otherwise assist Department in connection with its use of any Deliverables.

“Confidential Information” means, subject to any applicable State and federal laws and regulations, including but not limited to Iowa Code chapter 22, any confidential or proprietary information or trade secrets disclosed by either party (a “disclosing party”) to the other party (a “receiving party”) that, at the time of disclosure, is designated as confidential (or like designation), is disclosed in circumstances of confidence, or would be understood by the parties, exercising reasonable business judgment, to be confidential. Confidential Information does not include any information that: (i) was rightfully in the possession of the receiving party from a source other than the disclosing party prior to the time of disclosure of the information by the disclosing party to the receiving party; (ii) was known to the receiving party prior to the disclosure of the information by the disclosing party; (iii) was disclosed to the receiving party without restriction by an independent third party having a legal right to disclose the information; (iv) is in the public domain or shall have become publicly available other than as a result of disclosure by the receiving party in violation of this Agreement or in breach of any other agreement with the disclosing party; (v) is independently developed by the receiving party without any reliance on Confidential Information disclosed by the disclosing party; (vi) is disclosed or is required or authorized to be disclosed pursuant to law, rule, regulation, subpoena, summons, or the order of a court, lawful custodian, governmental agency or regulatory authority, or by applicable regulatory or professional standards; or (vii) is disclosed by the receiving party with the written consent of the disclosing party.

“Deficiency” means a defect, flaw, error, bug, failure, omission, interruption of service, or other problem of any nature whatsoever with respect to the Service, including, without limitation, any failure of Services to conform to or meet an applicable Specification. Deficiency also includes the lack of something essential or necessary for completeness or proper functioning of the Services.

“Deliverables” means the Iowa VINE system, and any and all software, source code, Documentation, website(s), content, data, hardware, goods, services, work, work product, items, materials and property at any time created, developed, produced, delivered, performed or provided by or on behalf of, or made available through, Vendor (or any agent, contractor or subcontractor of Vendor) in connection with this Agreement, and all related legal rights to own or use the same. Except as otherwise provided in this Agreement, Deliverables shall include any and all: inventions, ideas, concepts, discoveries, methodologies, processes, applications, programs, software, source code, object code, and any other code, language or programming in any stage of development, improvements, modifications, enhancements, upgrades, releases, works-in-progress, techniques, know-how, designs, creative works and original works of authorship, work product, derivative works, specifications, data, databases, compositions of matter, drawings, notes, plans, papers, graphics, copy, artwork, images, templates, forms, reports, studies, screen designs, utilities, routines, tests, devices, materials, documents, information, content, and all other tangible and intangible works, materials and property of any kind and nature that are related to the Deliverables or created, developed, produced, delivered, or provided by or on behalf of, or made available through, Vendor (or any agent, contractor, subcontractor, subsidiary or affiliate of Vendor) in connection with this Agreement.

“Documentation” means any and all technical information, commentary, explanations, design documents, system architecture documents, database layouts, code, test materials, training materials, user guides, manuals, worksheets, notes, work papers, and all other information, documentation and materials related to or used in conjunction with the Deliverables, in any medium, including hard copy, electronic, digital, and magnetically or optically encoded media.

“Enhancements” means any and all updates, upgrades, bug fixes, patches, additions, modifications or other enhancements made to or with respect to any Deliverables (including, without limitation, any new releases or versions of Software or other Deliverables) provided or made available by or through Vendor or any Third Party under

this Agreement or any other agreement, and all changes to the Documentation and source code made by Vendor as a result of such Enhancements.

“Final Acceptance” means that the Department has determined that all Deliverables to be provided under a Statement of Work satisfy the Department’s Acceptance Tests.

“Governmental Entity” means any Governmental Entity, as defined in Iowa Code Section 8A.101, or any successor provision to that section. The term governmental entity shall also include all CVAD funded crime victim services agencies in Iowa as listed on the Department website, departments, agencies, independent agencies, the Judicial Branch, courts, boards, authorities, institutions, establishments, divisions, bureaus, commissions, committees, councils, examining boards, public utilities, offices of elective constitutional or statutory officers, and other units, branches, or entities of government (including, without limitation, any state government and the government of the United States).

“Non-acceptance” means that the Department has determined that one or more Deliverables have not satisfied the Department’s Acceptance Tests.

“Project” means the project to develop, implement and provide all services and Deliverables, and any other subsequent project related to this Agreement, as described in one or more Statements of Work.

“Project Completion Date” means the date by which Vendor must complete all work and provide all Deliverables pursuant to any Statement of Work. For purposes of this Agreement, the Project Completion Date will be specified in the Statement of Work.

“Project Plan” means the Project Plan attached hereto as Schedule B, as modified from time to time upon written agreement of the parties. The Project Plan is incorporated into this Agreement by this reference as if fully set forth in this Agreement.

“Software” means [describe or name the Vendor Software/Applications] and all related software, programs, applications, modules and components including, but not limited to, those developed, licensed or provided by or on behalf of Vendor under this Agreement or any related agreement between the parties. Without limiting the foregoing, the term Software shall include all related software, programs, applications, modules, source code, object code, and Documentation, any and all Enhancements to and copies of the foregoing.

“Specifications” mean all specifications, requirements, technical standards, performance standards, representations and other criteria related to the Services stated or expressed in this Agreement (and/or in any other document or agreement related to this Agreement), the Grant Award Documents, and any specifications, standards (including, without limitation, any IT standards issued by the State, the State Office of the Chief Information Officer, or any Governmental Entity) or criteria stated or set forth in any applicable state, federal, foreign and local laws, rules and regulations. The Specifications are incorporated into this Agreement by reference as if fully set forth in this Agreement.

“Statement of Work” means the initial statement of work set forth in Schedule A to this Agreement, and any additional or subsequent statement of work that may be executed by the parties, and any amendments thereto. Each Statement of Work will describe the Services to be provided by Vendor and the fixed, not-to-exceed compensation and final delivery dates associated therewith. Each Statement of Work is incorporated into this Agreement by this reference as if fully set forth in this Agreement.

“Third Party” means a person or entity (including, but not limited to any form of business organization, such as a corporation, partnership, limited liability corporation, association, etc.) that is not a party to this Agreement.

“Third Party Software” means any software, firmware and other programs, applications, modules or components of or related to the System licensed or acquired from Third Parties. Third Party Software shall be considered Software under this Agreement.

“User” or “Users” means and includes: the Department, other Governmental Entities, and local professionals or members of the public who will access the online Victim Training Academy.

SECTION 3. DOCUMENTS INCORPORATED

3.1 Incorporation. The Department’s Request for Proposal for a Statewide Information and Notification System ("RFP") and Vendor’s proposal dated , in response to the RFP ("Proposal"), together with any clarifications, attachments, appendices, or amendments to the RFP and Proposal are incorporated into this Agreement by this reference as if fully set forth in this Agreement; provided, however, that none of’s exceptions, objections or proposed modifications respecting the RFP or any terms

associated therewith (collectively “Vendor Exceptions”) shall be incorporated into this Agreement unless expressly set forth herein.

3.2 Contractual Obligations. The terms and conditions of the RFP and of the Proposal are made contractual obligations of Vendor, except that any Vendor Exceptions shall not be deemed to limit, modify or otherwise affect any of the contractual obligations of Vendor or the Department hereunder, unless expressly stated herein.

3.3 Preference. In the case of any inconsistency or conflict between the specific provisions of this document, the RFP or the Proposal, any inconsistency or conflict shall be resolved as follows: first, by giving preference to the specific provisions of this document and any schedules, exhibits or other attachments; second, by giving preference to the specific provisions of the RFP; and third, by giving preference to the specific provisions of the Proposal (excluding any Vendor Exceptions that are not expressly made a part of this Agreement).

3.4 No Inconsistency. The references to the parties' obligations, which are contained in this document, are intended to change, modify, supplement or clarify the obligations as stated in the RFP and the Proposal. The failure of the parties to make reference to the terms of the RFP or Proposal in this document shall not be construed as creating a conflict and will not relieve Vendor of the contractual obligations imposed by the terms of the RFP and the Proposal. Terms offered or stated in the Proposal, which exceed the requirements of the RFP, shall not be construed as creating an inconsistency or conflict with the RFP or this document. Notwithstanding anything herein to the contrary, the Department shall have only those obligations that are expressly stated in this document, and the Proposal does not create any express or implied obligations of the Department.

SECTION 4. SCOPE OF WORK

4.1 Statement(s) of Work. Vendor will perform all Services in accordance with the Statement(s) of Work and all other terms and conditions of this Agreement.

4.2 Amendments to Statement(s) of Work. The parties agree that each Statement of Work may be amended, modified, or replaced at any time during the term of this Agreement upon the mutual written consent of the parties.

4.3 Delivery of Information. Upon the Department’s written request at any time (including during the term of this Agreement and at or after expiration or termination of

this Agreement), Vendor shall promptly (but in no event later than ten (10) business days of receiving any written request from Department) provide and deliver to the Department the following: (a) complete, detailed, and up-to-date information, technical requirements, specifications, and documentation (including Documentation) pertaining to the Deliverables provided by or on behalf of Vendor; and (b) any other information, technical requirements, specifications, documentation, source code and software that is necessary or useful to enable the Department (or any Authorized Contractor) to fully assume and continue, without interruption, the use, hosting, operation, maintenance, support, accessibility, modification and enhancement of any Deliverables. Vendor shall provide and deliver all of the foregoing in such usable forms and formats as the Department may specify and using such delivery methods and media as the Department may require, and shall not withhold any of the items described in (a)-(b) above for any reason, including for cause or as a result of any actual or alleged breach by Department of any of its obligations under this Agreement.

4.4 Performance Standards. The parties agree that the performance standards and related monitoring and review provisions set forth in Schedule C are incorporated herein by this reference as if fully set forth in this Agreement.

4.5 Department Not Required to Accept or Install Enhancements. Vendor shall not condition any of the Department's or the State's rights or Vendor's obligations under this Agreement, or any other document or agreement related to any Deliverables, on the Department accepting or installing any Enhancements or additional functionality provided by Vendor.

4.6 Instructions. The Department may, from time to time as it deems appropriate, communicate specific instructions and requests to Vendor concerning the performance of the work and other duties and obligations described in this Agreement. Vendor will comply with such instructions and requests to the satisfaction of the Department. The parties expressly understand that these instructions and requests are for the sole purpose of ensuring the satisfactory performance of the services and provision of Deliverables described in this Agreement. Vendor is responsible for satisfactory performance of its duties and obligations under this Agreement and shall make every effort to timely correct any deficiencies and complete each assigned task or work.

4.7 Special Terms relating to Data, Security, and Security Breaches/Incidents. The parties agree that the terms and provisions set forth in Schedule D are incorporated herein by this reference as if fully set forth in this Agreement. Vendor acknowledges

and agrees that it will be subject to and bound by all of the terms and provisions set forth in Schedule D and shall require and cause any subcontractor used by Vendor in connection with this Agreement to agree to be subject to and bound by such terms and provisions.

4.8 Third Party Software. Vendor shall recommend to the Department all Third Party Software necessary or desirable to be acquired to complete work and provide all Deliverables under a Statement of Work. At the Department's sole discretion, the Department will license such Third Party Software directly or require Vendor to license or sublicense the Third Party Software to or on behalf of the Department at the Department's expense. In the latter case, Vendor shall ensure that all Third Party Software or other materials provided pursuant to this Agreement shall be licensed to the Department pursuant to a license agreement, the terms and conditions of which must be acceptable to the Department.

4.9 Manufacturers' Warranties. Vendor shall take all action necessary to ensure that the Department shall be entitled to receive and enjoy all warranties, indemnities and other benefits associated with any Third Party Software procured by or through the Vendor. At the Department's request, Vendor shall assign to the State and the Department all of the licensor's and manufacturer's warranties and indemnities pertaining to Third Party Software and Third Party hardware under any license or other agreement between Vendor and any Third Parties relating to any Third Party Software or hardware.

4.10 Open Records and Electronic Discovery Requests and Record Retention. Vendor will, upon the Department's request and within any time period specified by the Department, take all actions requested by Department to assist the Department in complying timely with any request for records, data, or information or materials of any kind that may be made by any person or entity in accordance with applicable public or open records laws (including, without limitation, Iowa Code chapter 22) or in connection with any subpoena, court order, discovery request, regulatory or criminal investigation or proceeding, or any other matter that may require the Department to produce or provide data, records, or information of any kind to a Third Party. Vendor will produce and provide all data, records, information or materials of any kind within the time period set forth in Department's written request. Vendor will take all steps necessary to ensure that all data will be stored and maintained in its original state so as to not create any spoliation, evidentiary, or electronic discovery issues. In addition, Vendor will, upon Department's request, take all actions requested by Department to assist the

Department in complying with any state or federal record retention requirements, policies, procedures or any requirements of any Governmental Entities.

4.11 Discovery Requests and Court Orders. In the event that Vendor or its approved contractors or subcontractors receive a request to disclose any of the Department's information or data under the terms of a subpoena or order or demand issued by a court or a Governmental Entity, the Vendor or other receiving party agrees: (i) to notify the Department immediately of the existence, terms, and circumstances surrounding such request, (ii) to consult with the Department on the advisability of taking legally-available steps to resist or narrow such request and to cooperate with the Department in relation to any such steps, and (iii) to furnish only such portion of the data or information as it is legally compelled to disclose and to exercise reasonable best efforts to obtain an order or other reliable assurance that confidential treatment will be accorded to the information and data.

SECTION 5. COMPENSATION AND ADDITIONAL RIGHTS AND REMEDIES

5.1 Compensation. In consideration of Vendor providing the Department with the Services in accordance with the terms and conditions of this Agreement, Vendor shall be entitled to receive the fees or other compensation associated with such Services as specified in [a Statement of Work], subject to all terms and conditions of this Agreement, including, without limitation, Section 5.2 (Invoices). The Department shall not be obligated to pay any other compensation, fees, expenses, costs, charges or other amounts to Vendor in connection with this Agreement or any Statement of Work. All fees and compensation payable hereunder to Vendor are fixed, not-to-exceed amounts, and except as may otherwise be agreed to by the Department in writing, Vendor shall not be compensated on a time and materials basis. Vendor is not entitled to payment for any Services provided under this Agreement or any Statement of Work if the Department reasonably determines that such Services have not been satisfactorily or completely performed, or that such Services fail to meet or conform to any applicable Specifications or that there is a material Deficiency with respect to such Services. In no event shall the Department be obligated to pay Vendor any fees, costs, compensation or other amounts in excess of the amount specified in a Statement of Work for any Services, unless the Department otherwise agrees to pay such fees, costs, compensation other amounts pursuant to a written amendment to this Agreement executed by the Department. No payment, including final payment, shall be construed as or constitute: (1) acceptance of any Services with Deficiencies or incomplete work; (2) a waiver by the Department of any rights or remedies it may have to enforce the terms of this

Agreement, and Vendor shall remain responsible for full performance in strict compliance with the terms and conditions of this Agreement. By making any payments under this Agreement, the Department does not waive its ability to challenge any payment or reimbursement for failing to comply with this Agreement.

Vendor's acceptance of the last payment from the Department shall operate as a release of any and all claims related to this Agreement that Vendor may have or be capable of asserting against the Department or the State. No advance payments shall be made for any Services provided by Vendor pursuant to this Agreement.

5.2 Invoices. Vendor shall submit a monthly invoice to the Department requesting payment of the fees or other compensation specified in the Statement of Work associated with the Services. All invoices submitted by Vendor shall comply with all applicable laws, rules, regulations, policies, and requirements (including any applicable federal laws, rules or requirements) concerning payment of such fees, charges or other claims and shall contain appropriate documentation as necessary to support the fees or charges included on the invoice and all information reasonably requested by the Department. The Department shall review each invoice for compliance with this Agreement and applicable laws, rules, regulations, policies, and requirements. The Department will pay all approved amounts in arrears and in conformance with Iowa Code section 8A.514 and Iowa Administrative Code rule 11—41.1(2), and all other applicable laws, rules, regulations, policies and requirements. The Department may pay in less than sixty (60) days, as provided in Iowa Code section 8A.514. However, an election to pay in less than sixty (60) days shall not act as an implied waiver of Iowa Code section 8A.514. Notwithstanding anything herein to the contrary, the Department shall have the right to dispute any invoice submitted for payment and withhold payment of any disputed amount if the Department believes the invoice is inaccurate or incorrect in any way. Invoices can be sent by email to: Brynn.Howard@ag.iowa.gov or by US mail to: CVAD Lucas State Office Building 321 East 12th Street, Des Moines, IA 50319.

5.3 Retention. To secure Vendor's performance under this Agreement, the Department shall retain 10% of the fees or other compensation associated with each Deliverable and payable hereunder (the "Retained Amounts"). The Retained Amounts for Deliverables provided under any Statement of Work shall be payable upon the Department's delivery of written notice of Final Acceptance of such Deliverables to Vendor, subject to the terms and conditions of this Agreement.

5.4 Erroneous Payments and Credits. Vendor shall promptly pay or refund to the Department the full amount of any overpayment, erroneous payment or unallowable

expense within ten (10) business days after either discovery by the Vendor or notification by the Department of the overpayment, erroneous payment or unallowable expense. In the event Vendor fails to timely pay or refund any amounts due the Department under this Section 5.4, the Department will charge interest of one percent (1%) per month compounded on the outstanding balance each month after the date payment or refund is due, or the maximum amount allowed by law, whichever is greater. The Department may, in its sole discretion, elect to have Vendor apply any amounts due to the Department under this Section 5.4 against any amounts payable by the Department under this Agreement.

5.5 Reimbursable Expenses. There shall be no reimbursable expenses associated with this Agreement separate from the compensation referred to in this section. Vendor shall be solely responsible for all costs, charges and expenses it incurs in connection with its performance under this Agreement, including, but not limited to, travel, mileage, meals, lodging, equipment, supplies, personnel, salaries, benefits, insurance, training, conferences, telephone, utilities, start-up costs, and all other costs and expenses of Vendor.

5.6 Set-off Against Sums Owed by Vendor. In the event that Vendor owes the Department or the State any sum under the terms of this Agreement, any other agreement, pursuant to a judgment, or pursuant to any law, the Department (or the State) may set off such sum against any sum invoiced to the Department by Vendor in the Department's or the State's sole discretion unless otherwise required by law. Any amounts due to the Department as damages may be deducted by the Department from any money or sum payable by the Department to Vendor pursuant to this Agreement or any other agreement between Vendor and the Department. The Department's or the State's exercise of rights under this Section 5.6 shall not be considered a breach of this Agreement by the Department.

5.7 Withholding Payments. In addition to pursuing any other remedy provided herein or by law, the Department may withhold compensation or payments to Vendor, in whole or in part, without penalty or legal liability to the Department or work stoppage by Vendor, in the event the Department determines that: (i) Vendor has failed to perform any of its duties or obligations as set forth in this Agreement; or (ii) any Service has failed to meet or conform to any applicable Specifications or contains or is experiencing a Deficiency. No interest shall accrue or be paid to Vendor on any compensation or other amounts withheld or retained by the Department under this

Agreement. The Department's exercise of its rights to withhold payments shall not be considered a breach of this Agreement by the Department.

5.8 Correction/Cure. The Department may correct any Deficiencies with respect to any Deliverable or cure any Vendor default under this Agreement without prejudice to any other remedy it may have if Vendor fails to correct such Deficiencies as required in this Agreement or if Vendor otherwise defaults or fails to perform any provision of the Agreement within the time period specified in a notice of default from the Department. The Department may provide or procure the services reasonably necessary to correct any Deficiencies or cure any Vendor default, in which event Vendor shall reimburse the Department for the actual costs incurred by the Department for such services (or for the reasonable value of the time expended by any Department or State employees who provide such services). In addition, Vendor shall cooperate with the Department or any Third Parties retained by the Department who assist in curing such default, including by allowing access to any pertinent materials or work product of Vendor.

5.9 Error Correction. With respect to each notice from the Department to Vendor during the term of this Agreement that notifies Vendor that any Deliverable delivered by Vendor (and previously accepted by the Department) contains or experiences a Deficiency, Vendor shall, at no cost to the Department, promptly (i) correct the Deficiency and repair the affected Deliverable, and (ii) provide the Department with all necessary materials with respect to such repaired or corrected Deliverable, including without limitation the provision of new Source Code, master program disks or other media acceptable to the Department and related Documentation.

5.10 Monitoring and Review. The Department shall monitor and review Vendor's performance under this Agreement to ensure compliance with this Agreement. Such review and monitoring shall include the Department's assessment of invoices and any reports furnished by Vendor pursuant to this Agreement.

5.11 Reimbursement. In the event an audit shows that the entire funds disbursed hereunder, or any portion thereof, were not spent or paid in accordance with the conditions of this Agreement, Vendor shall be liable for reimbursement to the Department of all funds not spent or paid in accordance therewith within ten (10) business after the Department has notified the Vendor of such non-compliance and has requested reimbursement.

5.12 Return of Prepaid Amounts. Notwithstanding any provision in this Agreement to the contrary, Vendor shall refund to the Department, within fifteen (15) days of the effective date of termination of this Agreement for any reason, any prepaid fees, funds or other amounts paid by the Department allocated or pertaining to services that were yet to be rendered with regard to any canceled or terminated aspect of the Services, including but not limited to any prepaid fees..

SECTION 6. ACCEPTANCE TESTS, PROJECT MANAGEMENT, KEY PERSONNEL AND LIQUIDATED DAMAGES

6.1. Vendor shall commence and complete all work and provide all Deliverables in accordance with the deadlines, timelines, terms, conditions, Specifications and other requirements specified in this Agreement, including those which may be specified in a Statement of Work and the Project Plan. Vendor shall deliver, install and complete all services and provide all Deliverables with respect to a Statement of Work no later than the Project Completion Date or any other applicable deadline specified in a Statement of Work or the Project Plan.

6.2 All Deliverables shall be subject to the Department's Acceptance Testing and Acceptance, unless otherwise specified in a Statement of Work. Upon completion of all work to be performed by Vendor with respect to any Deliverable, Vendor shall deliver a written notice to the Department certifying that the Deliverable meets and conforms to applicable Specifications and is ready for the Department to conduct Acceptance Tests; provided, however, that Vendor shall pretest the Deliverable to determine that it meets and operates in accordance with applicable Specifications prior to delivering such notice to the Department. At the Department's request, Vendor shall assist the Department in performing Acceptance Tests at no additional cost to the Department. Within a reasonable period of time after the Department has completed its Acceptance Testing, the Department shall provide Vendor with written notice of Acceptance or Non-acceptance with respect to each Deliverable that was evaluated during such Acceptance Testing. If the Department determines that a Deliverable satisfies its Acceptance Tests, the Department shall provide Vendor with notice of Acceptance with respect to such Deliverable. If the Department determines that a Deliverable fails to satisfy its Acceptance Tests, the Department shall provide Vendor with notice of Non-acceptance with respect to such Deliverable. In the event the Department provides notice of Non-acceptance to Vendor with respect to any Deliverable, Vendor shall correct and repair such Deliverable and submit it to the Department within ten (10) days of Vendor's receipt of notice of Non-acceptance so that the Department may re-conduct its

Acceptance Tests with respect to such Deliverable. In the event the Department determines, after re-conducting its Acceptance Tests with respect to any Deliverable that Vendor has attempted to correct or repair pursuant to this Section 6.2, that such Deliverable fails to satisfy its Acceptance Tests, then the Department shall have the continuing right, at its sole option, to: (i) require Vendor to correct and repair such Deliverable within such period of time as the Department may specify in a written notice to Vendor; (ii) refuse to accept such Deliverable without penalty or legal liability and without any obligation to pay any fees or other amounts associated with such Deliverable (or receive a refund of any fees or amounts already paid with respect to such Deliverable); (iii) accept such Deliverable on the condition that any fees or other amounts payable with respect thereto shall be reduced or discounted to reflect, to the Department's satisfaction, the Deficiencies present therein and any reduced value or functionality of such Deliverable or the costs likely to be incurred by the Department to correct such Deficiencies; or (iv) terminate this Agreement and/or seek any and all available remedies, including damages. Notwithstanding the provisions of Section 10 of this Agreement, the Department may terminate this Agreement pursuant to this Section 6.2 without providing Vendor with any notice or opportunity to cure provided for in Section 10. The Department's right to exercise the rights and remedies specified under this section, including termination of this Agreement, shall remain in effect until Acceptance Tests are successfully completed to the Department's satisfaction and the Department has provided Vendor with written notice of Final Acceptance. If the Department determines that all Deliverables satisfy its Acceptance Tests, the Department shall provide Vendor with notice of Final Acceptance with respect to such Deliverables. Vendor's receipt of any notice of Acceptance, including Final Acceptance, with respect to any Deliverable(s) shall not be construed as a waiver of any of the Department's rights to enforce the terms of this Agreement or require performance in the event Vendor breaches this Agreement or any Deficiency is later discovered with respect to such Deliverable(s). In addition, Vendor's receipt of any notice of Acceptance with respect to any Deliverable(s) shall not be construed as a waiver by the Department of its right to refuse to provide notice of Final Acceptance.

6.3 Project Management and Reporting.

6.3.1 Vendor or Project Manager. Upon the Department's request, Vendor shall designate, in writing, a Project Manager acceptable to the Department to serve until the expiration of this Agreement. Vendor will assign a Project Manager of a management level sufficient to assure timely responses from all Vendor personnel, timely completion of tasks and achievement of milestones, and whose

resume and qualifications will be reviewed and approved by the Department prior to her or his appointment as Vendor's Project Manager. Vendor represents and warrants that its Project Manager will be fully qualified to perform the tasks required of that position under this Agreement. Vendor's Project Manager shall be able to make binding decisions pursuant to this Agreement on behalf of and for Vendor. Any written commitment by Vendor's Project Manager and persons designated by her/him in writing for this purpose, within the scope of this Agreement, shall be binding upon Vendor. Vendor's Project Manager shall exercise her or his best efforts while performing under this Agreement. Vendor's Project Manager shall be at the Department's site as needed during the course of work under this Agreement and will be available either in person, by telephone or e-mail to respond promptly (in no event more than 2 hours after receipt of a request or inquiry from the Department) during the business day to inquiries from the Department;

6.3.2 Review Meetings. Commencing with performance of this Agreement, Vendor's Project Manager shall meet weekly with the Department's project manager and representatives, unless otherwise mutually agreed, to discuss progress made by the Vendor in the performance of this Agreement. At each review meeting, Vendor's Project Manager shall provide a status report, which includes, at minimum, the information described in Section 6.3.3 and describes any problems or concerns encountered since the last meeting. At the next scheduled meeting after which any party has identified in writing a problem, the Vendor 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 will facilitate problem resolution. Vendor shall maintain records of such reports and other communications issued in writing during the course of its performance under this Agreement;

6.3.3 Reports. Vendor shall provide the Department with weekly status reports that describe, at a minimum, the previous week's activities, including problems encountered and their disposition, results of tests, whether or not deadlines were met, status of Deliverables, proposed changes to the Project Plan, any problems that may have arisen that need to be addressed before proceeding to the next week's activities, and any other information the Department may request. Vendor's proposed format and level of detail for its status reports shall be subject to the Department's approval;

6.3.4 Problem Reporting Omissions. The Department's receipt of a report that identifies any problems shall not relieve Vendor of any obligation under this Agreement or waive any other remedy under this Agreement or at law or equity that the Department may have. The Department's failure to identify the extent of a problem or Deficiency, or the extent of damages incurred as a result of a problem or Deficiency, shall not act as a waiver of performance under this Agreement;

6.3.5 Change Order Procedure. The Department may at any time request a modification to the scope of a Statement of Work using a change order. The following procedures for a change order shall be followed:

6.3.5.1 Written Request. The Department shall specify in writing the desired modifications to the Statement of Work with the same degree of specificity as in the original Statement of Work;

6.3.5.2 Vendor's Response. Vendor shall submit to the Department any proposed modifications to the Project Plan and a firm cost proposal, if applicable, for the requested change order within five (5) business days of receiving the Department's change order request. Vendor agrees that there shall be no additional cost or Vendor compensation for or with respect to any change order requests for modifications, Deliverables, modules or functionality that are envisioned in, conceptually similar in nature to, or consistent with, the RFP or the Proposal. Modifications to the Statement of Work that incorporate additional detail with respect to any Deliverable will not have the effect of increasing the not-to-exceed cost of that Deliverable, unless Vendor can show by clear and convincing evidence to the Department that the process of gathering detailed requirements for the Project revealed information previously unknown to the Vendor, that such new information will cause the estimated time, and therefore cost, necessary to complete a particular Deliverable to increase, and that the incorporation of that information alone into the Project requirements is the sole cause of the additional time and cost;

6.3.5.3 Effect of Change Order. Both parties must sign and date the change order to authorize the change in Deliverables described therein and incorporate the changes into the Statement of Work and this

Agreement. No services shall be performed pursuant to the change order and no payment shall be made on account of the change order until the change order is fully executed by both parties. Upon such execution, a change order shall alter only that portion of a Statement of Work to which it expressly relates and shall not otherwise affect the terms and conditions of this Agreement.

6.4 Security Regulation; Cooperation. Vendor and Vendor's personnel shall comply with the Department's and the State's security regulations including any procedure which the Department's or the State's personnel, contractors and consultants are normally asked to follow. This includes potential security audits conducted by the State Office of the Chief Information Officer (OCIO) to ensure accurate transmission of data, appropriate security measures and compliance under this contract. Vendor agrees to provide the Department with written notice within 24 hours of any security breach, or within 24 hours of the discovery of any security breach. Security Breach includes the release (either intentional or unintentional) of any personally identifying information for any registered system user. Vendor agrees to cooperate fully and to provide any assistance necessary to the Department in the investigation of any security breaches that may involve Vendor or Vendor's personnel.

SECTION 7. INTELLECTUAL PROPERTY

7.1 Ownership of Vendor-Owned Deliverables. Except as specifically granted or otherwise provided in this Agreement, Vendor shall own all Deliverables that were independently and exclusively developed by Vendor prior to the Effective Date of this Agreement ("Vendor-Owned Deliverables").

7.2 License to Vendor-Owned Deliverables. Subject to the terms and conditions of this Agreement and any license agreement(s) applicable to Vendor-Owned Deliverables, Vendor hereby grants to the Department, Governmental Entities and the State a nonexclusive, irrevocable, perpetual, fully paid up, royalty-free, worldwide right and license to use, reproduce, modify, distribute copies of, perform, display, and prepare derivative works based upon, the Vendor-Owned Deliverables, and to authorize others to do the same on the State's, Governmental Entities' and the Department's behalf. The foregoing grant shall be in addition to (and shall not be construed to limit) any rights, licenses and privileges as may be granted in any license agreement(s) applicable to Vendor-Owned Deliverables. Vendor agrees that neither Vendor nor any agent, affiliate or subcontractor of Vendor shall charge the Department or the State any royalty, license

fee, or similar charge for any Vendor-Owned Deliverable that was created or developed under a separate agreement using funds provided by the U.S. Federal Government whether through a cooperative agreement or otherwise.

7.3 Ownership and Assignment of Other Deliverables. Vendor agrees that the State will own all Deliverables (excluding Vendor-Owned Deliverables), and Vendor hereby irrevocably assigns, transfers and conveys to the Department and the State all right, title and interest in and to such Deliverables, and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables, including copyrights, patents, trademarks, trade secrets, trade dress, mask work, utility design, derivative works, and all other rights and interests therein or related thereto ("State-Owned Deliverables"). Vendor represents and warrants that the State and the Department shall acquire good and clear title to all State-Owned Deliverables, free from any claims, liens, security interests, encumbrances, intellectual property rights, proprietary rights, or other rights or interests of Vendor or of any Third Party, including any employee, agent, contractor, subcontractor, subsidiary or affiliate of Vendor. The Vendor (and Vendor's employees, agents, contractors, subcontractors, subsidiaries and affiliates) shall not retain any property interests or other rights in and to the State-Owned Deliverables and shall not use any State-Owned Deliverables, in whole or in part, for any purpose, without the prior written consent of the Department and the payment of such royalties or other compensation as the Department deems appropriate. Immediately upon the request of the Department, Vendor will deliver to the Department or destroy, or both, at the Department's option, all copies of any State-Owned Deliverables in the possession of Vendor.

7.4 Waiver. To the extent any of Vendor's rights in any State-Owned Deliverables are not subject to assignment or transfer hereunder, including any moral rights and any rights of attribution and of integrity, Vendor hereby irrevocably and unconditionally waives all such rights and enforcement thereof and agrees not to challenge the State's and the Department's rights in and to the State-Owned Deliverables.

7.5 Acknowledgement. Vendor acknowledges and agrees that the State and the Department, as owners and assignees of the State-Owned Deliverables, shall have all rights incident to complete ownership, and may, without limitation: (i) obtain, secure, file and apply for any legal protection necessary to secure or protect any rights in and to the State-Owned Deliverables, including the prosecution and issuance of letters patent, copyright registrations, and other analogous protection, and any extensions or renewals with respect thereto; (ii) adapt, change, modify, edit or use the State-Owned

Deliverables as the Department or the State sees fit, including in combination with the works of others, prepare derivative works based on the State-Owned Deliverables, and publish, display, perform and distribute throughout the world any State-Owned Deliverable(s) in any medium, whether now known or later devised, including, without limitation, any digital or optical medium; and (iii) make, use, sell, license, sublicense, lease, or distribute the State-Owned Deliverables (and any intellectual property rights therein or related thereto) without payment of additional compensation to Vendor or any Third Party.

7.6 Further Assurances. At the Department's request, Vendor will (both during and after the termination or expiration of this Agreement) execute and deliver such instruments, provide all facts known to it, and take such other action as may be requested by the Department to: (i) establish, perfect or protect the State's and the Department's rights in and to the State-Owned Deliverables and to carry out the assignments, transfers and conveyances set forth in Section 7.3, and (ii) obtain and secure copyright registration or such other registrations or intellectual property protections as may be desirable or appropriate to the subject matter, and any extensions or renewals thereof. In the event the Department is unable, after reasonable effort, to secure Vendor's signature on any letters patent, copyright, or other analogous protection relating to the State-Owned Deliverables, for any reason whatsoever, Vendor hereby irrevocably designates and appoints the Department, and its duly authorized officers, employees and agents, as Vendor'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 Vendor.

7.7 Third Party Intellectual Property. In the event that a Deliverable is intellectual property owned by a Third Party ("Third Party Intellectual Property"), Vendor shall secure on behalf of and in the name of the State and the Department, an irrevocable, nonexclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third Party Intellectual Property, and to authorize others to do the same on the Department's and the State's behalf. In the event that a Deliverable created by Vendor under this Agreement is a derivative work based upon Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Vendor shall secure on behalf of and in the name of the State and the Department an irrevocable, nonexclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies

of, perform and display the pre-existing elements of such Third Party Intellectual Property, and to authorize others to do the same on the State's and the Department's behalf.

SECTION 8. REPRESENTATIONS, WARRANTIES AND COVENANTS

8.1 Vendor represents and warrants that the Deliverables (in whole and in part) provided under a Statement of Work shall: (i) be free from material Deficiencies; and (ii) meet, conform to and operate in accordance with all Specifications and in accordance with this Agreement for one year following the date on which the Department provides Vendor with written notice of Final Acceptance (the "Warranty Period"). During the Warranty Period, Vendor shall, at its expense, repair, correct or replace any Deliverable that contains or experiences material Deficiencies or fails to meet, conform to or operate in accordance with Specifications within ten (10) days of receiving notice of such Deficiencies or failures from the Department. In the event Vendor is unable to repair, correct or replace such Deliverable to the Department's satisfaction, Vendor shall refund the fees or other amounts paid for the Deliverables and for any services related thereto. The foregoing shall not constitute an exclusive remedy under this Agreement, and the Department shall be entitled to pursue any other available contractual, legal or equitable remedies. Vendor shall be available at all reasonable times to assist the Department with questions, problems and concerns about the Deliverables, to inform the Department promptly of any known Deficiencies in any Deliverables, repair and correct any Deliverables not performing in accordance with the warranties contained in this Agreement, notwithstanding that such Deliverable may have been accepted by the Department, and provide the Department with all necessary materials with respect to such repaired or corrected Deliverable. The Department's provision of notice of Acceptance or Final Acceptance with respect to any Deliverables will not in any way relieve the Vendor of its responsibilities to correct any Deficiency during the Warranty Period.

8.2 Vendor represents and warrants that it is fully aware of the Department's business requirements and intended purposes and uses for the Deliverables as set forth herein and in the RFP, and the Deliverables shall satisfy such requirements in all material respects and are fit for such intended purposes and uses.

8.3 Vendor represents and warrants that: (i) all Deliverables, excluding Third-Party Software, shall be wholly original with and prepared solely by Vendor and/or it owns, possesses, holds, and has received or secured all rights, permits, permissions, licenses

and authority necessary to provide the services and Deliverables to the Department hereunder and to assign, grant and convey the rights, benefits, licenses and other rights assigned, granted or conveyed to the Department hereunder (or under any related agreement) without violating any rights of any Third Party; (ii) Vendor has not previously and will not grant any rights in any Deliverables to any Third Party that are inconsistent with the rights granted to the Department herein; and (iii) the Department shall peacefully and quietly have, hold, possess, use and enjoy the Deliverables without suit, disruption or interruption.

8.4 Vendor represents and warrants that: (i) the Services (and all intellectual property rights therein and related thereto); and (ii) the Department's use of, and exercise of any rights with respect to, the Services (and all intellectual property rights therein and related thereto), do not and will not, under any circumstances, misappropriate a trade secret or infringe upon or violate any copyright, patent, trademark, trade dress or other intellectual property right, proprietary right or personal right of any third party. Vendor further represents and warrants there is no pending or threatened claim, litigation or action that is based on a claim of infringement or violation of an intellectual property right, proprietary right or personal right or misappropriation of a trade secret related to the Services. Vendor shall inform the Department in writing immediately upon becoming aware of any actual, potential or threatened claim of or cause of action for infringement or violation or an intellectual property right, proprietary right, or personal right or misappropriation of a trade secret. If such a claim or cause of action arises or is likely to arise, then Vendor shall, at the Department's request and at the Vendor's sole expense: (i) procure for the Department the right or license to continue to use the Services at issue; (ii) replace such Services with functionally equivalent or superior Services free of any such infringement, violation or misappropriation; (iii) modify or replace the affected portion of the Services with functionally equivalent or superior Services free of any such infringement, violation or misappropriation; or (iv) refund to the Department all fees, charges and any other amounts paid by the Department under this Agreement or any related agreement with respect to such Services. In addition, Vendor agrees to indemnify and hold harmless the Department, Governmental Entities and the State, and their officers, directors, employees, officials and agents, as provided in the Indemnification section of this Agreement, including for any breach of the representations and warranties made by Vendor in this Section 8.4. The foregoing remedies shall be in addition to and not exclusive of other remedies available to the Department and shall survive termination of this Agreement.

8.5 All warranties made by Vendor in this Agreement, whether or not this Agreement specifically denominates Vendor's promise as a warranty or whether the warranty is created only by Vendor's affirmation or promise, or is created by a description of the materials and services to be provided, or by provision of samples to the Department, 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 Agreement 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 Vendor.

8.6 Vendor represents, warrants and covenants that all Services to be performed or provided under this Agreement shall be performed or provided in a professional, competent, diligent and workmanlike manner by knowledgeable, trained and qualified personnel, all in accordance with the terms and Specifications of this Agreement and the highest standards of performance applicable to vendors and service providers in the industry for similar tasks and projects. In the absence of a Specification for the performance of any portion of this Agreement, the parties agree that the applicable specification shall be the generally accepted industry standard. So long as the Department notifies Vendor of any services performed in violation of this standard, Vendor shall re-perform the Services at no cost to the Department, such that the Services are rendered in the above-specified manner, or if the Vendor is unable to perform the services as warranted, Vendor shall reimburse the Department any fees or compensation paid to Vendor for the unsatisfactory services.

8.7 Vendor represents, warrants and covenants that it is knowledgeable about, and shall comply with, all applicable federal, state, foreign and local laws, rules, regulations, codes, and ordinances in connection with its performance under this Agreement and with all terms, conditions, requirements and assurances under the Grant Award Documents.

8.8 Vendor represents, warrants and covenants that it has no interest and shall not acquire any direct or indirect interest that would conflict in any manner or degree with the performance of its obligations under this Agreement or otherwise constitute a conflict of interest.

8.9 Vendor represents, warrants and covenants that the Services comply with and will at all times comply with all applicable federal, state, and local laws, rules, regulations, codes, and ordinances in effect during the term of this Agreement.

8.10 Vendor covenants that Vendor and its personnel and subcontractors will comply with and adhere to all applicable Department, State and federal information technology standards, including, without limitation, all technical and security standards, procedures and protocols, and that Vendor will take all precautions necessary to: (i) prevent unauthorized access to the Department's and the State's systems, networks, computers, property, records, data, and information; and (ii) ensure that all of the Department's and the State's documentation, electronic files, and data, are used, and maintained in a secure manner, protecting their confidentiality, integrity, and availability. Vendor further covenants that Vendor and its personnel and subcontractors will ensure that all Services will at all times comply with all applicable State and federal IT standards, policies and guidelines, including, but not limited to those relating to security, internet and the web, and data backup, unless the Department waives, in writing, Vendor's compliance with any particular standard or any specific portions thereof. By way of example only, see <https://ocio.iowa.gov/home/standards>. In addition, Vendor covenants that Vendor and its personnel and subcontractors will ensure that all networks, servers, computer systems, hardware, IT infrastructure and other hardware on which the Services, data and any websites are hosted, installed, operated, processed, stored or otherwise located, comply with all such State and federal IT standards, policies and guidelines. Vendor and Vendor's personnel and subcontractors shall comply with the Department's and the State's security regulations and procedures, including any procedure that the Department's or the State's personnel, contractors and consultants are normally asked to follow. Vendor agrees to cooperate fully and to provide any assistance necessary to the Department in the investigation of any security breaches that may involve or affect Vendor or Vendor's personnel or subcontractors, the Services, Department Property or data.

8.11 Vendor represents and warrants is not in arrears with respect to the payment of any monies due and owing the State or any Department, agency or other Governmental Entity thereof, including but not limited to the payment of taxes and employee benefits, and covenants and warrants it will not become so during the Term of this Agreement, or any extensions thereof. Vendor represents that its accounting system is adequate to comply with this Agreement.

8.12 Vendor represents, warrants and covenants that for the duration of the Agreement and the Warranty Period, all Documentation will accurately reflect the operation of any Deliverable(s) to which the Documentation pertains, and the

Documentation will enable the Department to use and maintain such Deliverable(s) for their intended purposes.

8.13 Vendor represents, warrants and covenants that all Services do not and shall not as delivered or provided by Vendor contain an anti-use device, a disabling device, lockup program, a so-called "time bomb" or "drop dead" device, "back door," instructions, contaminants, viruses, malware, Trojan Horses, worms, cancelbots, or any other mechanism, code or computer programming routine that will disable, damage, impair or impede, lock-up, alter, halt, abnormally end, surreptitiously intercept, expropriate or interfere with any software, websites, Services or any data or information. Vendor further represents and warrants that no Services contain any other programming or device of any kind that would allow unauthorized access to any software, or to the Department's systems, networks or data, or to any websites operated by Vendor or any other person or any third party. Vendor covenants that it will not under any circumstance, including enforcement of a valid contract right, (i) install or trigger a lockup program or disabling device, or (ii) take any step that would in any manner interfere with Department's use of any Services, or restrict Department from accessing any Services, websites or any data or in any way interfere with the transaction of the Department's or the State's business. For any breach of this provision, Vendor shall, immediately after receipt of notification of the breach, cure the breach to Department's satisfaction, including, without limitation, repairing, at Vendor's expense, any damage done to any software, data, websites, Department Property or any other Services or property.

8.14 Vendor's warranties provided in this Section 8 are in addition to and not in lieu of any other warranties provided in this Agreement. All warranties provided for in this Agreement shall be cumulative, shall be deemed consistent and not in conflict, are intended to be given full force and effect and to be interpreted expansively to give the broadest warranty protection to the Department.

SECTION 9. INDEMNIFICATION

9.1 Vendor and its successors and permitted assigns shall indemnify and hold harmless the Department, the State, Governmental Entities, and their employees, officers, board members, agents, representatives, and officials ("Indemnitees") from and against any and all claims, actions, suits, liabilities, damages, losses, settlements, demands, deficiencies, judgments, costs and expenses (including, without limitation, the reasonable value of time of the Attorney General's Office and the costs, expenses and

attorney fees of other counsel retained by any Indemnitee) directly or indirectly related to, resulting from, or arising out of this Agreement, including, but not limited to, any claims related to, resulting from, or arising out of:

9.1.1 Any violation or breach of any term or condition of this Agreement by or on behalf of Vendor, including, the furnishing or making of any statement, representation, warranty or certification in connection with this Agreement that is false, deceptive, or misleading; or

9.1.2 Any negligent act or omissions, intentional or willful misconduct, or unlawful acts of Vendor, its officers, employees, agents, board members, subsidiaries, affiliates, contractors or subcontractors; or

9.1.3 Vendor's performance or attempted performance of this Agreement; or

9.1.4 Failure by Vendor or its employees, agents, officers, directors, subsidiaries, affiliates, contractors or subcontractors to comply with the Grant Award Documents and/or any applicable local, state, and federal laws, rules, ordinances and regulations; or

9.1.5 Any failure by Vendor or its employees, agents, officers, directors, contractors or subcontractors to make all reports, payments and withholdings required by Federal and state law with respect to Social Security, worker's compensation, employee income and other taxes, fees or costs required by the Vendor to conduct business in the State; or

9.1.6 Any claim of misappropriation of a trade secret or infringement or violation of any intellectual property rights, proprietary rights or personal rights of any Third Party, including any claim that any Services or any use thereof (or the exercise of any rights with respect thereto) infringes, violates or misappropriates any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other proprietary right of any Third Party.

9.1.7 Any claim for violation or infringement of any statutory or common law rights or any other rights of any person or entity, including, without limitation, any claims or causes of action involving torts, personal injury, defamation, or rights of publicity, privacy, confidentiality, misappropriation or security.

9.1.8 Any breach (or threatened or claimed breach) of security or other incident affecting any data, Department property or networks, or any other event involving unauthorized access to or use of any data, Services or networks.

9.2 Vendor's obligations under this Section 9 are not limited to third-party claims, but shall also apply to any claims that either party may assert against the other.

9.3 Vendor shall be liable for any personal injury or damage to property caused by the fault or negligence of Vendor, its officers, directors, employees, agents and approved contractors or subcontractors. In no event shall the Department, the State or any Governmental Entities be liable for injuries suffered by Vendor, or Vendor's employees, related to the work performed under this Agreement.

9.4 Vendor's duties as set forth in this Section 9 shall survive the termination of this Agreement and shall apply to all acts or omissions taken or made in connection with the performance of this Agreement regardless of the date any potential claim is made or discovered by the Department or any other Indemnitee.

SECTION 10. DEFAULT AND TERMINATION

10.1 Termination for Cause by the Department. The Department may terminate this Agreement upon written notice for the breach by Vendor of any material term, condition or provision of this Agreement, if such breach is not cured within the time period specified in the Department's notice of breach or any subsequent notice or correspondence delivered by the Department to Vendor, provided that cure is feasible. Any time allowed for cure of a default shall not eliminate or reduce any liability Vendor may have for liquidated damages. In addition, the Department may terminate this Agreement effective immediately without penalty or legal liability and without advance notice or opportunity to cure for any of the following reasons:

10.1.1 Vendor furnished any statement, representation, warranty or certification in connection with this Agreement, the RFP or the Proposal that is false, deceptive, or materially incorrect or incomplete;

10.1.2 Vendor or any of Vendor's officers, directors, employees, agents, subsidiaries, affiliates, contractors or subcontractors has committed or engaged in fraud, misappropriation, embezzlement, malfeasance, misfeasance, or bad faith;

10.1.3 Dissolution of Vendor or any parent or affiliate of Vendor owning a controlling interest in Vendor;

10.1.4 Vendor terminates or suspends its business;

10.1.5 Vendor's authorization to engage in business either in Iowa or where organized is suspended, terminated, revoked or forfeited;

10.1.6 Vendor has failed to comply with any international, federal, state, or local laws, rules, ordinances, regulations, requirements or orders applicable to this Agreement, Vendor's performance hereunder, and/or any Services;

10.1.7 The Department determines or believes the Vendor has engaged in conduct that has or may expose the Department or the State to material liability;

10.1.8 Vendor infringes or allegedly infringes or violates any patent, trademark, copyright, trade dress or any other intellectual property right or proprietary right, or Vendor misappropriates or allegedly misappropriates a trade secret; or

10.1.9 Any of the following has been engaged in by or occurred with respect to Vendor or any corporation, shareholder or entity having or owning a controlling interest in Vendor:

10.1.9.1 Commencing or permitting a filing against it which isn't discharged within ninety (90) days, of a case or other proceeding seeking liquidation, reorganization, or other relief with respect to itself or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect; or filing an answer admitting the material allegations of a petition filed against it in any involuntary case or other proceeding commenced against it seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts; or consenting to any such relief or to the appointment of or taking possession by any such official in any voluntary case or other proceeding commenced against it seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts;

10.1.9.2 Seeking or suffering the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its assets;

10.1.9.3 Making an assignment for the benefit of creditors;

10.1.9.4 Failing, being unable, or admitting in writing the inability generally to pay its debts or obligations as they become due or failing to maintain a positive net worth and such additional capital and liquidity as is reasonably adequate or necessary in connection with Vendor's performance of its obligations under this Agreement; or

10.1.9.5 Taking any action to authorize any of the foregoing.

10.1.10 The Department has determined or suspects that any breach (or threatened or claimed breach) of security or other incident affecting any data or information, or any other event involving unauthorized access to or use of data or any networks or systems, has occurred.

The Department's right to terminate this Agreement shall be in addition to and not exclusive of other remedies available to the Department, and the Department shall be entitled to exercise any other rights and pursue any remedies, in law, at equity, or otherwise.

10.2 Termination upon Notice. Following thirty (30) days written notice, the Department may terminate this Agreement in whole or in part for any reason without the payment of any penalty or incurring any further obligation or liability to Vendor.

10.3 Termination Due to Lack of Funds or Change in Law. Notwithstanding anything in this Agreement to the contrary, and subject to the limitations set forth below, the Department shall have the right to terminate this Agreement without penalty or liability and without any advance notice as a result of any of the following:

10.3.1 The legislature or governor fail in the sole opinion of the Department to appropriate funds sufficient to allow the Department to either meet its obligations under this Agreement or to operate as required and to fulfill its obligations under this Agreement; or

10.3.2 If funds are de-appropriated, reduced, not allocated, or receipt of funds is delayed, or if any funds or revenues needed by the Department (regardless of the source of funding or revenues) to make any payment hereunder are insufficient or unavailable for any other reason as determined by the Department in its sole discretion; or

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

10.3.4 If the Department's duties, programs or responsibilities are modified or materially altered; or

10.3.5 If any event or circumstance occurs that impacts or affects the ability of the Department, the State or any Governmental Entity to continue to operate, use, maintain or pay for any Deliverables;

10.3.6 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 the Department's ability to fulfill any of its obligations under this Agreement or its use of any Deliverables, or any portion or component thereof.

The Department shall provide Vendor with written notice of termination pursuant to this section.

10.4 Limitation of the State's Payment Obligations. In the event of termination of this Agreement for any reason by either party (except for termination by the Department pursuant to Section 10.1), the Department shall pay only those amounts, if any, due and owing to Vendor for Deliverables for which Acceptance has been provided by the Department up to and including the date of termination of this Agreement and for which the Department is obligated to pay pursuant to this Agreement; provided however, that in the event the Department terminates this Agreement pursuant to Section 10.3, the Department's obligation to pay Vendor such amounts and other compensation shall be limited by, and subject to, legally available funds. Payment will be made only upon submission of invoices and proper proof of Vendor's claim. Notwithstanding the foregoing, this Section 10.4 in no way limits the rights or remedies available to the Department and shall not be construed to require the Department to

pay any compensation or other amounts hereunder in the event of Vendor's breach of this Agreement or any amounts withheld by the Department in accordance with the terms of this Agreement. The Department shall not be liable, under any circumstances, for any of the following:

10.4.1 The payment of unemployment compensation to Vendor's employees;

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

10.4.3 Any costs incurred by Vendor in its performance of the Agreement, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Agreement;

10.4.4 Any damages or other amounts, including amounts associated with the loss of prospective profits, anticipated sales, goodwill, or for expenditures, investments or commitments made in connection with this Agreement;

10.4.5 Any taxes Vendor may owe in connection with the performance of this Agreement, including, but not limited to, sales taxes, excise taxes, use taxes, income taxes or property taxes.

10.5 Vendor's Duties. Upon request of the Department, Vendor shall, within any time periods or deadlines specified by the Department:

10.5.1 Cease work under this Agreement 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 performed under the Agreement and such other matters as the Department may require;

10.5.2 Immediately cease using and return to the Department any property (including, without limitation, Department Property) or materials, whether tangible or intangible, provided by the Department to Vendor;

10.5.3 Cooperate in good faith with the Department and its employees, agents and independent contractors during any transition period specified by the Department in connection with the transition of Services to be provided by any

replacement contractors or service providers (which, for the sake of clarity, is not limited to third-party independent contractors but may also include the State or a Governmental Entity);

10.5.4 Immediately return to the Department any payments made by the Department for services or Deliverables that were not rendered or provided by Vendor;

10.5.5 Immediately deliver to the Department any and all deliverables for which the Department has made payment (in whole or in part) that is in the possession of under the control of the Vendor or its agents or subcontractors in whatever stage of development and form of recordation such property is expressed or embodied at that time;

10.5.6 Immediately deliver to the Department a complete and current copy of all of the Department's data and Confidential Information (in such forms or formats and on using such media or methods as the Department may specify);

10.5.7 Perform, comply with and satisfy all duties and obligations set forth in this Agreement, as requested by the Department.

10.6 Termination for Cause by Vendor. Vendor may only terminate this Agreement upon written notice of the breach by the Department of any material term, condition or provision of this Agreement, if such breach is not cured within sixty (60) days of the Department's receipt of Vendor's written notice of breach.

10.7 Notwithstanding anything in this Agreement to the contrary, in the event this Agreement expires, or is cancelled or terminated for any reason, Service Provider shall immediately refund to Customer all prepaid services fees or other prepaid compensation with respect to any remaining period left under this Agreement or for any unused or yet to be performed services.

10.8 At the Department's request, terminate and sever the data connections and all data interchange with all Sites specified by the Department.

SECTION 11. INSURANCE

11.1 Insurance Policies. Vendor shall, at its sole expense, maintain in full force and effect, with insurance companies admitted to do business in the State of Iowa, insurance covering its work of the type and in amounts required by this Agreement. Vendor’s insurance shall, among other things, insure against any loss or damage resulting from or related to Vendor’s performance of this Agreement regardless of the date the claim is filed or expiration of the policy. All insurance policies required by this Agreement shall: (i) remain in full force and effect for the entire term of this Agreement; and (ii) not be reduced, changed (to the detriment of the Department or the State), or canceled (without being simultaneously replaced by another policy meeting the requirements of this Section 11). The State of Iowa and the Department shall be named as additional insureds on all such policies, and all such policies shall include the following endorsement: “It is hereby agreed and understood that the State of Iowa and the Iowa Department of Aging are named as additional insured, and that the coverage afforded to the State of Iowa and the Iowa Department of Aging under this policy shall be primary insurance. If the State of Iowa or the Agency have other insurance which is applicable to a loss, such other insurance shall be on an excess, secondary or contingent basis. The amount of the insurer’s liability under this policy shall not be reduced by the existence of such other insurance.” Notwithstanding the foregoing, the requirement that the State of Iowa and the Department be named as additional insureds on all policies of insurance shall not apply to Vendor’s Workers Compensation Insurance.

Unless otherwise requested by the Department, Vendor shall cause to be issued insurance policies with the coverages set forth below:

Type of Insurance	LIMIT	AMOUNT
General Liability (including contractual liability) written on an occurrence basis	General Aggregate	\$15 million
	Products -	
	Comp/Op Aggregate	\$15 million
	Personal injury	\$15 million
	Each Occurrence	\$5 million
Excess Liability, umbrella form	Each Occurrence	\$5 million
	Aggregate	\$15 million
Technology Errors and Omissions Insurance	Each Occurrence	\$5 million
	Aggregate	\$15 million

Workers Compensation and Employer Liability	As Required by Iowa law	
Cyber Liability / Network Security	Each Occurrence	\$15 million
	Aggregate	\$15 million

11.2 Claims Provision. All insurance policies required by this Agreement, with the exception of the policy for Errors and Omissions Insurance, must provide coverage on an “occurrence basis” for all claims arising from activities occurring during the term of the policy regardless of the date the claim is filed or expiration of the policy. The policy for Errors and Omissions Insurance will provide coverage on a “claims made” basis, provided however, that such policy includes Extended Reporting Period or Tail Coverage acceptable to the Department.

11.3 Certificates of Coverage. At the time of execution of this Agreement, Vendor shall deliver to the Department certificates of insurance certifying the types and the amounts of coverage, certifying that said insurance is in force before the Vendor starts work, certifying that said insurance applies to, among other things, the work, activities, products and liability of the Vendor related to this Agreement, certifying that the State of Iowa and the Department are named as additional insureds on the policies of insurance by endorsement as required herein, and certifying that no cancellation or modification of the insurance will be made without at least thirty (30) days prior written notice to the Department. All certificates of insurance shall be subject to approval by the Department. The Vendor shall simultaneously with the delivery of the certificates deliver to the Department one duplicate original of each insurance policy.

11.4 Liability of Vendor. Acceptance of the insurance certificates by the Department shall not act to relieve Vendor of any obligation under this Agreement. It shall be the responsibility of Vendor to keep the respective insurance policies and coverages current and in force during the life of this Agreement. Vendor shall be responsible for all premiums, deductibles and for any inadequacy, absence or limitation of coverage, and the Vendor shall have no claim or other recourse against the State or the Department for any costs or loss attributable to any of the foregoing, all of which shall be borne solely by the Vendor. Notwithstanding any other provision of this Agreement, Vendor shall be fully responsible and liable for meeting and fulfilling all of its obligations under Section 11 of this Agreement.

11.5 Waiver of Subrogation Rights. Vendor shall obtain a waiver of any subrogation rights that any of its insurance carriers might have against the Department or the State.

The waiver of subrogation rights shall be indicated on the certificates of insurance coverage supplied to the Department for all policies except for the policy for the Errors and Omissions Insurance.

11.6 Filing of Claims. In the event either the Department or the State suffers a loss and is unable to file a claim under any policy of insurance required under this Agreement, the Vendor shall, at the Department's request, immediately file a proper claim under such policy. Vendor will provide the Department with proof of filing of any such claim and keep the Department fully informed about the status of the claim. In addition, Vendor agrees to use its best efforts to pursue any such claim, to provide information and documentation requested by any insurer providing insurance required hereunder and to cooperate with the Department and the State. Vendor shall pay to the Department and the State any insurance proceeds or payments it receives in connection with any such claim immediately upon Vendor's receipt of such proceeds or payments.

11.7 Proceeds. In the event the Department or the State suffers a loss that may be covered under any of the insurance policies required under this Section 11, neither the Vendor nor any subsidiary or affiliate thereof shall have any right to receive or recover any payments or proceeds that may be made or payable under such policies until the Department and/or the State have fully recovered any losses, damages or expenses sustained or incurred by it (subject to applicable policy limits), and Vendor hereby assigns to the Department and the State all of its rights in and to any and all payments and proceeds that may be made or payable under each policy of insurance required under this Agreement.

SECTION 12. CONTRACT ADMINISTRATION

12.1 Independent Contractor. Vendor is an independent contractor performing services for the Department. Vendor shall not hold itself out as an employee or agent of the Department. The Department shall not provide Vendor with office space, support staff, equipment or tools, or supervision beyond the terms of this Agreement. Neither Vendor nor any of its staff are eligible for any State employee benefits, including, but not limited to, retirement benefits, insurance coverage or the like. Vendor and its staff shall not be considered employees of the Department or the State for any purpose, including for federal or State tax purposes. The Department shall not withhold taxes on behalf of Vendor. Vendor shall be responsible for payment of all taxes in connection with any income earned from performing this Agreement.

12.2 Compliance with the Law and Regulations.

12.2.1 Vendor and its employees, agents, officers, directors, approved subcontractors shall comply with all applicable federal, state, international, and local laws, rules, ordinances, codes, regulations and orders when performing its obligations under this Agreement, including without limitation, all laws applicable to the prevention of discrimination in employment (e.g., Iowa Code chapter 216 and Iowa Code section 19B.7), the administrative rules of the Iowa Department of Administrative Services (“DAS”) and the Iowa Civil Rights Commission which pertain to equal employment opportunity and affirmative action, laws relating to prevailing wages, occupational safety and health standards, prevention of discrimination in employment, payment of taxes, gift laws, lobbying laws, and laws relating to the use of targeted small businesses as subcontractors or suppliers. Vendor shall comply with any applicable reporting and compliance standards of the DAS regarding equal employment. Upon the Department’s or DAS’ written request, Vendor shall submit to a copy of its affirmative action plan, containing goals and time specifications, and accessibility plans and policies as required under Iowa Administrative Code chapter 11—121. Vendor, its employees, agents and approved 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 the Department approves Vendor entering into contracts with subcontractors or other third parties, Vendor shall take all steps 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, Vendor’s failure to fulfill any requirement set forth in this section shall be regarded as a material breach of this contract, and the Department may: (i) cancel, terminate, or suspend, in whole or in part, this contract, (ii) may declare Vendor ineligible for future state contracts in accordance with authorized procedures or (iii) subject Vendor to other sanctions as provided by law or rule.

12.2.2 Vendor shall give notice to any labor union with which it has a bargaining or other agreement of its commitment under this section of the Agreement. Vendor shall make the provisions of this section a part of its contracts with any subcontractors providing goods or services related to the fulfillment or performance of this Agreement;

12.2.3 The Department may consider the failure of Vendor to comply with any law or regulation as a material breach of this Agreement.

12.3 Confidentiality. Vendor and its employees, agents, approved contractors and subcontractors may have access to Confidential Information, data, software, hardware, programs or other information or property possessed, owned or maintained by the Department or the State (“Department Property”) to the extent necessary to carry out its responsibilities under the Agreement. Such Department Property shall at all times remain the property of the Department and/or the State. Vendor shall preserve the confidentiality of Department Property disclosed or furnished by the Department to Vendor and shall maintain procedures for safeguarding such property. Vendor will designate one individual who shall remain the responsible authority in charge of all Department Property collected, used, or disseminated by Vendor in connection with the performance of this Agreement. Vendor shall accept responsibility for providing adequate supervision and training to its agents, employees and any approved contractors and subcontractors to ensure compliance with the terms of this Agreement. Vendor and its employees, agents, and any approved contractors or subcontractors may be required by the Department to execute confidentiality or non-disclosure agreements to obtain access to certain Department Property. Vendor and its employees, agents, approved contractors and subcontractors shall not disclose, publish, reproduce, disseminate or otherwise use any Department Property received, collected, maintained, or used in the course of performance of the Agreement except as permitted by the Department to enable Vendor to perform its obligations under this Agreement and except as required by applicable laws, rules or regulations, either during the term of this Agreement or thereafter. Vendor agrees to return any and all Department Property received, collected, accessed, maintained, created, or used in the course of the performance of the Agreement in whatever form it is maintained promptly at the request of the Department. In the event that Vendor receives a request for access to any Department Property, Vendor shall immediately communicate such request to the Department for consideration and handling.

On the Department’s written request or upon expiration or termination of this Agreement for any reason, the Vendor will promptly: (a) return or destroy, at the Department’s option, all Department Property, whether in written or in machine-readable form, including without limitation, all originals and copies of all documents and materials it has received containing the Department’s Confidential Information and any other Department Property; and (b) deliver or destroy, at the Department’s option, all originals and copies of all summaries, records, descriptions, modifications, compilations,

negatives, drawings, adaptations and other documents or materials, whether in written or in machine-readable form, prepared by Vendor, prepared under its direction, or at its request from the documents, materials, data, or information referred to in subparagraph (a), and provide a notarized written statement to the Department that all documents and materials referred to in subparagraphs (a) and (b) have been delivered to the Department or destroyed, as requested by the Department. To the extent Vendor is required to destroy any documents, materials, data, or information pursuant to subparagraphs (a) and (b), above, such documents, materials, data, or information shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods.

Vendor shall indemnify the Department, the State and all other Indemnitees in the manner provided for indemnification elsewhere in this Agreement for a violation of this section. In the event of a breach of this section, the Department may terminate this Agreement immediately without notice of default and opportunity to cure. Vendor acknowledges that the disclosure of any Confidential Information of the Department or the State will immediately give rise to continuing irreparable injury to the Department and others that is inadequately compensable in damages at law. Accordingly, and without prejudice to any other remedy available to the Department, the Department will be entitled to injunctive relief. Vendor's obligations under this section shall survive expiration or termination of this Agreement.

At no time shall any Confidential Information of the Department or Department Property be copied, disclosed or retained by Vendor, any subcontractor, or any party related to Vendor for subsequent use in any transaction that does not include the State of Iowa.

Vendor shall not use any Confidential Information or data collected, processed, stored or transmitted in connection with the Services provided under this Agreement for any purpose other than fulfilling Vendor's express obligations and duties under this Agreement.

12.4 Amendments. This Agreement may be amended in writing from time to time by mutual consent of the parties. Both parties must execute all amendments to this Agreement.

12.5 No Third Party Beneficiaries. There are no third party beneficiaries to this Agreement. This Agreement is intended only to benefit the Department, the State, Governmental Entities, the Vendor and their respective successors and permitted assigns.

12.6 Choice of Law and Forum.

12.6.1 This Agreement shall be governed in all respects by, and construed in accordance with, the laws of the State of Iowa, without giving effect to the choice of law principles thereof;

12.6.2 Any and all litigation or actions commenced in connection with this Agreement, including after expiration or termination of this Agreement, shall be brought in Des Moines, Iowa, in Polk County District Court for the State of Iowa, if jurisdiction is proper. However, if jurisdiction is not proper in the Iowa District Court for Polk County, but is proper only in a United States District Court, the matter shall be commenced in the United States District Court for the Southern District of Iowa, Central Division. Vendor irrevocably: (i) consents and agrees that any legal or equitable action or proceeding arising under, in connection with or arising out of this Agreement shall be brought and maintained exclusively in the aforesaid courts; (ii) submits to and accepts, with respect to any such action or proceeding, for it and in respect of its properties and assets regardless of the physical or legal situs thereof, generally and unconditionally, the jurisdiction of the aforesaid courts; and (iii) waives any objection to such jurisdiction based on forum non conveniens or otherwise;

12.6.3 This provision shall not be construed as waiving any immunity to suit or liability, in state or federal court, which may be available to the Department or the State, including sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise;

12.6.4 Vendor irrevocably consents to service of process by certified or registered mail addressed to the Vendor's designated agent. The Vendor appoints [_____] as its agent to receive service of process. If for any reason the Vendor's agent for service is unable to act as such or the address of the agent changes, Vendor shall immediately appoint a new agent and provide the Department with written notice of the change in agent or

address. Any change in the appointment of the agent or address will be effective only upon actual receipt by the Department. Nothing in this provision will alter the right of the Department to serve process in any other manner permitted by law;

12.6.5 This Section 12.6 shall survive termination of this Agreement.

12.7 Assignment and Delegation. This Agreement may not be assigned, transferred or conveyed in whole or in part without the prior written consent of the other party, except that the Department may assign, transfer, or convey this Agreement, in whole or in part, to any Governmental Entity that succeeds the Department's duties hereunder or otherwise assumes responsibility for functions or duties currently assumed by the Department to which the Deliverables relate. For purposes of construing this clause, a transfer of a controlling interest in Vendor, a merger, sale or consolidation of Vendor, or a sale of substantially all of Vendor's assets shall be considered an assignment. Vendor agrees that it shall provide the Department with the earliest possible advance notice of any proposed sale or transfer or any controlling interest in or substantial assets of Vendor and of any proposed merger, sale or consolidation of Vendor. Vendor agrees that it shall not use this Agreement, or any portion thereof, for collateral or to otherwise secure any financial obligation of Vendor or any affiliate thereof without the prior written consent of the Department. Vendor further agrees that it may not assign, pledge as collateral, grant a security interest in, create a lien against, or otherwise encumber any payments that may or will be made to the Vendor under this Agreement.

12.8 Use of Subcontractors/Third Parties. None of the services to be provided by Vendor pursuant to this Agreement shall be subcontracted or delegated to, or provided by, any subcontractor or other Third Party without the prior written consent of the Department, which consent may be withheld in the Department's sole discretion. The Vendor shall select and utilize only those subcontractors that are capable of meeting or exceeding all of the requirements set forth in this Agreement, including, but not limited to, those contained in any schedules, exhibits or attachments to this Agreement. Vendor shall oversee each subcontractor's compliance with such requirements and shall be fully and financially responsible to the Department for any failure of a subcontractor to meet such requirements. The Department's consent shall not be deemed in any way to provide for the incurrence of any additional obligation of the Department, whether financial or otherwise. Any subcontract to which the Department has consented shall be in writing and shall in no way alter the terms and conditions of this Agreement. All subcontracts and subcontractors of Vendor shall be subject to the terms and conditions

of this Agreement and to any conditions of approval that the Department may deem necessary. Vendor is solely liable for any and all payments that may be due to a subcontractor pursuant to any subcontract. Vendor shall indemnify and hold harmless the Department 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 Vendor's breach of any subcontract into which it enters, including Vendor's failure to pay any and all amounts due to any subcontractor. In addition, the Department is not responsible for any failure of any subcontractor to pay any amounts that may be due to Vendor, and Vendor may not refuse to perform its obligations under this Agreement for any such failure. If Vendor fails, neglects or refuses to pay promptly, as due, any claim for labor or services furnished to Vendor or any subcontractor by any person in connection with the Deliverables provided under this Agreement, the Department may (but is not obligated to) pay such claim and charge the amount of the payment against funds due or to become due Vendor under this Agreement. The payment of a claim in the manner authorized in this paragraph shall not relieve Vendor or its surety from any obligation with respect to any unpaid claims. All subcontracts shall contain provisions which allow the Department to access the subcontractor's books, documents, and records and for inspections of work, as required of Vendor herein. No subcontract or delegation of work shall relieve or discharge Vendor from any obligation, provision, or liability under this Agreement. Vendor shall remain responsible for such performance and shall be fully responsible and liable for all acts or omissions of any such contractor or subcontractor. Any action of a subcontractor, which, if done by Vendor, would constitute a breach of this Agreement, shall be deemed a breach by Vendor and have the same legal effect.

12.9 Integration. This Agreement represents the entire agreement between the parties concerning the subject matter hereof, and neither party is relying on any representation that may have been made which is not included in this Agreement. Notwithstanding anything herein to the contrary, no shrink-wrap, click-wrap, click-through, click-accept, browse-wrap, sneak-wrap, online terms or website terms ("Additional Terms") provided with or related to any Deliverables, products, software or services hereunder will be binding on the Department, even if use of such Services, products, software or services requires an affirmative "acceptance" of those Additional Terms before access is permitted. All such Additional Terms shall be of no force or effect and shall be deemed rejected by Department in their entirety. Vendor acknowledges that it has thoroughly read this Agreement and all related schedules, exhibits, and other documents and has had the opportunity to receive competent advice and counsel necessary for it to form a complete understanding of all rights and

obligations herein and to accept same freely and without coercion of any kind. Accordingly, this Agreement shall not be construed or interpreted against the Department on the basis of draftsmanship or preparation thereof.

12.10 Obligation Beyond Agreement Term. This Agreement shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to this Agreement. Vendor's obligations under this Agreement which by their nature would continue beyond the termination of this Agreement, including, by way of illustration and not by limitation, those obligations set forth in Sections 4, 5, 7, 8, 9, 10.4 - 10.6, 11, 12.2, 12.3, 12.6, 12.8, 12.10 - 12.16, 12.18, 12.19, 12.24, 12.25, 12.28, 12.30, 12.32, 12.33, and 12.37 – 12.39 shall survive termination of this Agreement and/or termination of Support. [Note: Department reserves the right to review and revise these references before the Agreement is finalized.]

12.11 Supersedes Former Agreements. This Agreement supersedes all prior Agreements between the Department and Vendor for the goods, services and other Deliverables provided in connection with this Agreement.

12.12 Waiver. Except as specifically provided for in a waiver signed by duly authorized representatives of the Department and Vendor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of this Agreement shall not be construed as affecting any subsequent breach or the right to require performance with respect thereto or to claim a breach with respect thereto. No term or condition of this Agreement shall be held to be waived, modified, or deleted except by an instrument, in writing, signed by the parties hereto.

12.13 Notices.

12.13.1 Notices. Notices under this Agreement shall be in writing and delivered to the representative of the party to receive notice (identified below) at the address of the party to receive notice as it appears below or as otherwise provided for by proper notice hereunder. The effective date for any notice under this Agreement shall be the date of delivery of such notice (not the date of mailing) which may be effected by certified U.S. Mail return receipt requested with postage prepaid thereon or by recognized overnight delivery service, such as Federal Express or UPS:

If to the Department:

Iowa Department of Justice
Crime Victim Assistance Division
Attn : Janelle Melohn
Lucas State Office Building
321 E. 12th Street
Des Moines, Iowa 50319
Email : Janelle.Melohn@ag.iowa.gov

If to Vendor:

[]

12.13.2 Any notice or communication sent by certified U.S. Mail under this Agreement shall be deemed given upon receipt as evidenced by the U.S. Postal Service return receipt card, or if sent by overnight delivery service, upon receipt as evidenced by the signature attained by the carrier;

12.13.3 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.

12.14 Cumulative Rights. The various rights, powers, options, elections and remedies of the Department and the State provided in this Agreement shall be construed as cumulative and no one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed the Department and the State by law, and shall in no way affect or impair the right of the Department or the State to pursue any other contractual, equitable or legal remedy to which the Department and the State may be entitled. The election by the Department or the State of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.

12.15 Severability. If any provision of this Agreement 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 Agreement.

12.16 Time is of the Essence. Time is of the essence with respect to Vendor's performance of its obligations under this Agreement. Vendor shall ensure that all personnel and any other subcontractors of Vendor providing services to the Department are responsive to the Department's requirements and requests in all respects.

12.17 Authorization. Vendor represents and warrants that it has the right, power and authority to enter into and perform its obligations under this Agreement and that it has taken all requisite action (corporate, statutory, or otherwise) to approve execution, delivery and performance of this Agreement, and this Agreement constitutes a legal, valid and binding obligation of Vendor, enforceable in accordance with its terms.

12.18 Successors in Interest. All the terms, provisions, and conditions of the Agreement shall be binding upon and inure to the benefit of the parties' hereto and their respective successors, assigns, and legal representatives.

12.19 Records Retention and Access. The Vendor shall maintain accurate, current, and complete books, documents and records that sufficiently and properly document the Vendor's performance under this Agreement, including records that document all fees and other amounts charged during the term of this Agreement, for a period of at least five (5) years following the later of the date of final payment, termination or expiration of this Agreement, or the completion of any required audit. If any litigation, claim, negotiation, audit or other action involving the books, documents and records has been started before the expiration of the five-year period, the Vendor must retain the records until completion of the action and resolution of all issues which arise from it, or until the end of the above-described five year period, whichever is later. The Vendor shall permit the Department, 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, at no charge, to access and examine, audit, excerpt and transcribe any pertinent books, documents, and records, electronic or optically stored and created records or other records of the Vendor relating directly or indirectly to the Vendor's performance under this Agreement, wherever located. At the request of the Department, Vendor shall deliver and provide, at no charge, complete copies of such books, documents and records to the Department or its designee in such formats and within such time period as may be specified by the Department in its request. The Vendor shall not impose a charge or seek payment for any fee, charge, or expense associated with any audit, examination or delivery of such books, documents and records. The Vendor shall require its subcontractors to agree to the same provisions of this section. Based on the audit findings, the Department reserves the right to address the Vendor's board or other managing entity regarding performance and expenditures. When state or federal law or the terms of this Agreement require compliance with Iowa Code Chapter 34A, OMB Circular A-87, A-110, or other similar provision addressing proper use of

government funds, the Vendor shall comply with these additional records retention and access requirements:

- i. Records of financial activity shall include records that adequately identify the source and application of funds. When the terms of this Agreement require matching funds, cash contributions made by the Vendor and third party in-kind (property or service) contributions must be verifiable from the Vendor's records. These records must contain information pertaining to contract amount, obligations, unobligated balances, assets, liabilities, expenditures, income and third-party reimbursements.
- ii. The Vendor shall maintain accounting records supported by source documentation that may include but are not limited to cancelled checks, paid bills, payroll, time and attendance records, and contract award documents.
- iii. The Vendor, in maintaining project expenditure accounts, records and reports, shall make any necessary adjustments to reflect refunds, credits, underpayments or overpayments, as well as any adjustments resulting from administrative or compliance reviews and audits. Such adjustments shall be set forth in the financial reports filed with the Department.
- iv. The Vendor shall maintain a sufficient record keeping system to provide the necessary data for the purposes of planning, monitoring and evaluating its program.
- v. The Contractor shall retain all medical records for a period of six (6) years from the last date of service for each patient; or in the case of a minor patient or client, for a period consistent with that established by Iowa Code section 614.1(9). Client records, which are non-medical, must be maintained for a period of at least five (5) years, or longer if otherwise required by this Agreement.

12.20 Headings or Captions and Terms. The section headings or captions are for identification purposes only and do not limit or construe the contents of the sections. Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, references to the singular include the plural, and the word "or" has the inclusive meaning represented by the phrase "and/or." The words "include" and "including" shall be deemed to be followed by the phrase "without limitation." The

words “thereof,” “herein,” “hereunder,” and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement.

12.21 Multiple Counterparts. This Agreement may be executed in several counterparts, all of which when taken together shall constitute one contract binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

12.22 Not a Joint Venture. Nothing in this Agreement shall be construed as creating or constituting the relationship of the partnership, joint venture (or other association of any kind or agent/principal relationship) between the parties hereto. No party, unless otherwise specifically provided for herein, has the authority to enter into any agreement or create an obligation or liability on behalf of, in the name of, or binding upon, another party to this Agreement.

12.23 Additional Provisions. The parties agree that if an Addendum, Rider, Schedule, Appendix or Exhibit is attached hereto by the parties, and referred to herein, then the same shall be deemed incorporated herein by reference.

12.24 Further Assurances and Corrective Instruments. The parties agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Agreement.

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

12.26 Delays or Impossibility of Performance. Neither party shall be in default under this Agreement if performance is prevented, delayed or made impossible to the extent that such prevention, delay, or impossibility is caused by a “force majeure.” The term “force majeure” as used in this Agreement includes an event that no human foresight could anticipate or which if anticipated, is incapable of being avoided. Circumstances must be abnormal and unforeseeable, so that the consequences could not have been avoided through the exercise of all due care, such as acts of God, earthquakes, and similar catastrophic events or causes. The delay or impossibility of performance must be beyond the control and without the fault or negligence of the parties. “Force

majeure” does not include: financial difficulties of the Vendor or any parent, subsidiary, affiliated or associated company of Vendor or any subcontractor used by Vendor; claims or court orders that restrict Vendor’s ability to provide the Services contemplated by this Agreement; strikes; labor unrest; supply chain disruptions; Internet outages; viruses; malware, Trojan Horses; worms; cancelbots; denial of service attacks; hacking; intrusions; security breaches; or any other similar item, malicious code or action that might interfere with or adversely affect the Services, any servers, computer hardware, devices or IT infrastructure, or data. If delay results from a contractor’s, subcontractor’s or supplier’s conduct, negligence or failure to perform, the Vendor shall not be excused from compliance with the terms and obligations of the Vendor unless the contractor, subcontractor or supplier is prevented from timely performance by a “force majeure” as defined in this Agreement. If a “force majeure” delays or prevents the Vendor’s performance, the Vendor shall immediately use its best efforts to directly provide alternate, and to the extent possible, comparable performance. Comparability of performance and the possibility of comparable performance shall be determined solely by the Department. The party seeking to exercise this provision and not perform or delay performance pursuant to a “force majeure” shall immediately notify the other party of the occurrence and reason for the delay. The parties shall make every effort to minimize the time of nonperformance and the scope of work not being performed due to the unforeseen events. Dates by which the Vendor’s performance obligations are scheduled to be met will be extended only for a period of time equal to the time lost due to any delay so caused.

12.27 Material Breaches. The references in this Agreement to specific material breaches of this Agreement shall not be construed as implying that other breaches of this Agreement are not material.

12.28 Right of Inspection. Vendor shall allow the Department, or anyone designated by the Department, to inspect its facilities and books and records at all reasonable times in order to monitor and evaluate performance of this Agreement.

12.29 Taxes. Vendor shall be responsible for paying any taxes incurred by Vendor in the performance of this Agreement. The Department and the State are exempt from the payment of State sales and other taxes.

12.30 Title to Property. Title to all data and property (including Department Property) furnished by the Department and/or the State to Vendor to facilitate the performance of this Agreement (or otherwise provided or made available to Vendor in connection

with this Agreement or the Services) shall remain the sole property of the Department and/or the State. All such property shall only be used by Vendor for purposes of fulfilling its obligations under this Agreement and shall be returned to the Department upon the earliest of completion, termination, or cancellation of this Agreement or at the Department's request. Vendor acknowledges that it shall acquire no interest or rights in and to such property. Except as expressly provided in this Agreement, Vendor 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 Vendor, for which Vendor has been reimbursed or paid by the Department under this Agreement, shall pass to and vest in the Department and/or State, except as otherwise provided in this Agreement.

12.31 Exclusivity. This Agreement is not exclusive. During the term of this Agreement, the Department may obtain similar services from other service providers.

12.32 Award of Related Agreements. The Department may undertake or award supplemental or successor agreements for work related to this Agreement. Vendor shall cooperate fully with other contractors, consultants and other persons who may be engaged by the Department or the State in connection with this Agreement. Vendor will ensure that any of its contractors or subcontractors that have been approved by the Department will abide by this provision.

12.33 Sovereign Immunity. The Department and the State do not waive sovereign immunity by entering into this Agreement and specifically retain and reserve the defense of sovereign immunity and all defenses available to them under State and federal laws, rules and regulations for any claim arising out of or related to this Agreement.

12.34 Disclaimer. All information contained in the RFP and any appendices or attachments thereto reflect the information available to the Department at the time the above cited documents were prepared. The Department does not warrant the accuracy of any such information and shall not be liable for any errors or omissions, or the results of errors or omissions, which may be discovered, at any time, to exist in those documents.

12.35 Assignment of Third-Party Warranties. At the Department's request, Vendor will assign to the Department any and all existing and future warranties, indemnities and

other benefits obtained or available from the licensor of any Third-Party software or the manufacturer of any equipment or replacement parts provided or otherwise furnished in connection with this Agreement.

12.36 Attorney's Fees and Expenses. In the event Vendor defaults in any obligations under this Agreement, Vendor shall pay to the Department all costs and expenses (including, without limitation, the reasonable value of time of the Attorney General's Office and the costs, expenses and attorney fees of other counsel retained by or on behalf of the Department) incurred by the Department in enforcing this Agreement or any of its rights and remedies with respect thereto.

12.37 Contract Compliance Audit. Vendor agrees that the Department or a representative of its selection may conduct a complete contract compliance audit at least once annually during the term of this Agreement and after termination or expiration of this Agreement to determine whether or not the Vendor is complying with the terms of this Agreement, criteria established for access to Department Property, State and federal laws regarding Confidential Information, and any other applicable laws and regulations. Vendor shall promptly comply with and correct any deficiencies noted in the audit report as audit exceptions and will promptly implement any recommendations reasonably requested by the Department or its representatives. Vendor shall not impose any charge or fee in connection with any contract compliance audit.

12.38 Care of Property. Vendor shall be responsible for the proper custody and care of any property, data, databases, software, interfaces, hardware, telecommunications lines and equipment, intellectual property and Department Property furnished by the Department for Vendor's use in connection with the performance of the Agreement. Vendor shall exercise its best efforts to prevent damage to all such property and shall, at the Department request, restore damaged property to the extent possible to its condition prior to the damage at the sole expense of Vendor. Such restoration shall be complete when judged satisfactory by the Department. In addition, at the Department's request, Vendor will reimburse the Department for any loss or damage to such property caused by Vendor, or any agent, contractor or subcontractor employed or utilized by Vendor. Vendor shall not take any action that would impair the value of, or goodwill associated with, the name, property and intellectual property rights of the Department and the State. Vendor shall obtain the prior advance written approval from the Department prior to Vendor's use (in advertising, publicity, public contract bidding, or

otherwise) of the name, marks or intellectual property rights of the Department or the State.

12.39 Notification of Events. Vendor shall notify the Department in writing if any of the following has been engaged in by or occurred with respect to Vendor or any corporation, shareholder or entity having or owning a controlling interest in Vendor:

12.39.1 Vendor files or permits the filing against it of a case or other proceeding seeking liquidation, reorganization, or other relief with respect to itself or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect; or filing an answer admitting the material allegations of a petition filed against it in any involuntary case or other proceeding commenced against it seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts; or consenting to any such relief or to the appointment of or taking possession by any such official in any voluntary case or other proceeding commenced against it seeking liquidation, reorganization or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts; or

12.39.2 Seeking or suffering the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its assets; or

12.39.3 Making an assignment for the benefit of creditors; or

12.39.4 Failing, being unable, or admitting in writing the inability generally to pay its debts or obligations as they become due or failing to maintain a positive net worth and such additional capital and liquidity as is reasonably adequate or necessary in connection with Vendor's performance of its obligations under this Agreement; or

12.39.5 An order is entered approving an involuntary petition to reorganize the business of Vendor for all or part of its property; or

12.39.6 If a writ or warrant of attachment, execution, distraint, levy, possession or any similar process that may materially affect the operation of Vendor is issued by any court or administrative agency against all or any material portion of Vendor's property; or

12.39.7 Taking any action to authorize any of the foregoing; or

12.39.8 Vendor or any affiliate or subcontractor of Vendor has experienced a breach in security, unauthorized access to data or any computer network, system, server, data center or hardware operated by or on behalf of Vendor (or any affiliate or subcontractor of Vendor), or any other event or incident that affects Vendor, its customers, or any customer data.

12.40 Repayment Obligation. If a State or federal audit takes exception to the Services provided under this Agreement for which state or federal reimbursement has been paid, or if State and/or federal funds are deferred and/or disallowed as a result of any audits (or expended in violation of the laws applicable to the expenditure of such funds), the Vendor will be liable to the Department (or any other applicable Governmental Entity, including the United States Department of Justice) and the State for the full amount of any such reimbursement or any claim disallowed (or the amount of funds expended in violation of applicable laws or requirements) and for all related penalties incurred. If the Department or any federal agency concludes that Vendor has been paid for any cost that is unallowable, unallocable, or unreasonable under this Agreement, Vendor will be liable to the Department and the State for such cost. The Vendor shall pay to the Department all amounts for which the Vendor is liable under this section within ten (10) business days of receiving the Department written demand or written notice. The Department may withhold any payment under this Agreement if Vendor fails to timely make any payment required by this section. The requirements of this section shall apply to the Vendor, its affiliate and subcontractors.

12.41 Qualifications of Staff. The Vendor shall be responsible for assuring that all persons, whether they are employees, agents, subcontractors or anyone acting for or on behalf of the Vendor, are properly licensed, certified or accredited as required under applicable State law. The Vendor shall provide standards for service providers who are not otherwise licensed, certified or accredited under applicable State law.

12.42 Certification regarding Sales and Use tax. By executing this Agreement, the Vendor certifies it is either (a) registered with the Iowa Department of Revenue, collects, and remits Iowa sales and use taxes as required by Iowa Code chapter 423; or (b) not a "retailer" or a "retailer maintaining a place of business in this state" as those terms are defined in Iowa Code subsections 423.1(42) & (43). The Vendor also acknowledges that the Department may declare the Agreement void if the above certification is false. The

Vendor also understands that fraudulent certification may result in the Department or its representative filing for damages for breach of contract.

12.43 Compliance with Iowa Code Chapter 8F. If this Agreement is subject to the provisions of Iowa Code chapter 8F, the Vendor shall comply with Iowa Code chapter 8F with respect to any subcontracts it enters into pursuant to this Agreement. The Vendor shall provide the Department with any compliance documentation, including but not limited to certifications, received from subcontractors by the Vendor.

12.44 Use of Name or Intellectual Property. The Vendor agrees it will not use the State's, the Department's and/or any other Governmental Entity's name or any of their intellectual property, including but not limited to, any trademarks or logos in any manner, including commercial advertising or as a business reference, without the expressed prior written consent of the Department and/or the State.

12.45 Conflict of Interest. The Vendor represents, warrants, and covenants that no relationship exists or will exist during the Agreement period between the Vendor and the Department that is a conflict of interest. No employee, officer or agent of the Vendor or subcontractor shall participate in the selection or in the award or administration of a subcontract if a conflict of interest, real or apparent, exists. The provisions of Iowa Code Chapter 68B shall apply to this Agreement. If a conflict of interest is proven to the Department, the Department may terminate this Agreement and the Vendor shall be liable for any excess costs to the Department as a result of the conflict of interest. The Vendor shall establish safeguards to prevent employees, consultants, or members of governing bodies from using their positions for purposes that are, or give the appearance of being, motivated by the desire for private gain for themselves or others with whom they have family, business, or other ties. The Vendor shall report any potential, real, or apparent conflict of interest to the Department.

12.46 Publicity. During the Term of this Agreement and at all times after the termination or expiration of this Agreement, Vendor shall not make any media release or other public announcement relating to or referring to this Agreement without the Department's prior written consent. Vendor shall acquire no right to use, and shall not use, without the Department's prior written consent, the terms or existence of this Agreement or any Statement of Work, the names, trade names, trademarks, service marks, artwork, designs, or copyrighted materials of the Department or the State of Iowa or any Governmental Entity, its related entities, employees, assigns, successors or licensees: (a) in any advertising, publicity, press release, customer list, presentation or

promotion; (b) to express or to imply any endorsement of Vendor or Vendor's services by the State of Iowa; or (c) in any manner other than expressly in accordance with this Agreement.

IN WITNESS WHEREOF, in consideration of the mutual covenants set forth above and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the parties have entered into the above Agreement and have caused their duly authorized representatives to execute this Agreement.

Iowa Department of Justice

Name of Vendor

By: _____

By: _____

Name:

Name:

Title:

Title:

Date: _____

Date: _____