

# STATE OF NEBRASKA CONTRACT AMENDMENT

State Purchasing Bureau  
1526 K Street, Suite 130  
Lincoln, Nebraska 68508

Telephone: (402) 471-6500  
Fax: (402) 471-2089

**CONTRACT NUMBER**  
**14817 OC**

PAGE 1 of 2	ORDER DATE 07/12/21
BUSINESS UNIT 78552101	BUYER JOY FISCHER (AS)
VENDOR NUMBER: 528503	
VENDOR ADDRESS:  STATE OF IOWA DEPARTMENT OF TRANSPORTATION 800 LINCOLN WAY AMES IA 50010-6915	

THE CONTRACT PERIOD IS:

**JULY 24, 2021 THROUGH JULY 23, 2022**

THIS CONTRACT HAS BEEN AMENDED PER THE FOLLOWING INFORMATION:

NO ACTION ON THE PART OF THE CONTRACTOR NEEDS TO BE TAKEN AT THIS TIME. ORDERS FOR THE MATERIALS AND/OR SERVICES WILL BE MADE AS NEEDED BY THE VARIOUS AGENCIES OF THE STATE.

THIS CONTRACT IS NOT AN EXCLUSIVE CONTRACT TO FURNISH THE MATERIALS AND/OR SERVICES SHOWN BELOW, AND DOES NOT PRECLUDE THE PURCHASE OF SIMILAR MATERIALS AND/OR SERVICES FROM OTHER SOURCES.

THE STATE RESERVES THE RIGHT TO EXTEND THE PERIOD OF THIS CONTRACT BEYOND THE TERMINATION DATE WHEN MUTUALLY AGREEABLE TO THE CONTRACTOR AND THE STATE OF NEBRASKA.

Original/Bid Document 5640 OF

Contract to supply and deliver TRACS License and TLT Tool to the State of Nebraska as per the attached specifications for the contract period July 24, 2021 through July 23, 2022.

Vendor Contact: Josh Halterman  
Phone: (515) 237-3042  
Fax: (515) 237-3387  
E-Mail: josh.halterman@iowadot.us

THIS IS THE FOURTH RENEWAL OF THE CONTRACT AS AMENDED. (7/12/21 sc)

AMENDMENT ONE (1) AS ATTACHED. (7/12/21 sc)

Line	Description	Estimated Quantity	Unit of Measure	Unit Price
1	TRACS LICENSE AND TLT TOOL	2.0000	YR	72,600.0000
2	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 1	2.0000	YR	79,000.0000
3	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 2	2.0000	YR	79,000.0000
4	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 3	2.0000	YR	85,000.0000

DocuSigned by:

*Joy Fischer* 7/13/2021

DocuSigned by:

*Amara Block* 7/13/2021

BUYER  
MATERIEL ADMINISTRATOR

# STATE OF NEBRASKA CONTRACT AMENDMENT

State Purchasing Bureau  
 1526 K Street, Suite 130  
 Lincoln, Nebraska 68508

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PAGE 2 of 2		ORDER DATE 07/12/21	
BUSINESS UNIT 78552101		BUYER JOY FISCHER (AS)	
VENDOR NUMBER: 528503			

**CONTRACT NUMBER**  
**14817 OC**

Line	Description	Estimated Quantity	Unit of Measure	Unit Price
5	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 4	1.0000	YR	89,300.0000



DS  
*JF*

BUYER INITIALS

**STATE OF NEBRASKA CONTRACT AWARD**State Purchasing Bureau  
1526 K Street, Suite 130  
Lincoln, Nebraska 68508Telephone: (402) 471-6500  
Fax: (402) 471-2089**CONTRACT NUMBER**  
**14817 OC**

PAGE 1 of 1	ORDER DATE 07/12/21
BUSINESS UNIT 78552101	BUYER JOY FISCHER (AS)
VENDOR NUMBER: 528503	
VENDOR ADDRESS:  STATE OF IOWA DEPARTMENT OF TRANSPORTATION 800 LINCOLN WAY AMES IA 50010-6915	

AN AWARD HAS BEEN MADE TO THE CONTRACTOR NAMED ABOVE FOR THE FURNISHING OF MATERIALS AND/OR SERVICES AS LISTED BELOW FOR THE PERIOD:

**JULY 24, 2021 THROUGH JULY 23, 2022**

NO ACTION ON THE PART OF THE CONTRACTOR NEEDS TO BE TAKEN AT THIS TIME. ORDERS FOR THE MATERIALS AND/OR SERVICES WILL BE MADE AS NEEDED BY THE VARIOUS AGENCIES OF THE STATE.

THIS CONTRACT IS NOT AN EXCLUSIVE CONTRACT TO FURNISH THE MATERIALS AND/OR SERVICES SHOWN BELOW, AND DOES NOT PRECLUDE THE PURCHASE OF SIMILAR MATERIALS AND/OR SERVICES FROM OTHER SOURCES.

THE STATE RESERVES THE RIGHT TO EXTEND THE PERIOD OF THIS CONTRACT BEYOND THE TERMINATION DATE WHEN MUTUALLY AGREEABLE TO THE CONTRACTOR AND THE STATE OF NEBRASKA.

Original/Bid Document 5640 OF

Contract to supply and deliver TRACS License and TLT Tool to the State of Nebraska as per the attached specifications for the contract period July 24, 2021 through July 23, 2022.

Vendor Contact: Josh Halterman  
Phone: (515) 237-3042  
Fax: (515) 237-3387  
E-Mail: josh.halterman@iowadot.us

THIS IS THE FOURTH RENEWAL OF THE CONTRACT AS AMENDED. (7/12/21 sc)

Line	Description	Estimated Quantity	Unit of Measure	Unit Price
1	TRACS LICENSE AND TLT TOOL	2.0000	YR	72,600.0000
2	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 1	2.0000	YR	79,000.0000
3	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 2	2.0000	YR	79,000.0000
4	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 3	2.0000	YR	85,000.0000
5	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 4	2.0000	YR	79,000.0000

I hereby signed by:

*Joy Fischer* /13/2021

PK

7/13/2021

8D62163E69CA4C2  
Document signed by:*Amara Block* 7/13/2021

BUYER

MATERIEL ADMINISTRATOR



Good Life. Great Service.

DEPT. OF ADMINISTRATIVE SERVICES



Pete Ricketts, Governor

CONTRACT RENEWAL

July 8, 2021

Mr. David Lorenzen
State of Iowa
Department of Transportation
800 Lincoln Way
Ames, IA 50010-6915

RE: Contract Number 14817 OC TRACS License and TLT Tool

Dear Mr. Lorenzen:

The above-named contract for providing TRACS License and TLT Tool to the State of Nebraska, expires July 23, 2021.

The State of Nebraska is currently interested in renewing the Contract for an additional one-year period, i.e. July 24, 2021 through July 23, 2022. If State of Iowa Department of Transportation wishes to renew the Contract as stated, please sign and return this letter as soon as possible, keeping one copy for your files.

The State also agrees to the license fee price increase of \$89,300.00, for July 24, 2021 through July 23, 2022, per the National Model Steering Committee Meeting from August 27, 2020, which Nebraska attended.

The State will consider your signature as an agreement to be bound to the renewal, but the renewal will not be agreed to and accepted by the State until the award signature page is executed by the Nebraska Materiel Administrator.

If no response is received within 30 calendar days, the State of Nebraska will assume that the State of Iowa, Department of Transportation does not intend to renew the contract and thus may begin the formal solicitation process.

Sincerely,
Joy Fischer 7/8/2021
Joy Fischer, Buyer
State Purchasing Bureau

State of Iowa Department of Transportation is agreeable to the renewal of 14817 OC, TRACS License and TLT Tool July 24, 2021 through July 23, 2022.

Signature David Lorenzen
Director Systems Operations Division
7/9/2021

Amara Block, Acting Materiel Administrator

Department of Administrative Services | MATERIEL DIVISION

1526 K Street, Ste. 130 OFFICE 402-471-6500
Lincoln, Nebraska 68508 FAX 402-471-2089

das.nebraska.org

# STATE OF NEBRASKA CONTRACT AWARD

State Purchasing Bureau  
1526 K Street, Suite 130  
Lincoln, Nebraska 68508

Telephone: (402) 471-6500  
Fax: (402) 471-2089

**CONTRACT NUMBER**  
**14817 OC**

PAGE 1 of 1	ORDER DATE 06/23/20
BUSINESS UNIT 78552101	BUYER NANCY STORANT (AS)
VENDOR NUMBER: 528503	
VENDOR ADDRESS:	
STATE OF IOWA DEPARTMENT OF TRANSPORTATION 800 LINCOLN WAY AMES IA 50010-6915	

AN AWARD HAS BEEN MADE TO THE CONTRACTOR NAMED ABOVE FOR THE FURNISHING OF MATERIALS AND/OR SERVICES AS LISTED BELOW FOR THE PERIOD:

**JULY 24, 2020 THROUGH JULY 23, 2021**

NO ACTION ON THE PART OF THE CONTRACTOR NEEDS TO BE TAKEN AT THIS TIME. ORDERS FOR THE MATERIALS AND/OR SERVICES WILL BE MADE AS NEEDED BY THE VARIOUS AGENCIES OF THE STATE.

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THE STATE RESERVES THE RIGHT TO EXTEND THE PERIOD OF THIS CONTRACT BEYOND THE TERMINATION DATE WHEN MUTUALLY AGREEABLE TO THE CONTRACTOR AND THE STATE OF NEBRASKA.

Original/Bid Document 5640 OF

Contract to supply and deliver TRACS License and TLT Tool to the State of Nebraska as per the attached specifications for the contract period July 24, 2020 through July 23, 2021. The contract may be renewed for one (1) additional one (1) year period when mutually agreeable to the vendor and the State of Nebraska.

Vendor Contact: Josh Halterman  
Phone: (515) 237-3042  
Fax: (515) 237-3387  
E-Mail: josh.halterman@iowadot.us

This is the third renewal of the contract as amended. (06/23/20 ml)

Line	Description	Estimated Quantity	Unit of Measure	Unit Price
1	TRACS LICENSE AND TLT TOOL	2.0000	YR	72,600.0000
2	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 1	2.0000	YR	79,000.0000
3	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 2	2.0000	YR	79,000.0000
4	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 3	2.0000	YR	79,000.0000
5	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 4	2.0000	YR	79,000.0000

*Nancy Storant*  
BUYER  
MATERIEL ADMINISTRATOR  
6/29/2020



# NEBRASKA

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## CONTRACT RENEWAL

February 19, 2020

Mr. Josh Halterman  
State of Iowa, Department of Transportation  
800 Lincoln Way  
Ames, IA 50010

RE: Contract Number 14817 OC, TRACS License and TLT Tool

Dear Mr. Halterman:

The above named contract for providing TRACS License and TLT Tool to the State of Nebraska, Commission on Law Enforcement and Criminal Justice expires July 23, 2020.

It carries a provision for renewal when mutually agreeable to the Vendor and the State of Nebraska. The State of Nebraska wishes to renew this contract for an additional one (1) year period, i.e. July 24, 2020 through July 23, 2021.

If this is agreeable with State of Iowa, Department of Transportation, please sign and return as soon as possible, keeping one (1) copy for your files.

If no response is received within thirty (30) calendar days, the State of Nebraska will assume that State of Iowa, Department of Transportation does not intend to renew contract number 14817 OC and thus may begin the formal solicitation process to obtain TRACS License and TLT Tool.

Sincerely,

  
Nancy Storan, Buyer  
State Purchasing Bureau

DATE: \_\_\_\_\_

State of Iowa, Department of Transportation is agreeable to the renewal of 14817 OC for TRACS License and TLT Tool July 24, 2020 through July 23, 2021.

SIGNATURE: 

TITLE: Program Manager

DATE: 3-4-2020

Department of Administrative Services | MATERIEL DIVISION

1526 K Street, Ste. 130  
Lincoln, Nebraska 68508

OFFICE 402-471-8500  
FAX 402-471-2089

[das.nebraska.org](http://das.nebraska.org)

# STATE OF NEBRASKA CONTRACT AWARD

State Purchasing Bureau  
1526 K Street, Suite 130  
Lincoln, Nebraska 68508

Telephone: (402) 471-6500  
Fax: (402) 471-2089

**CONTRACT NUMBER**  
**14817 OC**

PAGE 1 of 1	ORDER DATE 05/22/19
BUSINESS UNIT 78552101	BUYER NANCY STORANT (AS)
VENDOR NUMBER: 528503	
VENDOR ADDRESS:  STATE OF IOWA DEPARTMENT OF TRANSPORTATION 800 LINCOLN WAY AMES IA 50010-6915	

AN AWARD HAS BEEN MADE TO THE CONTRACTOR NAMED ABOVE FOR THE FURNISHING OF MATERIALS AND/OR SERVICES AS LISTED BELOW FOR THE PERIOD:

**JULY 24, 2019 THROUGH JULY 23, 2020**

NO ACTION ON THE PART OF THE CONTRACTOR NEEDS TO BE TAKEN AT THIS TIME. ORDERS FOR THE MATERIALS AND/OR SERVICES WILL BE MADE AS NEEDED BY THE VARIOUS AGENCIES OF THE STATE.

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Original/Bid Document 5640 OF

Contract to supply and deliver TRACS License and TLT Tool to the State of Nebraska as per the attached specifications for the contract period July 24, 2019 through July 23, 2020. The contract may be renewed for two (2) additional one (1) year periods when mutually agreeable to the vendor and the State of Nebraska.

Vendor Contact: Josh Halterman  
Phone: (515) 237-3042  
Fax: (515) 237-3387  
E-Mail: josh.halterman@iowadot.us

This is the second renewal of the contract as amended. (05/22/19 ms)

Line	Description	Estimated Quantity	Unit of Measure	Unit Price
1	TRACS LICENSE AND TLT TOOL	2.0000	YR	72,600.0000
2	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 1	2.0000	YR	79,000.0000
3	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 2	2.0000	YR	79,000.0000
4	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 3	2.0000	YR	79,000.0000
5	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 4	2.0000	YR	79,000.0000

5/22/19  
Nancy Storant  
BUYER  
MATERIEL ADMINISTRATOR  
5/28/19

# NEBRASKA

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DEPT. OF ADMINISTRATIVE SERVICES

## CONTRACT RENEWAL

May 15, 2019

Mr. Josh Halterman  
State of Iowa  
Department of Transportation  
800 Lincoln Way  
Ames, IA 50010-6915

RE: Contract Number 14817 OC, TRACS License and TLT Tool

Dear Mr. Halterman:

The above named contract for providing TRACS License and TLT Tool to the State of Nebraska, Nebraska State Patrol expires July 23, 2019.

It carries a provision for renewal when mutually agreeable to the Vendor and the State of Nebraska. The State of Nebraska wishes to renew this contract for an additional one (1) year period, i.e. July 24, 2019 through July 23, 2020.

If this is agreeable with State of Iowa, please sign and return as soon as possible, keeping one (1) copy for your files.

If no response is received within thirty (30) calendar days, the State of Nebraska will assume that State of Iowa does not intend to renew contract number 14817 OC and thus may begin the formal solicitation process to obtain TRACS License and TLT Tool.

Sincerely,



Nancy Storant, Buyer  
State Purchasing Bureau

DATE: \_\_\_\_\_

State of Iowa is agreeable to the renewal of 14817 OC for TRACS License and TLT Tool July 24, 2019 through July 23, 2020.

SIGNATURE: \_\_\_\_\_

TITLE: Chief Motor Vehicle Inf.

DATE: 5-25-19

Department of Administrative Services | MATERIEL DIVISION

1526 K Street, Ste. 130  
Lincoln, Nebraska 68508

OFFICE 402-471-6500  
FAX 402-471-2089

[das.nebraska.org](http://das.nebraska.org)



# STATE OF NEBRASKA CONTRACT AWARD

State Purchasing Bureau  
1526 K Street, Suite 130  
Lincoln, Nebraska 68508

Telephone: (402) 471-6500  
Fax: (402) 471-2089

**CONTRACT NUMBER**  
**14817 OC**

PAGE 1 of 1	ORDER DATE 07/17/18
BUSINESS UNIT 78552101	BUYER NANCY STORANT (AS)
VENDOR NUMBER: 528503	
VENDOR ADDRESS:  STATE OF IOWA DEPARTMENT OF TRANSPORTATION 800 LINCOLN WAY AMES IA 50010-6915	

AN AWARD HAS BEEN MADE TO THE CONTRACTOR NAMED ABOVE FOR THE FURNISHING OF MATERIALS AND/OR SERVICES AS LISTED BELOW FOR THE PERIOD:

**JULY 24, 2018 THROUGH JULY 23, 2019**

NO ACTION ON THE PART OF THE CONTRACTOR NEEDS TO BE TAKEN AT THIS TIME. ORDERS FOR THE MATERIALS AND/OR SERVICES WILL BE MADE AS NEEDED BY THE VARIOUS AGENCIES OF THE STATE.

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THE STATE RESERVES THE RIGHT TO EXTEND THE PERIOD OF THIS CONTRACT BEYOND THE TERMINATION DATE WHEN MUTUALLY AGREEABLE TO THE CONTRACTOR AND THE STATE OF NEBRASKA.

Original/Bid Document 5640 OF

Contract to supply and deliver TRACS License and TLT Tool to the State of Nebraska as per the attached specifications for the contract period July 24, 2018 through July 23, 2019. The contract may be renewed for three (3) additional one (1) year periods when mutually agreeable to the vendor and the State of Nebraska.

Vendor Contact: Josh Halterman  
Phone: (515) 237-3042  
Fax: (515) 237-3387  
E-Mail: josh.halterman@iowadot.us

This is the first renewal of the contract as amended. (07/17/18 ml)

Line	Description	Estimated Quantity	Unit of Measure	Unit Price
1	TRACS LICENSE AND TLT TOOL	2.0000	YR	72,600.0000
2	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 1	2.0000	YR	79,000.0000
3	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 2	2.0000	YR	79,000.0000
4	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 3	2.0000	YR	79,000.0000
5	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 4	2.0000	YR	79,000.0000

7/17/18  
PK  
  
BUYER  
7/17/18  
MATERIEL ADMINISTRATOR

# NEBRASKA

Good Life. Great Service.

DEPT. OF ADMINISTRATIVE SERVICES

## CONTRACT RENEWAL

April 09, 2018

Mr. Josh Halterman  
State of Iowa, Department of Transportation  
800 Lincoln Way  
Ames, IA 50010

RE: Contract Number 14817 OC, TRACS License and TLT Tool

Dear Mr. Halterman:

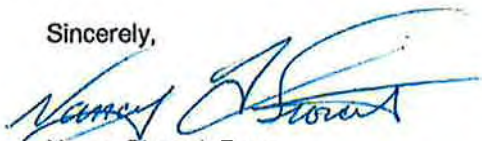
The above named contract for providing TRACS License and TLT Tool to the State of Nebraska, Commission on Law Enforcement and Criminal Justice expires July 23, 2018.

It carries a provision for renewal when mutually agreeable to the Vendor and the State of Nebraska. The State of Nebraska wishes to renew this contract for an additional one (1) year period, i.e. July 24, 2018 through July 23, 2019.

If this is agreeable with State of Iowa, Department of Transportation, please sign and return as soon as possible, keeping one (1) copy for your files.

If no response is received within thirty (30) calendar days, the State of Nebraska will assume that State of Iowa, Department of Transportation does not intend to renew contract number 14817 OC and thus may begin the formal solicitation process to obtain TRACS License and TLT Tool.

Sincerely,



Nancy Storant, Buyer  
State Purchasing Bureau

DATE: \_\_\_\_\_

State of Iowa, Department of Transportation is agreeable to the renewal of 14817 OC for TRACS License and TLT Tool July 24, 2018 through July 23, 2019.

SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

Department of Administrative Services | MATERIEL DIVISION

1526 K Street, Ste. 130  
Lincoln, Nebraska 68508

OFFICE 402-471-8500  
FAX 402-471-2089

[das.nebraska.org](http://das.nebraska.org)

# STATE OF NEBRASKA CONTRACT AWARD

State Purchasing Bureau  
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Telephone: (402) 471-6500  
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**CONTRACT NUMBER**  
**14817 OC**

PAGE 1 of 1	ORDER DATE 07/20/17
BUSINESS UNIT 78552101	BUYER NANCY STORANT (AS)
VENDOR NUMBER: 528503	
VENDOR ADDRESS:  STATE OF IOWA DEPARTMENT OF TRANSPORTATION 800 LINCOLN WAY AMES IA 50010-6915	

AN AWARD HAS BEEN MADE TO THE CONTRACTOR NAMED ABOVE FOR THE FURNISHING OF MATERIALS AND/OR SERVICES AS LISTED BELOW FOR THE PERIOD:

**JULY 24, 2017 THROUGH JULY 23, 2018**

NO ACTION ON THE PART OF THE CONTRACTOR NEEDS TO BE TAKEN AT THIS TIME. ORDERS FOR THE MATERIALS AND/OR SERVICES WILL BE MADE AS NEEDED BY THE VARIOUS AGENCIES OF THE STATE.

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Original/Bid Document 5640 OF

Contract to supply and deliver TRACS License and TLT Tool to the State of Nebraska as per the attached specifications for the contract period July 24, 2017 through July 23, 2018. The contract may be renewed for four (4) additional one (1) year periods when mutually agreeable to the vendor and the State of Nebraska.

Vendor Contact: Josh Halterman  
Phone: (515) 237-3042  
Fax: (515) 237-3387  
E-Mail: josh.halterman@iowadot.us

(wc 07/20/17)

Line	Description	Estimated Quantity	Unit of Measure	Unit Price
1	TRACS LICENSE AND TLT TOOL	1.0000	YR	72,600.0000
2	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 1	1.0000	YR	79,000.0000
3	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 2	1.0000	YR	79,000.0000
4	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 3	1.0000	YR	79,000.0000
5	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 4	1.0000	YR	79,000.0000

7/24/17  
OK  
Nancy Storant  
BUYER  
1. Douglas Wilken 24 July 17  
MATERIEL ADMINISTRATOR

# State of Nebraska - INVITATION TO BID CONTRACT

Return to:  
State Purchasing Bureau  
1526 K Street, Suite 130  
Lincoln, Nebraska 68508

Telephone: 402-471-6500  
Fax: 402-471-2089

Date	6/28/17	Page	1 of 1
Solicitation Number	5640 OF		
Opening Date and Time	RETURN MAIL		
Buyer	NANCY STORANT (AS)		

## DESTINATION OF GOODS

NEBRASKA COMMISSION ON LAW ENFORCEMENT  
301 CENTENNIAL MALL S FL 5  
LINCOLN NE 68509

Per Nebraska's Transparency in Government Procurement Act, DAS is required to collect statistical information regarding the number of contracts awarded to Nebraska contractors. This information is for statistical purposes only and will not be considered for contract award purposes.

\_\_\_\_ NEBRASKA CONTRACTOR AFFADAVIT: Bidder hereby attests that bidder is a Nebraska Contractor. "Nebraska Contractor" shall mean any bidder who has maintained a bona fide place of business and at least one employee within this state for at least the six (6) months immediately preceding the posting date of this ITB.

\_\_\_\_ I hereby certify that I am a Resident disabled veteran or business located in a designated enterprise zone in accordance with Neb. Rev. Stat. §73-107 and wish to have preference, if applicable, considered in the award of this contract.

Contract to supply and deliver TRACS License and TLT Tool to the State of Nebraska as per the attached specifications for a one (1) year period from date of award. The contract may be renewed for four (4) additional one (1) year periods when mutually agreeable to the vendor and the State of Nebraska.

(wc 06/28/17)

## INVITATION

Line	Description	Quantity	Unit of Measure	Unit Price	Extended Price
1	TRACS LICENSE AND TLT TOOL	1.0000	YR	\$ 72,600.00	\$ 72,600.00
2	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 1	1.0000	YR	\$ 79,000.00	\$ 79,000.00
3	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 2	1.0000	YR	\$ 79,000.00	\$ 79,000.00
4	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 3	1.0000	YR	\$ 79,000.00	\$ 79,000.00
5	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 4	1.0000	YR	\$ 79,000.00	\$ 79,000.00

## BIDDER MUST COMPLETE THE FOLLOWING

DISCOUNT PAYMENT TERMS: \_\_\_\_\_ % \_\_\_\_\_ DAYS

By signing this Invitation to Bid form, the bidder guarantees compliance with the provisions stated in this Invitation to Bid, agrees to the terms and conditions unless otherwise agreed to (see Section III) and certifies that bidder maintains a drug free work place environment. Vendor will furnish the items requested within 15 days after receipt of order. Failure to enter Delivery Date may cause quotation to be REJECTED.

Sign *Josh Halterman*  
Here (Authorized Signature MANDATORY - MUST BE SIGNED IN INK)

Enter Contact Information Below

VENDOR#

VENDOR: Iowa DOT- National Model

Address: 6310 SE Convenience Blvd  
Ankeny, IA 50021

Contact Josh Halterman

Telephone (515) 237-3042

Facsimile (515) 237-3387

Email josh.halterman@iowadot.us

## TRACS LICENSE AGREEMENT

This LICENSE AGREEMENT ("Agreement") shall be effective on 01/01/2017 ("Effective Date") and is by and between the Iowa Department of Transportation, an agency of the State of Iowa, with principal offices at 6310 SE Convenience Blvd., Ankeny, Iowa 50021 ("Licensor") and

Nebraska Commission on Law Enforcement and Criminal Justice (Nebraska Crime Commission),

an agency of the State of Nebraska

with principal offices at

301 Centennial Mall South

Lincoln, Nebraska 68509

("Licensee"), each a "Party," collectively the "Parties".

### RECITATIONS

1. WHEREAS, Licensor is the owner of intellectual property rights in certain software products protected by any and all laws of the United States and other countries known as "Traffic and Criminal Software" and documentation for the software ("TraCS Software");
2. WHEREAS, Licensor is the owner of intellectual property rights in certain related TraCS add-on products including a web browser based version known as "TraCS Web", a "Software Development Kit" ("SDK"), a geographic location tool known as "TraCS Location Tool" ("TLT") and documentation for the add-on products (collectively "Add-On Software");
3. WHEREAS, Licensor has trademark rights in the mark "TraCS" ("Licensed Mark") used on and in conjunction with the TraCS Software and the Add-On Software.
4. WHEREAS, Licensor is the organizer of an organization consisting of a consortium of United States and Canadian governmental entities known as the "National Model for the Statewide Application of Data Collection and Management Technology to Improve Highway Safety" ("National Model").
5. WHEREAS, Licensor desires to grant to Licensee, and Licensee desires to receive, a nonexclusive, nontransferable license to use the object code version of the TraCS Software and certain Add-On Software, as identified in Exhibit A to this Agreement, (collectively "Licensed Software") and the Licensed Mark.



6. WHEREAS, Licensor desires to grant to Licensee, and Licensee desires to receive the right to permit other governmental public safety agencies within its state to make use of the object code version of the Licensed Software and the Licensed Mark.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### **Section 1: License Grant**

- 1.1 Licensor grants to Licensee, subject to the terms and conditions of this Agreement, a nonexclusive, nontransferable license to use and sublicense the object code version of the Licensed Software.
- 1.2 Licensor grants to Licensee, subject to the terms and conditions of this Agreement, a nonexclusive, nontransferable license to use and sublicense the Licensed Mark on and in conjunction with the Licensed Software and promotional materials for the Licensed Software.

### **Section 2: Sublicense**

- 2.1 Licensee may sublicense the object code version of the Licensed Software to other state and local government entities within the Licensee's state (each entity being a "Sublicensee") for use in carrying out governmental functions, provided that Licensee enters into an agreement with each Sublicensee using the agreement in Exhibit B to this Agreement or any other such agreement approved in writing by Licensor ("Sublicense Agreement"). Upon request by Licensor, Licensee shall provide Licensor with copies of each executed Sublicense Agreement.

Licensee will be solely responsible for ensuring compliance by the Sublicensee of the terms and conditions of the Sublicense Agreement. Should the Sublicensee breach any provision of the Sublicense Agreement, Licensee shall immediately notify Licensor of said breach, and make good faith and reasonable efforts to cure the breach. If said breach cannot be cured within 30 days of the breach, Licensee must terminate the Sublicense Agreement with Sublicensee. Should Licensee terminate the Sublicense Agreement, Licensee must comply with the termination procedures as outlined in the Sublicense Agreement including notifying Licensor of the breach and termination.

- 2.2 In the event Licensee enters into a Sublicense Agreement, Licensee shall not require or accept a fee in exchange for use of the Licensed Software.

### **Section 3: Term**

- 3.1 This Agreement shall commence and become effective as of the Effective Date and, unless terminated earlier in accordance with Section 5, shall remain in full force to the end of the current calendar year unless this Agreement is terminated in accordance with Section 5. The

Agreement may be renewed on or before the first day of each new calendar year for a renewal term period of one year for up to five years.

#### **Section 4: Licensing Fee**

4.1 For the Licensed Software, the Licensee will pay a nonrefundable, annual Licensing Fee to Licensor. The annual Licensing Fee for the Licensed Software is determined by Licensor with input from all of the licensees of the Licensed Software that are National Model members and may be changed at the beginning of each term renewal. Licensor will notify Licensee of changes in the annual Licensing Fee within sixty (60) days of the term renewal date.

4.2 The initial annual Licensing Fee and the due dates for payment of the Licensing Fee to Licensor are defined in Exhibit C of this Agreement.

#### **Section 5: Termination**

5.1 This Agreement may be terminated as follows:

5.1.1 by the Licensee at any time; or

5.1.2 by the Licensor:

- a. for breach or nonperformance by Licensee of any material term or condition of this Agreement including not paying the annual Licensing Fee per Section 4; or
- b. if Licensor decides to terminate this Agreement for reasons other than breach or nonperformance by Licensee, Licensor will negotiate with Licensee terms for Licensee to continue to use and sublicense the Licensed Software for non-commercial purposes within the Licensee's state.

5.2 Upon termination of this Agreement, Licensee shall immediately stop using the Licensed Software and promptly return to Licensor all copies of the Licensed Software, including any Custom Modifications, or certify that all copies have been destroyed. Licensee shall also ensure all Sublicense Agreements are terminated. Licensee shall ensure all Third-Party Agreements, as defined in Section 11, are terminated as well.

5.3 Upon termination of this Agreement by Licensee, Licensee agrees to immediately pay any outstanding Licensing Fees due to Licensor per Section 4 regardless of the due dates defined in Exhibit C.

5.4 Upon termination of this Agreement, Licensee's membership in the National Model program as set forth in Section 6, will terminate along with all of the rights, benefits, and privileges that membership affords.

## **Section 6: National Model Membership**

6.1 During the term of this Agreement, Licensee shall be a member of the National Model program with all of the rights, benefits, and privileges that membership affords.

The National Model program mission, goals, policies, and procedures are contained in the National Model Business Plan. The National Model Business Plan may be changed from time to time by Licensor with input from all licensees that are National Model members.

Licensee agrees to abide by the policies and procedures of the National Model Business Plan throughout the term of this Agreement.

6.2 Sublicensees are not permitted membership in the National Model program.

## **Section 7: Software Support**

7.1 Licensee will develop its own technical and implementation resources for deployment, installation, training, and all other aspects for using the Licensed Software in its state.

7.2 Licensor will provide Licensee with limited technical support for the Licensed Software ("Limited Software Support") through Technology Enterprise Group, Inc. ("TEG") or other such contractor that Licensor chooses. This Limited Software Support will be provided only to Licensee's direct information technology and administration staff. Limited Software Support will not be provided to Sublicensees.

7.3 If the Limited Software Support provided by Licensor is not sufficient for Licensee's needs, Licensee may contract with TEG (or other such contractor selected by Licensor) for additional software support with the approval of the Licensor.

## **Section 8: Software Updates**

8.1 From time to time, Licensor may provide updates to the Licensed Software to Licensee. These updates may be used by the Licensee under the same provisions as the original Licensed Software.

## **Section 9: Forms**

9.1 Licensee shall have the right to use the Licensed Software to modify existing forms within the TraCS Software and create additional TraCS forms for use in connection with the Licensed Software ("Licensee Forms"). To the extent the Licensee Forms contain any Intellectual Property, as defined in Section 10.1, such Intellectual Property shall be jointly owned as per Section 10.2 between the Licensor and Licensee.

9.2 Licensee Forms shall encompass but not be limited to the following TraCS constructs used to holistically implement TraCS forms: forms, reports, validation rules, process flow rules,

replicate rules, autopopulate rules, import rules, import/export instructions, communication instructions, analysis reports, data structures, supporting database tables, supporting custom DLL object and source code, and configuration and settings files.

## **Section 10: Intellectual Property**

10.1 The Licensor represents, and the Licensee acknowledges, that the Licensed Software contains Intellectual Property belonging to Licensor. This includes any and all registered and unregistered rights granted, applied for or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world ("Intellectual Property"). Such Intellectual Property is entrusted to the Licensee for use as expressly authorized under this Agreement. The Licensee, any Sublicensee as defined in Section 2, or Third-Party as defined in Section 11 of this Agreement, provided with the Licensed Software agree to hold all Intellectual Property in confidence. Under no circumstances may the Licensee, Sublicensee or any Third-Party, among other infringing acts, decompile, reverse engineer, or "unlock" (as the term is generally used in the industry) any part of the Licensed Software. Outside of the rights related to Licensee Forms, Licensor shall not modify or tamper with the Licensed Software source or object code. Any use of the Licensed Software shall be in accordance with the various marking provisions required by the Patent, Trademark and Copyright Act.

10.2 Any and all Intellectual Property made, developed, conceived, first reduced to practice, fixed in any tangible medium of expression or created under any Third Party agreement as defined in Section 11 or any Licensee Forms as defined in Section 9 ("Joint Intellectual Property"), will be the joint property of and the entire right, title and interest is hereby assigned jointly to Licensor and Licensee, and each party may enjoy all rights and privileges accorded ownership of such joint property without accounting to the other. Each party hereby assigns and agrees to assign to the other party, or its designees, an undivided one-half of its full right, title and interest in and to all Joint Intellectual Property. Each party agrees that, during the term of this Agreement and subsequent to the completion or termination of this Agreement, they will, at the other party's request and expense, execute any and all applications for U.S and foreign patents, copyrights or other rights and otherwise provide assistance (including, but not limited to, the execution and delivery of instruments of further assurance or confirmation) to assign an undivided one-half interest in said Joint Intellectual Property to the other party and to permit the other party to enforce any patents, copyrights or other rights in and to said subject intellectual property. All copyrightable works that are created pursuant to performance under this Agreement shall be considered "works made for hire" as defined by U.S. Copyright Law.

## **Section 11: Third-Party Use**

11.1 Licensee may make available the Licensed Software to a third-party for the purposes of providing installation and technical support to the Licensee and Licensee's Sublicensees,

creating Licensee Forms for the Licensee and/or developing interfaces to integrate the Licensed Software with systems being used by the Licensee ("Third-Party"), provided that Licensee enter into an agreement with each Third-Party using the agreement in Exhibit D to this Agreement or any other such agreement approved in writing by Licensor ("Third-Party Agreement").

Licensee will provide a copy of the final executed Third-Party Agreement, including any Statements of Work there to, to Licensor within seven (7) business days of executing it. A copy of any renewals or amendments to the Third-Party Agreement, including any new Statements of Work, shall be provided to Licensor within seven (7) business days of executing them.

- 11.2 Licensee shall ensure any documents and information relating to the Licensed Software provided to the Third-Party is returned and/or destroyed upon termination of the Third-Party Agreement, except for necessary records to the Third-Party.

Licensee will be solely responsible for ensuring compliance by the Third-Party with the Third-Party Agreement. Should the Third-Party breach any provision of the Third-Party Agreement, Licensee shall immediately notify Licensor of said breach. If said breach cannot be cured within the cure period, as detailed in the Third-Party Agreement, Licensee must terminate the Third-Party Agreement. Should Licensee terminate the Third-Party Agreement, Licensee must comply with the termination procedures as outlined in the Third-Party Agreement.

## **Section 12: Custom Modifications**

- 12.1 Upon request to Licensor, Licensee may seek modifications to the Licensed Software ("Custom Modifications"). Licensor, at its sole discretion, may or may not accept Licensee's proposed Custom Modifications to the Licensed Software. Licensee requests will be prioritized with other Custom Modifications sought by the Licensor and other Licensees that are members of the National Model. The Licensee shall be responsible for funding the cost of the Custom Modifications, and the Custom Modifications shall be made by Technology Enterprise Group, Inc. ("TEG") or other such software developers approved in writing by Licensor. Custom Modifications shall become integrated into the Licensed Software. To the extent the Custom Modifications contain any Intellectual Property, as defined in Section 10.1, any and all Intellectual Property shall be treated and fall within the scope of Section 10.1 of this Agreement. Additionally, all right, title and interest to any Custom Modifications shall be automatically assigned to Licensor, and made available royalty free to the Licensee as part of this Agreement.

## **Section 13: Limitation of Liability**

- 13.1 In no event shall Licensor be liable for any damages whatsoever (including, without limitation, indirect, incidental, special, or consequential damages including lost profits, business interruption, loss of information, or other loss) arising out of this Agreement or



Licensee's use or inability to use the Licensed Software.

**Section 14: Disclaimer of Warranty**

14.1 The Licensed Software is provided "as is" and without any warranty of any kind, express or implied, including but not limited to, warranties of noninfringement, performance, merchantability, or fitness for a particular purpose.

IN WITNESS WHEREOF, both parties have caused this Agreement to be executed by their duly authorized representatives.

**Licensee:**  
Nebraska Commission on Law  
Enforcement and Criminal Justice  
State of Nebraska

\_\_\_\_\_  
Darrell Fisher, Executive Director

\_\_\_\_\_  
Date

**Licensor:**  
Iowa Department of Transportation  
Office of Motor Vehicle Enforcement

  
David J. Lorenzen, Chief

07-06-17  
Date

**EXHIBIT A**  
**Ad-On Software**

The Ad-On Software included in this agreement is:

TraCS Web

Software Development Kit ("SDK")

TraCS Location Tool ("TLT")

**EXHIBIT B**  
**Sublicense Agreement**

This SUBLICENSE AGREEMENT (“Sublicense”) shall be effective on [Date] \_\_\_\_\_ (“Effective Date”) and is by and between [State Department] \_\_\_\_\_ (“Sublicensor”) and [Other State or Local Government Entity] \_\_\_\_\_ (“Sublicensee”), each a “Party,” collectively the “Parties”.

**RECITATIONS**

1. WHEREAS, Sublicensor has entered into an agreement with the Iowa Department of Transportation for the ability to use certain software products (the “Master Agreement”) known as the “Traffic and Criminal Software” (“TraCS Software”), and [Include Additional Add-On Software Licensed by Sublicensor Here] \_\_\_\_\_ (“collectively the “Licensed Software”); and
2. WHEREAS, Sublicensee is a governmental public safety agency within the Sublicensor’s state; and
3. WHEREAS, pursuant to the terms and conditions of the Master Agreement, Sublicensor desires to grant to Sublicensee, and Sublicensee desires to receive a non-exclusive, nontransferable, non-sublicensable license to use the object code version of the Licensed Software;

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**Section 1: License Grant.**

- 1.1 Sublicensor grants to Sublicensee, subject to the terms and conditions of this Sublicense, a nonexclusive, nontransferable, non-sublicensable license to use the object code version of the Licensed Software. The Licensed Software is to be used only on computers owned by Sublicensee and used only by employees of Sublicensee.
- 1.2 Sublicensor grants to Sublicensee, subject to the terms and conditions of this Sublicense, a nonexclusive, nontransferable, non-sublicensable license to use the TraCS software trademark (the “Licensed Mark”) on and in conjunction with the Licensed Software and promotional materials for the Licensed Software.

**Section 2: Term.**

- 2.1 This Sublicense shall commence and become effective as of the Effective Date and, unless terminated earlier in accordance with Section 3, shall remain in full force to the end of the

current calendar year. The Sublicense shall then be automatically renewed on the first day of each new calendar year for a renewal term period of one year until this Agreement is terminated in accordance with Section 3.

### **Section 3: Termination.**

3.1 This Sublicense may be terminated as follows:

3.1.1 by the Sublicensee at any time; or

3.1.2 by the Sublicensor at any time; or

3.1.3 when the Master Agreement is terminated.

3.2 This Sublicense automatically terminates at the termination of the Master Agreement. If automatic termination occurs pursuant to this Section 3.2, Sublicensee will be provided a 45 day period to cease any and all use of the Licensed Software ("Phase Out Period").

3.3 At the end of the Phase Out Period, Sublicensee shall immediately stop using the Licensed Software and promptly return to Sublicensor all copies of the Licensed Software or certify that all copies have been destroyed.

### **Section 4: Software Updates**

4.1 From time to time, Sublicensor may provide updates to the Licensed Software to Sublicensee. These updates may be used by the Sublicensee under the same provisions as the original Licensed Software.

### **Section 5: Intellectual Property**

5.1 The Sublicensee acknowledges that the Licensed Software contains Intellectual Property belonging to the Iowa Department of Transportation, and that access to this Intellectual Property is conditioned upon the terms and conditions of this Sublicense. Intellectual Property includes any and all registered and unregistered rights granted, applied for or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection or other intellectual property rights laws, and all similar or equivalent rights or forms of protection in any part of the world ("Intellectual Property"). Such Intellectual Property is entrusted to the Sublicensee for use as expressly authorized under this Sublicense. To the extent the Intellectual Property is confidential or proprietary, Sublicensee shall hold said Intellectual Property in confidence. Under no circumstances shall Sublicensee, among other infringing acts, decompile, reverse engineer, or "unlock" (as the term is generally used in the industry) any part of the Licensed Software. Sublicensee shall not modify or tamper with the Licensed Software source or object code. Any and all use of

the Licensed Software shall be in accordance with the various marking provisions required by the Patent, Trademark and Copyright Act.

**Section 6: Disclaimer of Warranty**

6.1 The Licensed Software is provided "as is" and without any warranty of any kind, express or implied, including but not limited to, warranties of noninfringement, performance, merchantability, or fitness for a particular purpose.

**Section 7: Limitation of Liability**

7.1 In no event shall the Iowa Department of Transportation or Sublicensor be liable for any damages whatsoever (including, without limitation, indirect, incidental, special or consequential damages including lost profits, business interruption, loss of information, or other loss) arising out of this Sublicense or Sublicensee's use or inability to use the Licensed Software.

IN WITNESS WHEREOF, both Parties have caused this Sublicense to be executed by their duly authorized representatives.

**Sublicensor:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Sublicensee:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



**EXHIBIT C**  
**Initial Annual Licensing Fee and Payment Due Dates**

The Licensing Fee for the initial term of the Agreement is \$72,600.

Payment by Licensee to Licensor of the Licensing Fee for the initial term of the Agreement is due as follows:

\$ 72,600 due by 06/01/2017.

\$ \_\_\_\_\_ due by mm/dd/yyyy.

The Licensing Fee for the first renewal term of the Agreement is \$79,000.

Payment of the Licensing Fee for renewal terms of the Agreement by Licensee to Licensor is due as follows on the month and day of the renewal term calendar year:

100 % of total due by 04/15.

\_\_\_\_\_ % of total due by mm/dd.

Licensor will notify Licensee of changes in the annual Licensing Fee within sixty (60) days of the term renewal date. Changes in the Licensing Fee will be applied proportionally to the renewal term payment due dates above or as otherwise agreed upon by both parties in writing.

**EXHIBIT D**  
**Third-Party Agreement**

This **THIRD-PARTY AGREEMENT** (“Agreement”), dated as of [Date]\_\_\_\_\_ (“Effective Date”), is by and between [Name of State Agency]\_\_\_\_\_ (“Customer”) and [Name of Contractor]\_\_\_\_\_, a [Contractor’s State of Organization]\_\_\_\_\_ [Contractor’s Entity Type]\_\_\_\_\_ (“Contractor”). Each of the Customer and Contractor is a “Party” and collectively, the “Parties.”

**RECITATIONS**

1. WHEREAS, Customer has entered into a license agreement (the “Master Agreement”) with the Iowa Department of Transportation (“Iowa DOT”) to have access to and use the Iowa DOT’s Traffic and Criminal Software (“TraCS”) products (the “Licensed Software”);
2. WHEREAS, as part of the Master Agreement, Customer has the ability to create customized forms to be used with the Licensed Software and develop interfaces to integrate the Licensed Software with systems being used by the Customer (collectively the “Forms and Interfaces”);
3. WHEREAS, any Intellectual Property Rights and Confidential Information relating to the Licensed Software lies solely with the Iowa DOT;
4. WHEREAS, any Intellectual Property Rights relating to the Forms and Interfaces lies jointly with the Customer and the Iowa DOT;
5. WHEREAS, pursuant to provisions of the Master Agreement, Customer wishes to retain Contractor to provide the development and related services and work product relating to the Forms and Interfaces, and Contractor wishes to provide the same to Customer, each on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**Section 1: Definitions**

- 1.1 “Background Technology” means all Software, data, know-how, ideas, methodologies, specifications, and other technology in which Contractor owns such Intellectual Property Rights as are necessary for Contractor to grant the rights and licenses set forth in Section 11 and for Customer (including its licensees, successors, and assigns) to exercise such rights and licenses, without violating any right of any Third Party or any Law or incurring any payment obligation to any Third Party, and that: (a) are identified as background technology in any Statement of Work; and (b) were or are developed or otherwise acquired by Contractor prior

to the Effective Date, with respect to the Initial Statement of Work, or the date of Customer's request for additional Services, with respect to any other Statement of Work.

- 1.2 "Confidential Information" means any information that is treated as confidential by Customer and/or the Iowa DOT, including trade secrets, technology, information pertaining to business operations and strategies, and information pertaining to customers, pricing, and marketing, in each case to the extent it is: (a) if in tangible form, marked as confidential; or (b) otherwise, identified at the time of disclosure as confidential, and confirmed in writing by Customer and/or the Iowa DOT. Without limiting the foregoing, Confidential Information includes the Work Product, and the terms and existence of this Agreement. Confidential Information does not include information that Contractor can demonstrate by documentation: (w) was already known to Contractor without restriction on use or disclosure prior to receipt of such information directly or indirectly from or on behalf of Customer and/or the Iowa DOT ; (x) was or is independently developed by Contractor without reference to or use of any of Iowa DOT's Confidential Information; (y) was or becomes generally known by the public other than by breach of this Agreement by, or other wrongful act of, Contractor or any of its Representatives; or (z) was received by Contractor from a Third Party who was not, at the time, under any obligation to Customer and/or the Iowa DOT or any other Person to maintain the confidentiality of such information.
- 1.3 "Deliverables" means all Forms and Interfaces deliverables and all other documents, work product, and other materials that Contractor is required or otherwise does provide to Customer under this Agreement and otherwise in connection with any Services, including any and all items specifically identified as Deliverables in any Statement of Work.
- 1.4 "Documentation" means all user manuals, operating manuals, technical manuals, and any other instructions, specifications, documents, and materials, in any form or media, that describe the functionality installation, testing, operation, use, maintenance, support, and technical and other components, features and requirements of the Forms and Interfaces.
- 1.5 "Forms and Interfaces" has the meaning defined in the preamble of this Agreement.
- 1.6 "Harmful Code" means any: (a) virus, trojan horse, worm, backdoor, or other software or hardware devices the effect of which is to permit unauthorized access to, or to disable, erase, or otherwise harm, any computer, systems, or software; or (b) time bomb, drop dead device, or other software or hardware device designed to disable a computer program automatically with the passage of time or under the positive control of any Person, or otherwise deprive Customer of its lawful right to use such Forms and Interfaces.
- 1.7 "Intellectual Property Rights" means all or any of the following: (a) patents, patent disclosures, and inventions (whether patentable or not); (b) trademarks, service marks, trade dress, trade names, logos, corporate names, and domain names, together with all of the goodwill associated therewith; (c) copyrights and copyrightable works (including computer programs), mask works, and rights in data and databases; (d) trade secrets, know-how, and

other confidential information; and (e) all other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection provided by applicable Law in any jurisdiction throughout the world.

1.8 "Licensed Materials" means all materials and information related to the Licensed Software, including documents, data, know-how, ideas, methodologies, specifications, software, content, and technology, in any form or media, directly or indirectly provided or made available to Contractor by or on behalf of Customer in connection with this Agreement, whether or not the same: (a) are owned by Customer, the Iowa DOT, a Third Party or in the public domain; or (b) qualify for or are protected by any Intellectual Property Rights.

1.9 "Services" means any of the services Contractor is required to or otherwise provides under this Agreement.

1.10 "Statement of Work" means any statement of work entered into by the Parties to effectuate the purpose of this Agreement, and shall detail work to be completed by Contractor for Customer.

1.11 "Third-Party Materials" means any materials and information, including documents, data, know-how, ideas, methodologies, specifications, software, content and technology, in any form or media, in which any person other than Customer or Contractor owns any Intellectual Property Right .

1.12 "Work Product" means all Forms and Interfaces and resulting documentation, specifications, Deliverables and other documents, work product and materials related thereto, that Contractor is required to, or otherwise does, provide to Customer hereunder, together with all ideas, concepts, processes, and methodologies developed in connection therewith whether or not embodied therein.

## **Section 2: Engagement of Contractor: Time of the Essence**

2.1 Engagement of Contractor. Customer hereby engages Contractor, and Contractor hereby accepts such engagement to develop the Forms and Interfaces and provide Services related thereto as described herein or otherwise requested by Customer from time to time and described in Statements of Work therefore, all on the terms and conditions set forth in this Agreement and such Statements of Work.

2.2 Time of the Essence. Contractor acknowledges that time is of the essence with respect to Contractor's obligations hereunder and agrees that prompt and timely performance of all such obligations in accordance with this Agreement and each Statement of Work is strictly required.

## **Section 3: Statements of Work**

3.1 Statements of Work. Contractor shall provide Services and Work Product pursuant to Statements of Work entered into as set forth herein. No Statement of Work shall be effective unless signed by duly authorized representatives of both parties. The term of each Statement of Work shall be as set forth therein or, if no term is specified, shall commence on the Parties full execution thereof and terminate when the parties have fully performed their obligations thereunder. Unless a Statement of Work expressly states otherwise, Customer shall have the right to terminate such Statement of Work as set forth in Section 13.3.

#### **Section 4: Forms and Interfaces**

4.1 Forms and Interfaces. Contractor shall design, develop, create, test, deliver, install, configure, integrate, customize and otherwise provide and make fully operational Forms and Interfaces as described in each Statement of Work on a timely and professional basis in accordance with all terms, conditions, and specifications set forth in this Agreement and such Statement of Work.

4.2 Forms and Interfaces Specifications. Contractor shall ensure all Forms and Interfaces comply with the specifications provided by Customer. Contractor shall provide all Forms and Interfaces to Customer in both object code and source code form.

4.3 Third Party Materials. To the extent Contractor uses Third Party Materials in the Forms and Interfaces, Contractor hereby grants to Customer and the Iowa DOT such rights and licenses with respect to the Third Party Materials that will allow Customer and the Iowa DOT to use and otherwise exploit perpetually throughout the universe for all or any purposes whatsoever.

#### **Section 5: Documentation**

5.1 Documentation. Contractor shall provide Customer with complete and accurate Documentation for the Forms and Interfaces prior to or concurrently with the delivery of the Forms and Interfaces. All Documentation shall include all information necessary for the effective installation, testing, use, support and maintenance of the Forms and Interfaces. Should the Documentation include any Third-Party Materials, Contractor shall have, at its sole cost and expense, secured all rights, licenses, consents, approvals and authorizations necessary for use of the Third-Party Materials.

#### **Section 6: Subcontractors**

6.1 Subcontractors. Contractor shall not, without the prior written approval of Customer and Iowa DOT, engage any third-party to perform Services or create Work Product relating to the Forms and Interfaces. If Customer and Iowa DOT approve the use of a subcontractor, Contractor shall enter into an approved Subcontractor Agreement.



## **Section 7: Testing by Contractor**

7.1 Testing by Contractor. Before delivering and installing any Forms and Interfaces, Contractor shall (1) test the Forms and Interfaces to confirm that it is fully operable and meets all applicable specifications and will function in accordance with the specifications as laid out in the Statement of Work; (2) ensure the Forms and Interfaces is free of Harmful Code, or if necessary, remedy any Harmful Code or non-confirming code; (3) prepare, test and, as necessary, revise any Documentation component of the Forms and Interfaces to confirm it is complete and accurate and conforms to all requirements of this Agreement. Customer shall have the right to be present for all pre-installation testing. Contractor shall give Customer at least fourteen days notice prior to such testing.

## **Section 8: Delivery and Installation**

8.1 Delivery. Contractor shall deliver each Deliverable prior to the delivery date set forth in the Statement of Work , including complete Documentation and source code.

## **Section 9: Training: Maintenance and Support**

9.1 Training. With respect to all Forms and Interfaces, Contractor shall provide Customer with necessary training to enable Customer to use the Forms and Interfaces, as set forth in the Statement of Work.

9.2 Maintenance and Support. With respect to all Forms and Interfaces, Contractor shall provide Customer with agreed upon maintenance and support services as agreed upon and set forth in the Statement of Work.

## **Section 10: Fees**

10.1 Fees. Fees shall be paid in accordance with the requirements as set forth in the Statement of Work.

## **Section 11: Intellectual Property Rights**

11.1 Ownership of Work Product. The Iowa DOT and Customer are owners of all right, title and interest in and to all Work Product, including all Intellectual Property Rights therein. In furtherance of the foregoing:

(a) Contractor shall create all Work Product as work made for hire as defined in Section 101 of the Copyright Act of 1976; and

(b) to the extent any Work Product or Intellectual Property Right therein does not qualify as, or otherwise fails to be, work made for hire, Contractor shall, and hereby does:

(i) assign, transfer, and otherwise convey to Customer and Iowa DOT, irrevocably and in perpetuity, throughout the universe, all right, title, and interest in and to such Work Product, including all Intellectual Property Rights therein; and

(ii) irrevocably waive any and all claims Contractor may now or hereafter have in any jurisdiction to so-called “moral rights” or rights of *droit moral* with respect to the Work Product.

11.2 Further Actions. Contractor shall take all appropriate action and execute and deliver all documents, necessary or reasonably requested by Customer or the Iowa DOT to effectuate any of the provisions or purposes of Section 11.1, or otherwise as may be necessary or useful for the Iowa DOT to prosecute, register, perfect, record, or enforce its rights in or to any Work Product or any Intellectual Property Right therein. Contractor hereby appoints Iowa DOT as Contractor’s attorney-in-fact with full irrevocable power and authority to take any such actions and execute any such documents if Contractor refuses, or within a period deemed reasonable by Iowa DOT otherwise fails, to do so.

11.3 Background Technology. Contractor is and will remain the sole and exclusive owner of all right, title, and interest in and to the Background Technology, including all Intellectual Property Rights therein, subject to the license granted in Section 12.1.

11.4 Licensed Materials. Iowa DOT and its licensors, including Customer, are and will remain the sole and exclusive owners of all right, title, and interest in and to the Licensed Materials, including all Intellectual Property Rights therein. Contractor shall have no right or license to, and shall not , use any Licensed Materials except solely during the term of the Statement of Work for which they are provided to the extent necessary to perform the Service and provide the Work Product to Customer. All other rights in and to the Licensed Materials are expressly reserved by the Iowa DOT.

## **Section 12: Licenses**

12.1 Background Technology License. Contractor hereby grants to Customer and the Iowa DOT such rights and licenses with respect to the Background Technology that will allow Customer and the Iowa DOT to use and otherwise exploit perpetually throughout the universe for all or any purposes whatsoever the Work Product, to the same extent as if owned by the Iowa DOT the Background Technology, without incurring any fees or costs to Contractor or any other Person in respect of the Background Technology. In furtherance of the foregoing, such rights and licenses shall:

(a) be irrevocable, perpetual, fully paid-up, and royalty-free;

(b) include the rights to use, reproduce, perform (publicly or otherwise), display (publicly or otherwise), modify, improve, create derivative works of, distribute, import, make, have made, sell, and offer to sell the Background Technology, including all such

modifications, improvements, and derivative works thereof[, solely as part of, or as necessary to use and exploit, the Work Product; and

(c) be freely assignable and sublicensable, in each case solely in connection with the assignment or licensing of the Work Product or any portion, modification, or derivative work thereof, and only to the extent necessary to allow the assignee or sublicensee, as the case may be, to use and exploit the Work Product or portion, modification, improvement or derivative work thereof.

Contractor reserves all rights in the Background Technology not expressly granted to Customer herein.

**12.2 Licensed Software.** The Iowa DOT hereby grants to Contractor the limited, royalty-free, non-exclusive right and license to the Licensed Software solely as necessary to incorporate such Licensed Software into, or otherwise use such Licensed Software in connection with creating, the Work Product. The term of such license shall commence upon Customer's delivery of the Licensed Software to Contractor, and shall terminate upon Customer's acceptance or rejection of the Work Product to which the Licensed Software relates. Subject to the foregoing license, the Iowa DOT reserves all rights in the Licensed Materials. Licensed Software shall be deemed Confidential Information belonging solely to Iowa DOT.

### **Section 13: Term**

**13.1 Term.** The Term of this Agreement commences as of the Effective Date and, unless this Agreement is terminated earlier pursuant to any of the express provisions below, will continue in effect until all Statements of Work are complete and the Forms and Interface Deliverables have been delivered to Customer.

**13.2 Renewal.** Following expiration of the Term, Customer may renew this Agreement for additional successive terms by providing the Contractor with an additional Statement of Work.

**13.3 Termination.**

(a) Customer may terminate, at any time without cause, and without incurring any additional obligation, liability or penalty:

(i) This Agreement, by written notice to Contractor;

(ii) any Statement of Work by providing at least fourteen (14) days prior written notice to Contractor.

(b) Either party may terminate this Agreement and any outstanding Statement[s] of work, effective upon written notice to the other party, if the other party breaches this Agreement or such Statement[s] of Work and such breach:

- (i) is incapable of cure; or
- (ii) being capable of cure, remains uncured fourteen (14) days after the breaching party receives written notice thereof.

(c) Either party may terminate this Agreement and all Statements of Work by written notice to the other party if the other party:

- (i) becomes insolvent or admits inability to pay its debts.

(d) This Agreement automatically terminates in the event the Master Agreement between Customer and the Iowa DOT terminates. Upon such termination, Customer shall pay fees as set forth of the Statements of Work.

#### 13.4 Effect of Expiration or Termination.

(a) Upon any expiration or termination of any Statement of Work:

(i) Contractor shall (A) with respect to termination of a Statement of Work, promptly deliver to Customer all Work Product generated by Contractor under such Statement of Work (whether complete or incomplete); (B) provide reasonable cooperation and assistance to Customer upon Customer's written request and at Customer's expense in transitioning the Services to an alternate service provider, and (C) on a pro rata basis, repay all amounts, if any, paid in advance for any Services or Work Product that have not been provided.

(ii) All licenses granted to Contractor in the Customer Materials with respect to such Services or Statement of Work shall immediately and automatically also terminate, and Contractor shall promptly return to Customer all Licensed Materials not required by Contractor for continuing Statement of Work hereunder, if any.

(iii) Contractor shall (A) return to Customer all documents and tangible materials (and any copies) containing, reflecting, incorporating or based on Confidential Information, (B) permanently erase any Confidential Information from its computer systems and (C) certify in writing to Customer that it has complied with the requirements of this section, in each case to the extent such materials are not required by Contractor for continuing Statement of Work hereunder, if any.

(b) If Customer terminates any Statement of Work, Customer shall be relieved of any obligation to pay any fees thereunder and Contractor shall promptly refund to Customer all fees previously paid in respect thereof. In such event, the Iowa DOT shall not retain any rights in or to the Deliverables thereunder other than Licensed Materials.

13.5 Survival. The rights and obligations of the parties set forth in this Section and Section 11, 15, 16, any right or obligation of the parties in this Agreement, which, by its express terms or nature and context is intended to survive termination or expiration of this Agreement, will survive any such termination or expiration.

#### **Section 14: Representations and Warranties**

##### **14.1 Mutual Representations and Warranties**

Each Party represents and warrants to the other Party that:

(a) it is duly organized, validly existing, and in good standing as a corporation or other entity as represented herein under the laws and regulations of its jurisdiction of incorporation, organization or chartering;

(b) it has the full right, power, and authority to enter into this Agreement, to grant the rights and licenses granted hereunder, and to perform its obligations hereunder;

(c) the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary [corporate/organizational] action of the party; and

(d) when executed and delivered by both parties, this Agreement will constitute the legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms

##### **14.2 Additional Representations and Warranties**. Contractor represents and warrants that:

(a) It is in compliance with, and will perform all Services in compliance with, all applicable Law;

(b) The Iowa DOT will receive good and valid title to all Work Product, free and clear of all encumbrances and liens of any kind;

(c) All Work Product, including all updates, upgrades, new versions, new releases, enhancements, improvements, and other modifications thereof, but excluding Licensed Materials and approved Third-Party Materials, is or will be the original creation of Contractor; and

(d) As delivered, installed, specified, or approved by Contractor and used by Customer or any third party authorized by Customer, in accordance with this Agreement, the Work Product (excluding Licensed Materials): (i) will not infringe, misappropriate, or otherwise violate any Intellectual Property Right or other right of any third party; and (ii) will comply with all applicable Laws.

## **Section 15: Indemnification**

**15.1 General Indemnification.** Contractor shall defend, indemnify, and hold harmless Customer and/or the Iowa DOT officers, directors, employees, agents, successors, and assigns (each, a "Customer/Iowa DOT Indemnitee") from and against all any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, fees, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers that are incurred by a Customer Indemnitee ("Losses") arising out of or resulting from any third party claim, suit, action, or proceeding (each, an "Action") that arises out of or results from:

(a) Contractor's breach of any representation, warranty, covenant, or obligation of Contractor under this Agreement; or

(b) any action or failure to take a required action or more culpable act or omission (including recklessness or willful misconduct) in connection with the performance or activity required by or conducted in connection with this Agreement by Contractor in connection with performing Services under this Agreement.

**15.2 Infringement Remedy.**

(a) If any Software or any component thereof, other than Customer Materials, is found to be infringing or if any use of any Software or any component thereof is enjoined, threatened to be enjoined or otherwise the subject of an infringement claim, Contractor shall, at Contractor's sole cost and expense:

(i) procure for Customer the right to continue to use such Software or component thereof to the full extent contemplated by this Agreement; or

(ii) modify or replace the materials that infringe or are alleged to infringe ("Allegedly Infringing Materials") to make the Software and all of its components non-infringing while providing fully equivalent features and functionality.

## **Section 16: Confidentiality**

16.1 Obligation of Confidentiality. Contractor acknowledges that in connection with this Agreement Contractor will gain access to Confidential Information of Customer and/or the Iowa DOT. As a condition to being furnished with Confidential Information, Contractor agrees, during until the information disclosed is no longer considered Confidential Information pursuant to this Agreement:

(a) not use the Confidential Information other than as strictly necessary to perform its obligations under this Agreement;

(b) not use any of the Confidential Information, directly or indirectly, in any manner to the detriment of Customer and/or the Iowa DOT or to obtain any competitive benefit with respect to Customer and/or the Iowa DOT; and

(c) maintain the Confidential Information in strict confidence and, subject to not disclose the Confidential Information without the Iowa DOT's prior written consent], provided, however, that the Contractor may disclose the Confidential Information to its Representatives who: (i) have a "need to know" for purposes of Contractor's performance, or exercise of its rights with respect to such Confidential Information, under this Agreement; (ii) have been apprised of this restriction; and (iii) are themselves bound by written nondisclosure agreements at least as restrictive as those set forth in this Section 16, provided, further, that Contractor shall be responsible for ensuring its Representatives' compliance with, and shall be liable for any breach by its Representatives, of this Section 16.

Contractor shall use reasonable care, at least as protective as the efforts it uses with respect to its own confidential information, to safeguard the Confidential Information from use or disclosure other than as permitted hereby.

## **Section 17: Miscellaneous**

17.1 Further Assurances. Upon a party's reasonable request, the other party shall, at such other party's sole cost and expense, promptly execute all such further documents and instruments, and take all such further actions, necessary to give full effect to this Agreement.

17.2 Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder shall be in writing and addressed to the parties as follows (or as otherwise specified by a party in a notice given in accordance with this Section):

If to Contractor:     [CONTRACTOR ADDRESS]  
                              Facsimile:[FAX NUMBER]  
                              [E-mail:[NOTICES CONTACT'S E-MAIL ADDRESS]]  
                              Attention:[NAME AND TITLE OF OFFICER TO RECEIVE NOTICES]

If to Customer:       [CUSTOMER ADDRESS]



Facsimile:[FAX NUMBER]  
[E-mail:[NOTICES CONTACT'S E-MAIL ADDRESS]]  
Attention:[NAME AND TITLE OF OFFICER TO RECEIVE NOTICES]

Notices sent in accordance with this Section shall be deemed effectively given: (a) when received, if delivered by hand (with written confirmation of receipt); (b) when received, if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile [or e-mail] ([in each case, ]with confirmation of transmission), if sent during normal business hours of the recipient, and on the next business day, if sent after normal business hours of the recipient; or (d) on the fourteen day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid.

17.3 Entire Agreement. This Agreement, together with all Schedules and Statements of Work and any other documents incorporated herein by reference, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter.

17.4 Amendment and Modification; Waiver. No amendment to or modification of or rescission, termination, or discharge of this Agreement is effective unless it is in writing\ and signed by both parties. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

17.5 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

17.6 Equitable Relief. Each party acknowledges that a breach by a party of Section 11 (Intellectual Property Rights; Ownership) or Section 16 (Confidentiality) may cause the non-breaching party immediate and irreparable harm, for which an award of damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the non-breaching party will be entitled to equitable relief, including in the form of orders for preliminary or permanent injunction, specific performance, and any other relief

that may be available from any court. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available under this Agreement, at law or in equity, subject to any express exclusions or limitations in this Agreement to the contrary.

17.7 Attorneys' Fees. In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by either party hereto against the other party arising out of or related to this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and court costs from the non-prevailing party.

**Customer:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Contractor:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

# State of Nebraska - INVITATION TO BID CONTRACT

Return to:  
State Purchasing Bureau  
1526 K Street, Suite 130  
Lincoln, Nebraska 68508

Telephone: 402-471-6500  
Fax: 402-471-2089

Date	6/28/17	Page	1 of 1
Solicitation Number	5640 OF		
Opening Date and Time	RETURN MAIL		
Buyer	NANCY STORANT (AS)		

## DESTINATION OF GOODS

NEBRASKA COMMISSION ON LAW ENFORCEMENT  
301 CENTENNIAL MALL S FL 5  
LINCOLN NE 68509

Per Nebraska's Transparency in Government Procurement Act, DAS is required to collect statistical information regarding the number of contracts awarded to Nebraska contractors. This information is for statistical purposes only and will not be considered for contract award purposes.

\_\_\_\_ NEBRASKA CONTRACTOR AFFIDAVIT: Bidder hereby attests that bidder is a Nebraska Contractor. "Nebraska Contractor" shall mean any bidder who has maintained a bona fide place of business and at least one employee within this state for at least the six (6) months immediately preceding the posting date of this ITB.

\_\_\_\_ I hereby certify that I am a Resident disabled veteran or business located in a designated enterprise zone in accordance with Neb. Rev. Stat. §73-107 and wish to have preference, if applicable, considered in the award of this contract.

Contract to supply and deliver TRACS License and TLT Tool to the State of Nebraska as per the attached specifications for a one (1) year period from date of award. The contract may be renewed for four (4) additional one (1) year periods when mutually agreeable to the vendor and the State of Nebraska.

(wc 06/28/17)

## INVITATION

Line	Description	Quantity	Unit of Measure	Unit Price	Extended Price
1	TRACS LICENSE AND TLT TOOL	1.0000	YR	_____	_____
2	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 1	1.0000	YR	_____	_____
3	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 2	1.0000	YR	_____	_____
4	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 3	1.0000	YR	_____	_____
5	TRACS LICENSE AND TLT TOOL OPTIONAL RENEWAL YEAR 4	1.0000	YR	_____	_____

## BIDDER MUST COMPLETE THE FOLLOWING

DISCOUNT PAYMENT TERMS: \_\_\_\_\_% \_\_\_\_\_ DAYS

By signing this Invitation to Bid form, the bidder guarantees compliance with the provisions stated in this Invitation to Bid, agrees to the terms and conditions unless otherwise agreed to (see Section III) and certifies that bidder maintains a drug free work place environment. Vendor will furnish the items requested within \_\_\_\_\_ days after receipt of order. Failure to enter Delivery Date may cause quotation to be REJECTED.

Sign

Here (Authorized Signature MANDATORY - MUST BE SIGNED IN INK)

Enter Contact Information Below

VENDOR# \_\_\_\_\_

VENDOR: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Contact \_\_\_\_\_

Telephone \_\_\_\_\_

Facsimile \_\_\_\_\_

Email \_\_\_\_\_

## TRACS LICENSE AGREEMENT

This LICENSE AGREEMENT (“Agreement”) shall be effective on 01/01/2017 (“Effective Date”) and is by and between the Iowa Department of Transportation, an agency of the State of Iowa, with principal offices at 6310 SE Convenience Blvd., Ankeny, Iowa 50021 (“Licensor”) and

Nebraska Commission on Law Enforcement and Criminal Justice (Nebraska Crime Commission),

an agency of the State of Nebraska

with principal offices at

301 Centennial Mall South

Lincoln, Nebraska 68509

(“Licensee”), each a “Party,” collectively the “Parties”.

### RECITATIONS

1. WHEREAS, Licensor is the owner of intellectual property rights in certain software products protected by any and all laws of the United States and other countries known as “Traffic and Criminal Software” and documentation for the software (“TraCS Software”);
2. WHEREAS, Licensor is the owner of intellectual property rights in certain related TraCS add-on products including a web browser based version known as “TraCS Web”, a “Software Development Kit” (“SDK”), a geographic location tool known as “TraCS Location Tool” (“TLT”) and documentation for the add-on products (collectively “Add-On Software”);
3. WHEREAS, Licensor has trademark rights in the mark “TraCS” (“Licensed Mark”) used on and in conjunction with the TraCS Software and the Add-On Software.
4. WHEREAS, Licensor is the organizer of an organization consisting of a consortium of United States and Canadian governmental entities known as the “National Model for the Statewide Application of Data Collection and Management Technology to Improve Highway Safety” (“National Model”).
5. WHEREAS, Licensor desires to grant to Licensee, and Licensee desires to receive, a nonexclusive, nontransferable license to use the object code version of the TraCS Software and certain Add-On Software, as identified in Exhibit A to this Agreement, (collectively “Licensed Software”) and the Licensed Mark.

6. WHEREAS, Licensor desires to grant to Licensee, and Licensee desires to receive the right to permit other governmental public safety agencies within its state to make use of the object code version of the Licensed Software and the Licensed Mark.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### **Section 1: License Grant**

- 1.1 Licensor grants to Licensee, subject to the terms and conditions of this Agreement, a nonexclusive, nontransferable license to use and sublicense the object code version of the Licensed Software.
- 1.2 Licensor grants to Licensee, subject to the terms and conditions of this Agreement, a nonexclusive, nontransferable license to use and sublicense the Licensed Mark on and in conjunction with the Licensed Software and promotional materials for the Licensed Software.

### **Section 2: Sublicense**

- 2.1 Licensee may sublicense the object code version of the Licensed Software to other state and local government entities within the Licensee's state (each entity being a "Sublicensee") for use in carrying out governmental functions, provided that Licensee enters into an agreement with each Sublicensee using the agreement in Exhibit B to this Agreement or any other such agreement approved in writing by Licensor ("Sublicense Agreement"). Upon request by Licensor, Licensee shall provide Licensor with copies of each executed Sublicense Agreement.

Licensee will be solely responsible for ensuring compliance by the Sublicensee of the terms and conditions of the Sublicense Agreement. Should the Sublicensee breach any provision of the Sublicense Agreement, Licensee shall immediately notify Licensor of said breach, and make good faith and reasonable efforts to cure the breach. If said breach cannot be cured within 30 days of the breach, Licensee must terminate the Sublicense Agreement with Sublicensee. Should Licensee terminate the Sublicense Agreement, Licensee must comply with the termination procedures as outlined in the Sublicense Agreement including notifying Licensor of the breach and termination.

- 2.2 In the event Licensee enters into a Sublicense Agreement, Licensee shall not require or accept a fee in exchange for use of the Licensed Software.

### **Section 3: Term**

- 3.1 This Agreement shall commence and become effective as of the Effective Date and, unless terminated earlier in accordance with Section 5, shall remain in full force to the end of the current calendar year unless this Agreement is terminated in accordance with Section 5. The

Agreement may be renewed on or before the first day of each new calendar year for a renewal term period of one year for up to five years.

#### **Section 4: Licensing Fee**

4.1 For the Licensed Software, the Licensee will pay a nonrefundable, annual Licensing Fee to Licensor. The annual Licensing Fee for the Licensed Software is determined by Licensor with input from all of the licensees of the Licensed Software that are National Model members and may be changed at the beginning of each term renewal. Licensor will notify Licensee of changes in the annual Licensing Fee within sixty (60) days of the term renewal date.

4.2 The initial annual Licensing Fee and the due dates for payment of the Licensing Fee to Licensor are defined in Exhibit C of this Agreement.

#### **Section 5: Termination**

5.1 This Agreement may be terminated as follows:

5.1.1 by the Licensee at any time; or

5.1.2 by the Licensor:

- a. for breach or nonperformance by Licensee of any material term or condition of this Agreement including not paying the annual Licensing Fee per Section 4; or
- b. if Licensor decides to terminate this Agreement for reasons other than breach or nonperformance by Licensee, Licensor will negotiate with Licensee terms for Licensee to continue to use and sublicense the Licensed Software for non-commercial purposes within the Licensee's state.

5.2 Upon termination of this Agreement, Licensee shall immediately stop using the Licensed Software and promptly return to Licensor all copies of the Licensed Software, including any Custom Modifications, or certify that all copies have been destroyed. Licensee shall also ensure all Sublicense Agreements are terminated. Licensee shall ensure all Third-Party Agreements, as defined in Section 11, are terminated as well.

5.3 Upon termination of this Agreement by Licensee, Licensee agrees to immediately pay any outstanding Licensing Fees due to Licensor per Section 4 regardless of the due dates defined in Exhibit C.

5.4 Upon termination of this Agreement, Licensee's membership in the National Model program as set forth in Section 6, will terminate along with all of the rights, benefits, and privileges that membership affords.

## **Section 6: National Model Membership**

6.1 During the term of this Agreement, Licensee shall be a member of the National Model program with all of the rights, benefits, and privileges that membership affords.

The National Model program mission, goals, policies, and procedures are contained in the National Model Business Plan. The National Model Business Plan may be changed from time to time by Licensor with input from all licensees that are National Model members.

Licensee agrees to abide by the policies and procedures of the National Model Business Plan throughout the term of this Agreement.

6.2 Sublicensees are not permitted membership in the National Model program.

## **Section 7: Software Support**

7.1 Licensee will develop its own technical and implementation resources for deployment, installation, training, and all other aspects for using the Licensed Software in its state.

7.2 Licensor will provide Licensee with limited technical support for the Licensed Software ("Limited Software Support") through Technology Enterprise Group, Inc. ("TEG") or other such contractor that Licensor chooses. This Limited Software Support will be provided only to Licensee's direct information technology and administration staff. Limited Software Support will not be provided to Sublicensees.

7.3 If the Limited Software Support provided by Licensor is not sufficient for Licensee's needs, Licensee may contract with TEG (or other such contractor selected by Licensor) for additional software support with the approval of the Licensor.

## **Section 8: Software Updates**

8.1 From time to time, Licensor may provide updates to the Licensed Software to Licensee. These updates may be used by the Licensee under the same provisions as the original Licensed Software.

## **Section 9: Forms**

9.1 Licensee shall have the right to use the Licensed Software to modify existing forms within the TraCS Software and create additional TraCS forms for use in connection with the Licensed Software ("Licensee Forms"). To the extent the Licensee Forms contain any Intellectual Property, as defined in Section 10.1, such Intellectual Property shall be jointly owned as per Section 10.2 between the Licensor and Licensee.

9.2 Licensee Forms shall encompass but not be limited to the following TraCS constructs used to holistically implement TraCS forms: forms, reports, validation rules, process flow rules,

replicate rules, autopopulate rules, import rules, import/export instructions, communication instructions, analysis reports, data structures, supporting database tables, supporting custom DLL object and source code, and configuration and settings files.

## **Section 10: Intellectual Property**

10.1 The Licensor represents, and the Licensee acknowledges, that the Licensed Software contains Intellectual Property belonging to Licensor. This includes any and all registered and unregistered rights granted, applied for or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world (“Intellectual Property”). Such Intellectual Property is entrusted to the Licensee for use as expressly authorized under this Agreement. The Licensee, any Sublicensee as defined in Section 2, or Third-Party as defined in Section 11 of this Agreement, provided with the Licensed Software agree to hold all Intellectual Property in confidence. Under no circumstances may the Licensee, Sublicensee or any Third-Party, among other infringing acts, decompile, reverse engineer, or “unlock” (as the term is generally used in the industry) any part of the Licensed Software. Outside of the rights related to Licensee Forms, Licensor shall not modify or tamper with the Licensed Software source or object code. Any use of the Licensed Software shall be in accordance with the various marking provisions required by the Patent, Trademark and Copyright Act.

10.2 Any and all Intellectual Property made, developed, conceived, first reduced to practice, fixed in any tangible medium of expression or created under any Third Party agreement as defined in Section 11 or any Licensee Forms as defined in Section 9 (“Joint Intellectual Property”), will be the joint property of and the entire right, title and interest is hereby assigned jointly to Licensor and Licensee, and each party may enjoy all rights and privileges accorded ownership of such joint property without accounting to the other. Each party hereby assigns and agrees to assign to the other party, or its designees, an undivided one-half of its full right, title and interest in and to all Joint Intellectual Property. Each party agrees that, during the term of this Agreement and subsequent to the completion or termination of this Agreement, they will, at the other party’s request and expense, execute any and all applications for U.S and foreign patents, copyrights or other rights and otherwise provide assistance (including, but not limited to, the execution and delivery of instruments of further assurance or confirmation) to assign an undivided one-half interest in said Joint Intellectual Property to the other party and to permit the other party to enforce any patents, copyrights or other rights in and to said subject intellectual property. All copyrightable works that are created pursuant to performance under this Agreement shall be considered “works made for hire” as defined by U.S. Copyright Law.

## **Section 11: Third-Party Use**

11.1 Licensee may make available the Licensed Software to a third-party for the purposes of providing installation and technical support to the Licensee and Licensee’s Sublicensees,



creating Licensee Forms for the Licensee and/or developing interfaces to integrate the Licensed Software with systems being used by the Licensee (“Third-Party”), provided that Licensee enter into an agreement with each Third-Party using the agreement in Exhibit D to this Agreement or any other such agreement approved in writing by Licensor (“Third-Party Agreement”).

Licensee will provide a copy of the final executed Third-Party Agreement, including any Statements of Work there to, to Licensor within seven (7) business days of executing it. A copy of any renewals or amendments to the Third-Party Agreement, including any new Statements of Work, shall be provided to Licensor within seven (7) business days of executing them.

11.2 Licensee shall ensure any documents and information relating to the Licensed Software provided to the Third-Party is returned and/or destroyed upon termination of the Third-Party Agreement, except for necessary records to the Third-Party.

Licensee will be solely responsible for ensuring compliance by the Third-Party with the Third-Party Agreement. Should the Third-Party breach any provision of the Third-Party Agreement, Licensee shall immediately notify Licensor of said breach. If said breach cannot be cured within the cure period, as detailed in the Third-Party Agreement, Licensee must terminate the Third-Party Agreement. Should Licensee terminate the Third-Party Agreement, Licensee must comply with the termination procedures as outlined in the Third-Party Agreement.

## **Section 12: Custom Modifications**

12.1 Upon request to Licensor, Licensee may seek modifications to the Licensed Software (“Custom Modifications”). Licensor, at its sole discretion, may or may not accept Licensee’s proposed Custom Modifications to the Licensed Software. Licensee requests will be prioritized with other Custom Modifications sought by the Licensor and other Licensees that are members of the National Model. The Licensee shall be responsible for funding the cost of the Custom Modifications, and the Custom Modifications shall be made by Technology Enterprise Group, Inc. (“TEG”) or other such software developers approved in writing by Licensor. Custom Modifications shall become integrated into the Licensed Software. To the extent the Custom Modifications contain any Intellectual Property, as defined in Section 10.1, any and all Intellectual Property shall be treated and fall within the scope of Section 10.1 of this Agreement. Additionally, all right, title and interest to any Custom Modifications shall be automatically assigned to Licensor, and made available royalty free to the Licensee as part of this Agreement.

## **Section 13: Limitation of Liability**

13.1 In no event shall Licensor be liable for any damages whatsoever (including, without limitation, indirect, incidental, special, or consequential damages including lost profits, business interruption, loss of information, or other loss) arising out of this Agreement or

Licensee's use or inability to use the Licensed Software.

**Section 14: Disclaimer of Warranty**

14.1 The Licensed Software is provided "as is" and without any warranty of any kind, express or implied, including but not limited to, warranties of noninfringement, performance, merchantability, or fitness for a particular purpose.

IN WITNESS WHEREOF, both parties have caused this Agreement to be executed by their duly authorized representatives.

**Licensee:**  
Nebraska Commission on Law  
Enforcement and Criminal Justice  
State of Nebraska

**Licensor:**  
Iowa Department of Transportation  
Office of Motor Vehicle Enforcement

\_\_\_\_\_  
Darrell Fisher, Executive Director

\_\_\_\_\_  
David J. Lorenzen, Chief

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**EXHIBIT A**  
**Ad-On Software**

The Ad-On Software included in this agreement is:

TraCS Web

Software Development Kit ("SDK")

TraCS Location Tool ("TLT")

**EXHIBIT B**  
**Sublicense Agreement**

This SUBLICENSE AGREEMENT (“Sublicense”) shall be effective on [Date] (“Effective Date”) and is by and between [State Department] (“Sublicensor”) and [Other State or Local Government Entity] (“Sublicensee”), each a “Party,” collectively the “Parties”.

**RECITATIONS**

1. WHEREAS, Sublicensor has entered into an agreement with the Iowa Department of Transportation for the ability to use certain software products (the “Master Agreement”) known as the “Traffic and Criminal Software” (“TraCS Software”), and [Include Additional Add-On Software Licensed by Sublicensor Here] (“collectively the “Licensed Software”); and
2. WHEREAS, Sublicensee is a governmental public safety agency within the Sublicensor’s state; and
3. WHEREAS, pursuant to the terms and conditions of the Master Agreement, Sublicensor desires to grant to Sublicensee, and Sublicensee desires to receive a non-exclusive, nontransferable, non-sublicensable license to use the object code version of the Licensed Software;

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**Section 1: License Grant.**

- 1.1 Sublicensor grants to Sublicensee, subject to the terms and conditions of this Sublicense, a nonexclusive, nontransferable, non-sublicensable license to use the object code version of the Licensed Software. The Licensed Software is to be used only on computers owned by Sublicensee and used only by employees of Sublicensee.
- 1.2 Sublicensor grants to Sublicensee, subject to the terms and conditions of this Sublicense, a nonexclusive, nontransferable, non-sublicensable license to use the TraCS software trademark (the “Licensed Mark”) on and in conjunction with the Licensed Software and promotional materials for the Licensed Software.

**Section 2: Term.**

- 2.1 This Sublicense shall commence and become effective as of the Effective Date and, unless terminated earlier in accordance with Section 3, shall remain in full force to the end of the

current calendar year. The Sublicense shall then be automatically renewed on the first day of each new calendar year for a renewal term period of one year until this Agreement is terminated in accordance with Section 3.

### **Section 3: Termination.**

3.1 This Sublicense may be terminated as follows:

3.1.1 by the Sublicensee at any time; or

3.1.2 by the Sublicensor at any time; or

3.1.3 when the Master Agreement is terminated.

3.2 This Sublicense automatically terminates at the termination of the Master Agreement. If automatic termination occurs pursuant to this Section 3.2, Sublicensee will be provided a 45 day period to cease any and all use of the Licensed Software (“Phase Out Period”).

3.3 At the end of the Phase Out Period, Sublicensee shall immediately stop using the Licensed Software and promptly return to Sublicensor all copies of the Licensed Software or certify that all copies have been destroyed.

### **Section 4: Software Updates**

4.1 From time to time, Sublicensor may provide updates to the Licensed Software to Sublicensee. These updates may be used by the Sublicensee under the same provisions as the original Licensed Software.

### **Section 5: Intellectual Property**

5.1 The Sublicensee acknowledges that the Licensed Software contains Intellectual Property belonging to the Iowa Department of Transportation, and that access to this Intellectual Property is conditioned upon the terms and conditions of this Sublicense. Intellectual Property includes any and all registered and unregistered rights granted, applied for or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection or other intellectual property rights laws, and all similar or equivalent rights or forms of protection in any part of the world (“Intellectual Property”). Such Intellectual Property is entrusted to the Sublicensee for use as expressly authorized under this Sublicense. To the extent the Intellectual Property is confidential or proprietary, Sublicensee shall hold said Intellectual Property in confidence. Under no circumstances shall Sublicensee, among other infringing acts, decompile, reverse engineer, or “unlock” (as the term is generally used in the industry) any part of the Licensed Software. Sublicensee shall not modify or tamper with the Licensed Software source or object code. Any and all use of

the Licensed Software shall be in accordance with the various marking provisions required by the Patent, Trademark and Copyright Act.

**Section 6: Disclaimer of Warranty**

6.1 The Licensed Software is provided “as is” and without any warranty of any kind, express or implied, including but not limited to, warranties of noninfringement, performance, merchantability, or fitness for a particular purpose.

**Section 7: Limitation of Liability**

7.1 In no event shall the Iowa Department of Transportation or Sublicensor be liable for any damages whatsoever (including, without limitation, indirect, incidental, special or consequential damages including lost profits, business interruption, loss of information, or other loss) arising out of this Sublicense or Sublicensee’s use or inability to use the Licensed Software.

IN WITNESS WHEREOF, both Parties have caused this Sublicense to be executed by their duly authorized representatives.

**Sublicensor:**

**Sublicensee:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT C**  
**Initial Annual Licensing Fee and Payment Due Dates**

The Licensing Fee for the initial term of the Agreement is \$72,600.

Payment by Licensee to Licensor of the Licensing Fee for the initial term of the Agreement is due as follows:

\$ 72,600 due by 06/01/2017.

\$ \_\_\_\_\_ due by mm/dd/yyyy.

The Licensing Fee for the first renewal term of the Agreement is \$79,000.

Payment of the Licensing Fee for renewal terms of the Agreement by Licensee to Licensor is due as follows on the month and day of the renewal term calendar year:

100 % of total due by 04/15.

\_\_\_\_\_ % of total due by mm/dd.

Licensor will notify Licensee of changes in the annual Licensing Fee within sixty (60) days of the term renewal date. Changes in the Licensing Fee will be applied proportionally to the renewal term payment due dates above or as otherwise agreed upon by both parties in writing.

**EXHIBIT D**  
**Third-Party Agreement**

This THIRD-PARTY AGREEMENT (“Agreement”), dated as of [Date] \_\_\_\_\_ (“Effective Date”), is by and between [Name of State Agency] \_\_\_\_\_ (“Customer”) and [Name of Contractor] \_\_\_\_\_, a [Contractor’s State] \_\_\_\_\_ of [Organization] \_\_\_\_\_ [Contractor’s Entity Type] \_\_\_\_\_ (“Contractor”). Each of the Customer and Contractor is a “Party” and collectively, the “Parties.”

**RECITATIONS**

1. WHEREAS, Customer has entered into a license agreement (the “Master Agreement”) with the Iowa Department of Transportation (“Iowa DOT”) to have access to and use the Iowa DOT’s Traffic and Criminal Software (“TraCS”) products (the “Licensed Software”);
2. WHEREAS, as part of the Master Agreement, Customer has the ability to create customized forms to be used with the Licensed Software and develop interfaces to integrate the Licensed Software with systems being used by the Customer (collectively the “Forms and Interfaces”);
3. WHEREAS, any Intellectual Property Rights and Confidential Information relating to the Licensed Software lies solely with the Iowa DOT;
4. WHEREAS, any Intellectual Property Rights relating to the Forms and Interfaces lies jointly with the Customer and the Iowa DOT;
5. WHEREAS, pursuant to provisions of the Master Agreement, Customer wishes to retain Contractor to provide the development and related services and work product relating to the Forms and Interfaces, and Contractor wishes to provide the same to Customer, each on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**Section 1: Definitions**

- 1.1 “Background Technology” means all Software, data, know-how, ideas, methodologies, specifications, and other technology in which Contractor owns such Intellectual Property Rights as are necessary for Contractor to grant the rights and licenses set forth in Section 11 and for Customer (including its licensees, successors, and assigns) to exercise such rights and licenses, without violating any right of any Third Party or any Law or incurring any payment obligation to any Third Party, and that: (a) are identified as background technology in any Statement of Work; and (b) were or are developed or otherwise acquired by Contractor prior



to the Effective Date, with respect to the Initial Statement of Work, or the date of Customer's request for additional Services, with respect to any other Statement of Work.

- 1.2 "Confidential Information" means any information that is treated as confidential by Customer and/or the Iowa DOT, including trade secrets, technology, information pertaining to business operations and strategies, and information pertaining to customers, pricing, and marketing, in each case to the extent it is: (a) if in tangible form, marked as confidential; or (b) otherwise, identified at the time of disclosure as confidential, and confirmed in writing by Customer and/or the Iowa DOT. Without limiting the foregoing, Confidential Information includes the Work Product, and the terms and existence of this Agreement. Confidential Information does not include information that Contractor can demonstrate by documentation: (w) was already known to Contractor without restriction on use or disclosure prior to receipt of such information directly or indirectly from or on behalf of Customer and/or the Iowa DOT ; (x) was or is independently developed by Contractor without reference to or use of any of Iowa DOT's Confidential Information; (y) was or becomes generally known by the public other than by breach of this Agreement by, or other wrongful act of, Contractor or any of its Representatives; or (z) was received by Contractor from a Third Party who was not, at the time, under any obligation to Customer and/or the Iowa DOT or any other Person to maintain the confidentiality of such information.
- 1.3 "Deliverables" means all Forms and Interfaces deliverables and all other documents, work product, and other materials that Contractor is required or otherwise does provide to Customer under this Agreement and otherwise in connection with any Services, including any and all items specifically identified as Deliverables in any Statement of Work.
- 1.4 "Documentation" means all user manuals, operating manuals, technical manuals, and any other instructions, specifications, documents, and materials, in any form or media, that describe the functionality installation, testing, operation, use, maintenance, support, and technical and other components, features and requirements of the Forms and Interfaces.
- 1.5 "Forms and Interfaces" has the meaning defined in the preamble of this Agreement.
- 1.6 "Harmful Code" means any: (a) virus, trojan horse, worm, backdoor, or other software or hardware devices the effect of which is to permit unauthorized access to, or to disable, erase, or otherwise harm, any computer, systems, or software; or (b) time bomb, drop dead device, or other software or hardware device designed to disable a computer program automatically with the passage of time or under the positive control of any Person, or otherwise deprive Customer of its lawful right to use such Forms and Interfaces.
- 1.7 "Intellectual Property Rights" means all or any of the following: (a) patents, patent disclosures, and inventions (whether patentable or not); (b) trademarks, service marks, trade dress, trade names, logos, corporate names, and domain names, together with all of the goodwill associated therewith; (c) copyrights and copyrightable works (including computer programs), mask works, and rights in data and databases; (d) trade secrets, know-how, and

other confidential information; and (e) all other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection provided by applicable Law in any jurisdiction throughout the world.

1.8 "Licensed Materials" means all materials and information related to the Licensed Software, including documents, data, know-how, ideas, methodologies, specifications, software, content, and technology, in any form or media, directly or indirectly provided or made available to Contractor by or on behalf of Customer in connection with this Agreement, whether or not the same: (a) are owned by Customer, the Iowa DOT, a Third Party or in the public domain; or (b) qualify for or are protected by any Intellectual Property Rights.

1.9 "Services" means any of the services Contractor is required to or otherwise provides under this Agreement.

1.10 "Statement of Work" means any statement of work entered into by the Parties to effectuate the purpose of this Agreement, and shall detail work to be completed by Contractor for Customer.

1.11 "Third-Party Materials" means any materials and information, including documents, data, know-how, ideas, methodologies, specifications, software, content and technology, in any form or media, in which any person other than Customer or Contractor owns any Intellectual Property Right .

1.12 "Work Product" means all Forms and Interfaces and resulting documentation, specifications, Deliverables and other documents, work product and materials related thereto, that Contractor is required to, or otherwise does, provide to Customer hereunder, together with all ideas, concepts, processes, and methodologies developed in connection therewith whether or not embodied therein.

## **Section 2: Engagement of Contractor: Time of the Essence**

2.1 Engagement of Contractor. Customer hereby engages Contractor, and Contractor hereby accepts such engagement to develop the Forms and Interfaces and provide Services related thereto as described herein or otherwise requested by Customer from time to time and described in Statements of Work therefore, all on the terms and conditions set forth in this Agreement and such Statements of Work.

2.2 Time of the Essence. Contractor acknowledges that time is of the essence with respect to Contractor's obligations hereunder and agrees that prompt and timely performance of all such obligations in accordance with this Agreement and each Statement of Work is strictly required.

## **Section 3: Statements of Work**

3.1 Statements of Work. Contractor shall provide Services and Work Product pursuant to Statements of Work entered into as set forth herein. No Statement of Work shall be effective unless signed by duly authorized representatives of both parties. The term of each Statement of Work shall be as set forth therein or, if no term is specified, shall commence on the Parties full execution thereof and terminate when the parties have fully performed their obligations thereunder. Unless a Statement of Work expressly states otherwise, Customer shall have the right to terminate such Statement of Work as set forth in Section 13.3.

#### **Section 4: Forms and Interfaces**

4.1 Forms and Interfaces. Contractor shall design, develop, create, test, deliver, install, configure, integrate, customize and otherwise provide and make fully operational Forms and Interfaces as described in each Statement of Work on a timely and professional basis in accordance with all terms, conditions, and specifications set forth in this Agreement and such Statement of Work.

4.2 Forms and Interfaces Specifications. Contractor shall ensure all Forms and Interfaces comply with the specifications provided by Customer. Contractor shall provide all Forms and Interfaces to Customer in both object code and source code form.

4.3 Third Party Materials. To the extent Contractor uses Third Party Materials in the Forms and Interfaces, Contractor hereby grants to Customer and the Iowa DOT such rights and licenses with respect to the Third Party Materials that will allow Customer and the Iowa DOT to use and otherwise exploit perpetually throughout the universe for all or any purposes whatsoever.

#### **Section 5: Documentation**

5.1 Documentation. Contractor shall provide Customer with complete and accurate Documentation for the Forms and Interfaces prior to or concurrently with the delivery of the Forms and Interfaces. All Documentation shall include all information necessary for the effective installation, testing, use, support and maintenance of the Forms and Interfaces. Should the Documentation include any Third-Party Materials, Contractor shall have, at its sole cost and expense, secured all rights, licenses, consents, approvals and authorizations necessary for use of the Third-Party Materials.

#### **Section 6: Subcontractors**

6.1 Subcontractors. Contractor shall not, without the prior written approval of Customer and Iowa DOT, engage any third-party to perform Services or create Work Product relating to the Forms and Interfaces. If Customer and Iowa DOT approve the use of a subcontractor, Contractor shall enter into an approved Subcontractor Agreement.

## **Section 7: Testing by Contractor**

7.1 Testing by Contractor. Before delivering and installing any Forms and Interfaces, Contractor shall (1) test the Forms and Interfaces to confirm that it is fully operable and meets all applicable specifications and will function in accordance with the specifications as laid out in the Statement of Work; (2) ensure the Forms and Interfaces is free of Harmful Code, or if necessary, remedy any Harmful Code or non-confirming code; (3) prepare, test and, as necessary, revise any Documentation component of the Forms and Interfaces to confirm it is complete and accurate and conforms to all requirements of this Agreement. Customer shall have the right to be present for all pre-installation testing. Contractor shall give Customer at least fourteen days notice prior to such testing.

## **Section 8: Delivery and Installation**

8.1 Delivery. Contractor shall deliver each Deliverable prior to the delivery date set forth in the Statement of Work , including complete Documentation and source code.

## **Section 9: Training: Maintenance and Support**

9.1 Training. With respect to all Forms and Interfaces, Contractor shall provide Customer with necessary training to enable Customer to use the Forms and Interfaces, as set forth in the Statement of Work.

9.2 Maintenance and Support. With respect to all Forms and Interfaces, Contractor shall provide Customer with agreed upon maintenance and support services as agreed upon and set forth in the Statement of Work.

## **Section 10: Fees**

10.1 Fees. Fees shall be paid in accordance with the requirements as set forth in the Statement of Work.

## **Section 11: Intellectual Property Rights**

11.1 Ownership of Work Product. The Iowa DOT and Customer are owners of all right, title and interest in and to all Work Product, including all Intellectual Property Rights therein. In furtherance of the foregoing:

(a) Contractor shall create all Work Product as work made for hire as defined in Section 101 of the Copyright Act of 1976; and

(b) to the extent any Work Product or Intellectual Property Right therein does not qualify as, or otherwise fails to be, work made for hire, Contractor shall, and hereby does:

(i) assign, transfer, and otherwise convey to Customer and Iowa DOT, irrevocably and in perpetuity, throughout the universe, all right, title, and interest in and to such Work Product, including all Intellectual Property Rights therein; and

(ii) irrevocably waive any and all claims Contractor may now or hereafter have in any jurisdiction to so-called “moral rights” or rights of *droit moral* with respect to the Work Product.

11.2 Further Actions. Contractor shall take all appropriate action and execute and deliver all documents, necessary or reasonably requested by Customer or the Iowa DOT to effectuate any of the provisions or purposes of Section 11.1, or otherwise as may be necessary or useful for the Iowa DOT to prosecute, register, perfect, record, or enforce its rights in or to any Work Product or any Intellectual Property Right therein. Contractor hereby appoints Iowa DOT as Contractor’s attorney-in-fact with full irrevocable power and authority to take any such actions and execute any such documents if Contractor refuses, or within a period deemed reasonable by Iowa DOT otherwise fails, to do so.

11.3 Background Technology. Contractor is and will remain the sole and exclusive owner of all right, title, and interest in and to the Background Technology, including all Intellectual Property Rights therein, subject to the license granted in Section 12.1.

11.4 Licensed Materials. Iowa DOT and its licensors, including Customer, are and will remain the sole and exclusive owners of all right, title, and interest in and to the Licensed Materials, including all Intellectual Property Rights therein. Contractor shall have no right or license to, and shall not , use any Licensed Materials except solely during the term of the Statement of Work for which they are provided to the extent necessary to perform the Service and provide the Work Product to Customer. All other rights in and to the Licensed Materials are expressly reserved by the Iowa DOT.

## **Section 12: Licenses**

12.1 Background Technology License. Contractor hereby grants to Customer and the Iowa DOT such rights and licenses with respect to the Background Technology that will allow Customer and the Iowa DOT to use and otherwise exploit perpetually throughout the universe for all or any purposes whatsoever the Work Product, to the same extent as if owned by the Iowa DOT the Background Technology, without incurring any fees or costs to Contractor or any other Person in respect of the Background Technology. In furtherance of the foregoing, such rights and licenses shall:

(a) be irrevocable, perpetual, fully paid-up, and royalty-free;

(b) include the rights to use, reproduce, perform (publicly or otherwise), display (publicly or otherwise), modify, improve, create derivative works of, distribute, import, make, have made, sell, and offer to sell the Background Technology, including all such

modifications, improvements, and derivative works thereof[, solely as part of, or as necessary to use and exploit, the Work Product; and

(c) be freely assignable and sublicensable, in each case solely in connection with the assignment or licensing of the Work Product or any portion, modification, or derivative work thereof, and only to the extent necessary to allow the assignee or sublicensee, as the case may be, to use and exploit the Work Product or portion, modification, improvement or derivative work thereof.

Contractor reserves all rights in the Background Technology not expressly granted to Customer herein.

12.2 Licensed Software. The Iowa DOT hereby grants to Contractor the limited, royalty-free, non-exclusive right and license to the Licensed Software solely as necessary to incorporate such Licensed Software into, or otherwise use such Licensed Software in connection with creating, the Work Product. The term of such license shall commence upon Customer's delivery of the Licensed Software to Contractor, and shall terminate upon Customer's acceptance or rejection of the Work Product to which the Licensed Software relates. Subject to the foregoing license, the Iowa DOT reserves all rights in the Licensed Materials. Licensed Software shall be deemed Confidential Information belonging solely to Iowa DOT.

### **Section 13: Term**

13.1 Term. The Term of this Agreement commences as of the Effective Date and, unless this Agreement is terminated earlier pursuant to any of the express provisions below, will continue in effect until all Statements of Work are complete and the Forms and Interface Deliverables have been delivered to Customer.

13.2 Renewal. Following expiration of the Term, Customer may renew this Agreement for additional successive terms by providing the Contractor with an additional Statement of Work.

#### **13.3 Termination.**

(a) Customer may terminate, at any time without cause, and without incurring any additional obligation, liability or penalty:

(i) This Agreement, by written notice to Contractor;

(ii) any Statement of Work by providing at least fourteen (14) days prior written notice to Contractor.

(b) Either party may terminate this Agreement and any outstanding Statement[s] of work, effective upon written notice to the other party, if the other party breaches this Agreement or such Statement[s] of Work and such breach:

- (i) is incapable of cure; or
- (ii) being capable of cure, remains uncured fourteen (14) days after the breaching party receives written notice thereof.

(c) Either party may terminate this Agreement and all Statements of Work by written notice to the other party if the other party:

- (i) becomes insolvent or admits inability to pay its debts.

(d) This Agreement automatically terminates in the event the Master Agreement between Customer and the Iowa DOT terminates. Upon such termination, Customer shall pay fees as set forth of the Statements of Work.

#### 13.4 Effect of Expiration or Termination.

(a) Upon any expiration or termination of any Statement of Work:

(i) Contractor shall (A) with respect to termination of a Statement of Work, promptly deliver to Customer all Work Product generated by Contractor under such Statement of Work (whether complete or incomplete); (B) provide reasonable cooperation and assistance to Customer upon Customer's written request and at Customer's expense in transitioning the Services to an alternate service provider, and (C) on a pro rata basis, repay all amounts, if any, paid in advance for any Services or Work Product that have not been provided.

(ii) All licenses granted to Contractor in the Customer Materials with respect to such Services or Statement of Work shall immediately and automatically also terminate, and Contractor shall promptly return to Customer all Licensed Materials not required by Contractor for continuing Statement of Work hereunder, if any.

(iii) Contractor shall (A) return to Customer all documents and tangible materials (and any copies) containing, reflecting, incorporating or based on Confidential Information, (B) permanently erase any Confidential Information from its computer systems and (C) certify in writing to Customer that it has complied with the requirements of this section, in each case to the extent such materials are not required by Contractor for continuing Statement of Work hereunder, if any.

(b) If Customer terminates any Statement of Work, Customer shall be relieved of any obligation to pay any fees thereunder and Contractor shall promptly refund to Customer all fees previously paid in respect thereof. In such event, the Iowa DOT shall not retain any rights in or to the Deliverables thereunder other than Licensed Materials.

13.5 Survival. The rights and obligations of the parties set forth in this Section and Section 11, 15, 16, any right or obligation of the parties in this Agreement, which, by its express terms or nature and context is intended to survive termination or expiration of this Agreement, will survive any such termination or expiration.

## **Section 14: Representations and Warranties**

### 14.1 Mutual Representations and Warranties.

Each Party represents and warrants to the other Party that:

(a) it is duly organized, validly existing, and in good standing as a corporation or other entity as represented herein under the laws and regulations of its jurisdiction of incorporation, organization or chartering;

(b) it has the full right, power, and authority to enter into this Agreement, to grant the rights and licenses granted hereunder, and to perform its obligations hereunder;

(c) the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary [corporate/organizational] action of the party; and

(d) when executed and delivered by both parties, this Agreement will constitute the legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms

### 14.2 Additional Representations and Warranties. Contractor represents and warrants that:

(a) It is in compliance with, and will perform all Services in compliance with, all applicable Law;

(b) The Iowa DOT will receive good and valid title to all Work Product, free and clear of all encumbrances and liens of any kind;

(c) All Work Product, including all updates, upgrades, new versions, new releases, enhancements, improvements, and other modifications thereof, but excluding Licensed Materials and approved Third-Party Materials, is or will be the original creation of Contractor; and



(d) As delivered, installed, specified, or approved by Contractor and used by Customer or any third party authorized by Customer, in accordance with this Agreement, the Work Product (excluding Licensed Materials): (i) will not infringe, misappropriate, or otherwise violate any Intellectual Property Right or other right of any third party; and (ii) will comply with all applicable Laws.

## **Section 15: Indemnification**

15.1 General Indemnification. Contractor shall defend, indemnify, and hold harmless Customer and/or the Iowa DOT officers, directors, employees, agents, successors, and assigns (each, a "Customer/Iowa DOT Indemnitee") from and against all any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, fees, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers that are incurred by a Customer Indemnitee ("Losses") arising out of or resulting from any third party claim, suit, action, or proceeding (each, an "Action") that arises out of or results from:

(a) Contractor's breach of any representation, warranty, covenant, or obligation of Contractor under this Agreement; or

(b) any action or failure to take a required action or more culpable act or omission (including recklessness or willful misconduct) in connection with the performance or activity required by or conducted in connection with this Agreement by Contractor in connection with performing Services under this Agreement.

15.2 Infringement Remedy.

(a) If any Software or any component thereof, other than Customer Materials, is found to be infringing or if any use of any Software or any component thereof is enjoined, threatened to be enjoined or otherwise the subject of an infringement claim, Contractor shall, at Contractor's sole cost and expense:

(i) procure for Customer the right to continue to use such Software or component thereof to the full extent contemplated by this Agreement; or

(ii) modify or replace the materials that infringe or are alleged to infringe ("Allegedly Infringing Materials") to make the Software and all of its components non-infringing while providing fully equivalent features and functionality.

## **Section 16: Confidentiality**

16.1 Obligation of Confidentiality. Contractor acknowledges that in connection with this Agreement Contractor will gain access to Confidential Information of Customer and/or the Iowa DOT. As a condition to being furnished with Confidential Information, Contractor agrees, during until the information disclosed is no longer considered Confidential Information pursuant to this Agreement:

(a) not use the Confidential Information other than as strictly necessary to perform its obligations under this Agreement;

(b) not use any of the Confidential Information, directly or indirectly, in any manner to the detriment of Customer and/or the Iowa DOT or to obtain any competitive benefit with respect to Customer and/or the Iowa DOT; and

(c) maintain the Confidential Information in strict confidence and, subject to not disclose the Confidential Information without the Iowa DOT's prior written consent], provided, however, that the Contractor may disclose the Confidential Information to its Representatives who: (i) have a "need to know" for purposes of Contractor's performance, or exercise of its rights with respect to such Confidential Information, under this Agreement; (ii) have been apprised of this restriction; and (iii) are themselves bound by written nondisclosure agreements at least as restrictive as those set forth in this Section 16, provided, further, that Contractor shall be responsible for ensuring its Representatives' compliance with, and shall be liable for any breach by its Representatives, of this Section 16.

Contractor shall use reasonable care, at least as protective as the efforts it uses with respect to its own confidential information, to safeguard the Confidential Information from use or disclosure other than as permitted hereby.

## **Section 17: Miscellaneous**

17.1 Further Assurances. Upon a party's reasonable request, the other party shall, at such other party's sole cost and expense, promptly execute all such further documents and instruments, and take all such further actions, necessary to give full effect to this Agreement.

17.2 Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder shall be in writing and addressed to the parties as follows (or as otherwise specified by a party in a notice given in accordance with this Section):

If to Contractor: [CONTRACTOR ADDRESS]  
Facsimile:[FAX NUMBER]  
[E-mail:[NOTICES CONTACT'S E-MAIL ADDRESS]]  
Attention:[NAME AND TITLE OF OFFICER TO RECEIVE NOTICES]

If to Customer: [CUSTOMER ADDRESS]

Facsimile:[FAX NUMBER]  
[E-mail:[NOTICES CONTACT'S E-MAIL ADDRESS]]  
Attention:[NAME AND TITLE OF OFFICER TO RECEIVE NOTICES]

Notices sent in accordance with this Section shall be deemed effectively given: (a) when received, if delivered by hand (with written confirmation of receipt); (b) when received, if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile [or e-mail] ([in each case, ]with confirmation of transmission), if sent during normal business hours of the recipient, and on the next business day, if sent after normal business hours of the recipient; or (d) on the fourteen day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid.

17.3 Entire Agreement. This Agreement, together with all Schedules and Statements of Work and any other documents incorporated herein by reference, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter.

17.4 Amendment and Modification; Waiver. No amendment to or modification of or rescission, termination, or discharge of this Agreement is effective unless it is in writing\ and signed by both parties. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

17.5 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

17.6 Equitable Relief. Each party acknowledges that a breach by a party of Section 11 (Intellectual Property Rights; Ownership) or Section 16 (Confidentiality) may cause the non-breaching party immediate and irreparable harm, for which an award of damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the non-breaching party will be entitled to equitable relief, including in the form of orders for preliminary or permanent injunction, specific performance, and any other relief

that may be available from any court. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available under this Agreement, at law or in equity, subject to any express exclusions or limitations in this Agreement to the contrary.

17.7 Attorneys' Fees. In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by either party hereto against the other party arising out of or related to this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and court costs from the non-prevailing party.

**Customer:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Contractor:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_