**CONTRACT FOR THE ENHANCEMENT AND SERVICE TO USAFOODSAFETY**

**BETWEEN**

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS**

**AND**

**COMPUTER AID, INC.**

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**SECTION 1. IDENTITY OF THE PARTIES**

**1.1** The Iowa **Department of Inspections and Appeals** (“Agency”) is authorized to enter into this Contract. Agency’s address is **3rd Floor, Lucas Building, 321 E. 12th St., Des Moines, Iowa 50319-0083.**

**1.2** **Computer Aid, Incorporated** (“Contractor) is **incorporated under the laws of the Commonwealth of Pennsylvania** and authorized to do business in the state of Iowa. The Contractor’s address is **1309 Ridgeview Dr., Allentown, PA 18104.**

**SECTION 2. PURPOSE**

The parties have entered into this Contract for the purpose of retaining the Contractor to provide: **customization, enhancement, implementation and maintenance for USAFoodSafety which is a software application owned by the National Agribusiness Technology Center.**

**SECTION 3. DURATION OF CONTRACT**

The term of this Contract shall be **February 1, 2018** through **June 30, 2019**, unless terminated earlier in accordance with the Termination section of this Contract. The Agency may, in its sole discretion, exercise any applicable extension by giving the Contractor written notice of the extension decision at least sixty (60) days prior to the expiration of the initial term or renewal.

**SECTION 4. DEFINITIONS**

1. **“Acceptance”** means that the Agency has determined that one or more Deliverables satisfy the Agency’s Acceptance Tests. Final Acceptance means that the Agency has determined that all Deliverables satisfy the Agency’s Acceptance Tests. Non-acceptance means that the Agency has determined that one or more Deliverables have not satisfied the Agency’s Acceptance Tests.
2. **“Acceptance Criteria”** means the Specifications, goals, performance measures, testing results and/or other criteria designated by the Agency and against which the Deliverables may be evaluated for purposes of Acceptance or Non-acceptance thereof.
3. **“Acceptance Tests” or “Acceptance Testing”** mean the tests, reviews and other activities that are performed by or on behalf of Agency to determine whether the Deliverables meet the Acceptance Criteria per Attachment A “Statement of Work.”
4. **“Contract”** means the collective documentation memorializing the terms of the agreement between the Agency and the Contractor identified on the Contract Declarations & Execution Page(s) and includes the signed Contract Declarations & Execution Page(s), the Special Terms, these General Terms for Services Contracts, any Special Contract Attachments, and all other attachments to the Contract Declarations & Execution Page(s).
5. **“Deficiency”** means a defect, flaw, anomaly, failure, omission, interruption of service, or other problem of any nature whatsoever with respect to a Deliverable, including, without limitation, any failure of a deliverable to conform to or meet an applicable specification. Deficiency also includes the lack of something essential or necessary for completeness or proper functioning of a Deliverable.
6. **“Deliverables”** means all of the goods, products, services, work, work product, items, materials and property to be created, developed, produced, delivered, performed or provided by or on behalf of, or made available through, Contractor (or any agent, contractor or subcontractor of Contractor) in connection with this Contract.
7. **“Documentation”** means any and all technical information, commentary, explanations, design documents, system architecture documents, database layouts, test materials, training materials, guides, manuals, worksheets, notes, work papers, and all other information, documentation and materials related to or used in conjunction with the Deliverables, in any medium, including hard copy, electronic, digital, and magnetically or optically encoded media.
8. **“RFP” means** the Request for Proposals or Request for Bids (and any Addenda thereto) identified on the Contracts Declarations and Execution Page(s) that was issued to solicit the Deliverables that are subject to the Contract.
9. **“Specifications”** means all specifications, requirements, technical standards, performance standards, representations and other criteria related to the Deliverables stated or expressed in this Contract, and the Documentation. Specifications shall include the Acceptance Criteria and any specifications, standards or criteria stated or set forth in any applicable state, federal, foreign and local laws, rules and regulations. The Specifications are incorporated into this Contract by reference as if fully set forth in this Contract.
10. **“State”** means the State of Iowa, the Agency, and all State of Iowa agencies, boards, and commissions, and when this Contract is available to political subdivisions, any political subdivisions of the State of Iowa.

**SECTION 5. SCOPE OF SERVICES**

**5.1 Scope of Services.** The Contractor shall provide Deliverables that comply with and conform to Exhibit A “Statement of Work to the Iowa Department of Inspections and Appeals” dated February 26, 2013**.**

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

**5.3 Non-Exclusive Rights.** This Contract is not exclusive. The Agency reserves the right to select other contractors to provide services similar or identical to the Scope of Services described in this Contract during the term of this Contract.

**SECTION 6. COMPENSATION**

**6.1** **Pricing.** The Contractor will be paid for the services described in the Attachment A “Statement of Work.” Additional statements of work maybe added during the agreement duration with additional “Statements of Work.”

**6.2 Billings.** The Contractor shall submit, on the frequency established in Attachment A “Statement of Work” an invoice for Deliverables rendered in accordance with this Contract. The invoice shall comply with all applicable rules concerning payment of such claims. The Agency shall verify the Contractor’s performance of the Deliverables outlined in the invoice before making payment. The Agency shall pay all approved invoices in arrears and in conformance with Iowa Code 8A.514. The Agency may pay in less than sixty (60) days, but an election to pay in less than sixty (60) days shall not act as an implied waiver of Iowa Code § 8A.514. All invoices shall meet the requirements for payment of the Department of Administrative Services, State Accounting Enterprise.

Unless otherwise agreed in writing by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the State for any Deliverables provided by or on behalf of the Contractor under this Contract. The Contractor shall be solely responsible for paying all costs, expenses and charges it incurs in connection with its performance under this Contract.

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

**6**.**4. Setoff Against Sums Owed by the Contractor.** In the event that Contractor owes the State any sum under the terms of this Contract, any other contract or agreement, pursuant to a judgment, or pursuant to any law, the State may, in its sole discretion, set off any such sum against: (1) any sum invoiced by, or owed to, Contractor under this Contract, or (2) any sum or amount owed by the State to Contractor, unless otherwise required by law. The Contractor agrees that this provision constitutes proper and timely notice under any applicable laws governing setoff.

**SECTION 7. TERMINATION**

**7.1. Termination for Cause by the Agency.** The Agency may terminate this Contract upon written notice for the breach by Contractor of any material term, condition or provision of this Contract, if such breach is not cured within the time period specified in the Agency’s notice of breach or any subsequent notice or correspondence delivered by the Agency to Contractor, provided that cure is feasible. In addition, the Agency may terminate this Contract effective immediately without penalty and without advance notice or opportunity to cure for any of the following reasons:

**i.** Contractor furnished any statement, representation, warranty or certification in connection with this Contract, that is false, deceptive, or materially incorrect or incomplete;

**ii.** Contractor or any of Contractor’s officers, directors, employees, agents, subsidiaries, affiliates, contractors or subcontractors has committed or engaged in fraud, misappropriation, embezzlement, malfeasance, misfeasance, or bad faith;

**iii.** Contractor or any parent or affiliate of Contractor owning a controlling interest in Contractor dissolves;

**iv.** Contractor terminates or suspends its business;

**v.** Contractor’s corporate existence or good standing in Iowa is suspended, terminated, revoked or forfeited, or any license or certification held by Contractor related to Contractor’s performance under this Contract is suspended, terminated, revoked, or forfeited;

**vi.** Contractor has failed to comply with any applicable international, federal, state (including, but not limited to Iowa Code chapter 8F), or local laws, rules, ordinances, regulations or orders when performing within the scope of this Contract;

**vii.** The Agency determines or believes the Contractor has engaged in conduct that: (a) has or may expose the Agency or the State to material liability, or (b) has caused or may cause a person’s life, health or safety to be jeopardized;

**viii.** Contractor infringes or allegedly infringes or violates any patent, trademark, copyright, trade dress or any other intellectual property right or proprietary right, or Contractor misappropriates or allegedly misappropriates a trade secret;

**ix.** Contractor fails to comply with any applicable confidentiality laws, privacy laws, or any provisions of this Contract pertaining to confidentiality or privacy; or

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

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

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

**c**. Making an assignment for the benefit of creditors;

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

**e**. Taking any action to authorize any of the foregoing. The Agency’s right to terminate this Contract shall be in addition to and not exclusive of other remedies available to the Agency, and the Agency shall be entitled to exercise any other rights and pursue any remedies, in law, at equity, or otherwise.

**7.2. Termination upon Notice**. Following thirty (30) days written notice, the Agency may terminate this Contract in whole or in part without penalty and without incurring any further obligation to Contractor. Termination can be for any reason or no reason at all.

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

**i**. The legislature or governor fail in the sole opinion of the Agency to appropriate funds sufficient to allow the Agency to either meet its obligations under this Contract or to operate as required and to fulfill its obligations under this Contract; or

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

**iii.** If the Agency’s authorization to conduct its business or engage in activities or operations related to the subject matter of this Contract is withdrawn or materially altered or modified; or

**iv.** If the Agency’s duties, programs or responsibilities are modified or materially altered; or

**v**. If there is a decision of any court, administrative law judge or an arbitration panel or any law, rule, regulation or order is enacted, promulgated or issued that materially or adversely affects the Agency’s ability to fulfill any of its obligations under this Contract. The Agency shall provide Contractor with written notice of termination pursuant to this section.

**7.4 Limitation of the State’s Payment Obligations.** In the event of termination of this Contract for any reason by either party (except for termination by the Agency pursuant to Section 7.1), the Agency shall pay only those amounts, if any, due and owing to Contractor hereunder for Deliverables actually and satisfactorily provided in accordance with the provisions of this Contract up to and including the date of termination of this Contract and for which the Agency is obligated to pay pursuant to this Contract; provided however, that in the event the Agency terminates this Contract pursuant to Section 7.3, the Agency’s obligation to pay Contractor such amounts and other compensation shall be limited by, and subject to, legally available funds. Payment will be made only upon submission of invoices and proper proof of Contractor’s claim. Notwithstanding the foregoing, this Section 7.4 in no way limits the rights or remedies available to the Agency and shall not be construed to require the Agency to pay any compensation or other amounts hereunder in the event of Contractor’s breach of this Contract or any amounts withheld by the Agency in accordance with the terms of this Contract. The Agency shall not be liable, under any circumstances, for any of the following:

**i.** The payment of unemployment compensation to Contractor’s employees;

**ii.** The payment of workers’ compensation claims, which occur during the Contract or extend beyond the date on which the Contract terminates;

**iii.** Any costs incurred by Contractor in its performance of the Contract, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Contract;

**iv.** Any damages or other amounts associated with the loss of prospective profits, anticipated sales, goodwill, or for expenditures, investments or commitments made in connection with this Contract;

**v**. Any taxes Contractor may owe in connection with the performance of this Contract, including, but not limited to, sales taxes, excise taxes, use taxes, income taxes or property taxes.

**7.5 Contractor’s Termination Duties.** Upon receipt of notice of termination or upon request of the Agency, Contractor shall:

**i**. Cease work under this Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work performed under the Contract and such other matters as the Agency may require.

**ii**. Immediately cease using and return to the Agency any property or materials, whether tangible or intangible, provided by the Agency to Contractor.

**iii.** Cooperate in good faith with the Agency and its employees, agents and independent contractors during the transition period between the notification of termination and the substitution of any replacement service provider.

**iv.** Immediately return to the Agency any payments made by the Agency for Deliverables that were not rendered or provided by Contractor.

**v**. Immediately deliver to the Agency any and all Deliverables for which the Agency has made payment (in whole or in part) that are in the possession or under the control of the Contractor or its agents or subcontractors in whatever stage of development and form of recordation such property is expressed or embodied as that time.

**7.6 Termination for Cause by Contractor.** Contractor may only terminate this Contract for the breach by the Agency of any material term, condition or provision of this Contract, if such breach is not cured within sixty (60) days of the Agency’s receipt of Contractor’s written notice of breach.

**SECTION 8. CONFIDENTIAL INFORMATION**

**8.1** **Access to Confidential Data.** The Contractor’s employees, agents and subcontractors may have access to confidential data maintained by the Agency to the extent necessary to carry out its responsibilities under the Contract. The Contractor shall presume that all information received pursuant to this Contract is confidential unless otherwise designated by the Agency. The Contractor shall provide to the Agency a written description of its policies and procedures to safeguard confidential information. Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats. The Contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Contractor in connection with the performance of the Contract. The Contractor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of this Contract. The private or confidential data shall remain the property of the Agency at all times.

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

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

**8.4             Reporting of Unauthorized Disclosure.** The Contractor shall immediately report to the Agency any unauthorized disclosure of confidential information.

**8.5             Survives Termination.** The Contractor’s obligation under this Contract shall survive termination of this Contract.

**SECTION 9. INDEMNIFICATION**

**9.1 By the Contractor.** The Contractor agrees to indemnify and hold harmless the State and its officers, appointed and elected officials, board and commission members, employees, volunteers and agents (collectively the “Indemnified Parties”), from any and all costs, expenses, losses, claims, damages, liabilities, settlements and judgments (including, without limitation, the reasonable value of the time spent by the Attorney General’s Office, and the costs, expenses and attorneys’ fees of other counsel retained by the Indemnified Parties directly or indirectly related to, resulting from, or arising out of this Contract, including but not limited to any claims related to, resulting from, or arising out of:

**i.** Any breach of this Contract;

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

**iii.** The Contractor’s performance or attempted performance of this Contract, including any agent or subcontractor utilized or employed by the Contractor;

**iv.** Any failure by the Contractor to make all reports, payments and withholdings required by federal and state law with respect to social security, employee income and other taxes, fees or costs required by the Contractor to conduct business in the State of Iowa;

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

Notwithstanding the foregoing, Contractor’s liability under this Contract or any Task Order(s) shall not exceed double the amount of the contract and the amount of applicable insurance coverage (i.e. insurance coverage that covers the claim) carried by the Contractor.

**9.2 Survives Termination.** Contractor’s duties and obligations under this section shall survive the termination of this Contact and shall apply to all acts or omissions taken or made in connection with the performance of this Contract regardless of the date any potential claim is made or discovered by the Agency or any other Indemnified Party.

**SECTION 10. INSURANCE**

**10.1 Insurance Requirements.** The Contractor, and any subcontractor, shall maintain in full force and effect, with insurance companies licensed by the State of Iowa, at the contractor’s expense, insurance covering its work during the entire term of this Contract and any extensions or renewals. The Contractor’s insurance shall, among other things, be occurrence based and shall insure against loss or damage resulting from or related to the Contractor’s performance of this Contract regardless of the date the claim is filed or expiration of the policy. The State of Iowa and the Agency shall be named as additional insureds or loss payees, or the Contractor shall obtain an endorsement to the same effect, as applicable with the exception of workers compensation insurance.

**10.2 Types and Amounts of Insurance Required.** Unless otherwise requested by the Agency in writing, the Contractor shall cause to be issued the insurance coverages set forth below:

| TYPE OF INSURANCE | LIMIT | AMOUNT |
| --- | --- | --- |
| General Liability (including contractual liability) written on an occurrence basis | General Aggregate  Product Completed Operations Aggregate  Personal Injury  Each Occurrence | $2 Million  $1 Million  $1 Million  $1 Million |
| Automobile Liability (including any auto, hired autos, and non-owned autos) | Combined Single Limit | $1 Million |
| Excess Liability, Umbrella Form | Each Occurrence  Aggregate | $1 Million  $1 Million |
| Workers Compensation and Employer Liability | As required by Iowa law | As required by Iowa law |
| Property Damage | Each Occurrence  Aggregate | $1 Million  $1 Million |

**10.3 Certificates of Coverage.** Contractor shall maintain all insurance policies required by this Contract full force and effect during the entire term of this Contract and any extensions or renewals thereof, and shall not permit such policies to be canceled or amended except with the advance written approval of the State. The Contractor shall submit certificates of the insurance, which indicate coverage and notice provisions as required by this Contract, to the State upon execution of this Contract. The certificates shall be subject to approval by the State. Approval of the insurance certificates by the State shall not relieve the Contractor of any obligation under this Contract. Contractor warrants that no cancellation or change in insurance will be made without at least thirty (30) days' prior Written notice to the State.

**10.4 Waivers of Subrogation Rights.**  The Contractor shall obtain a waiver of any subrogation rights that any of its insurance carriers might have against the State. The waiver of subrogation rights shall be indicated on the certificates of insurance coverage supplies to the State.

**SECTION 11. PERFORMANCE BOND**

The deliverable/fee schedule for Attachment A “Statement of Work” has been developed in such a manner that the Contractor is not eligible for payment until the project is substantially completed. The Department has agreed this approach in lieu of a performance bond. Ongoing support and hosting will be paid at the beginning of each period.

**SECTION 12. PROJECT MANAGEMENT AND REPORTING**

**12.1 Project Manager.** At the time of execution of this Contract, each party shall designate, in writing, a Project Manager to serve until the expiration of this Contract or the designation of a substitute Project Manager. During the term of this Contract, each Project Manager shall be available to meet monthly, unless otherwise mutually agreed, to review and plan the services being provided under this Contract. Such meetings may be conducted via telephone or other electronic methods.

**12.2 Review Meetings.** During the review meetings the Project Managers shall discuss progress made by the Contractor in the performance of this Contract. Each party shall provide a status report, as desired by a Project Manager, listing any problem or concern encountered since the last meeting. Records of such reports and other communications issued in writing during the course of Contract performance shall be maintained by each party.

**12.3 Reports.** At the next scheduled meeting after which any party has identified in writing a problem, the party responsible for resolving the problem shall provide a report setting forth activities undertaken, or to be undertaken, to resolve the problem, together with the anticipated completion dates of such activities. Any party may recommend alternative courses of action or changes that will facilitate problem resolution. For as long as a problem remains unresolved, written reports shall identify:

**12.3.1** Any event not within the control of the Contractor or the Agency that accounts for the problem;

**12.3.2** Modifications to the Contract agreed to by the parties in order to remedy or solve the identified problem;

**12.3.3** Damages incurred as a result of any party's failure to perform its obligations under this Contract; and

**12.3.4** Any request or demand for services by one party that another party believes are not included within the terms of this Contract.

**12.4 Problem Reporting Omissions.** The Agency’s acceptance of a problem report shall not relieve the Contractor of any obligation under this Contract or waive any other remedy under this Contract or at law or equity that the Agency may have. The Agency’s failure to identify the extent of a problem or the extent of damages incurred as a result of a problem shall not act as a waiver of performance under this Contract. Where other provisions of this Contract require notification of an event in writing, the written report shall be considered a valid notice under this Contract provided the parties required to receive notice are notified.

**12.5 Change Order Procedure.** The Agency may at any time request a modification to the Scope of Services using a Change Order. The following procedures for a change order shall be followed:

**12.5.1 Written Request.** The Agency shall specify in writing the desired modifications to the same degree of specificity as in the original Scope of Services.

**12.5.2 The Contractor’s Response.** The Contractor shall submit to the Agency a time and cost estimate for the requested Change Order within five (5) business days of receiving the Change Order Request.

**12.5.3 Acceptance of the Contractor Estimate.** If the Agency accepts the estimate presented by the Contractor within five (5) business days of receiving the Contractor’s response, the Contractor shall perform the modified services subject to the time and cost estimates included in the Contractor response. The Contractor’s performance and the modified services shall be governed by the terms and conditions of this Contract.

**12.5.4  Adjustment to Compensation.** The parties acknowledge that a Change Order for this Contract may or may not entitle the Contractor to an equitable adjustment in the Contractor’s compensation or the performance deadlines under this Contract.

**SECTION 13. Legislative Changes**

The Contractor expressly acknowledges that the contracted Deliverables are subject to legislative change by either the federal or state government. Should either legislative body enact measures which alter the project, the Contractor shall not hold the Agency liable in any manner for the resulting changes. The Agency shall use best efforts to provide thirty (30) days’ written notice to the Contractor of any legislative change. During the thirty (30)-day period, the parties shall meet and make a good faith effort to agree upon changes to the Contract to address the legislative change. Nothing in this Subsection shall affect or impair the Agency’s right to terminate the Contract pursuant to the termination provisions

**SECTION 14. INTELLECTUAL PROPERTY, PATENT AND COPYRIGHT**

**14.1 Ownership and Assignment of Other Deliverables.** Contractor agrees that the State and Agency shall become the sole and exclusive owners of all Deliverables. Contractor hereby irrevocably assigns, transfers and conveys to the State and the Agency all right, title and interest in and to all Deliverables and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables, including copyrights, patents, trademarks, trade secrets, trade dress, mask work, utility design, derivative works, and all other rights and interests therein or related thereto. Contractor represents and warrants that the State and the Agency shall acquire good and clear title to all Deliverables, free from any claims, liens, security interests, encumbrances, intellectual property rights, proprietary rights, or other rights or interests of Contractor or of any third party, including any employee, agent, contractor, subcontractor, subsidiary or affiliate of Contractor. The Contractor (and Contractor’s employees, agents, contractors, subcontractors, subsidiaries and affiliates) shall not retain any property interests or other rights in and to the Deliverables and shall not use any Deliverables, in whole or in part, for any purpose, without the prior written consent of the Agency and the payment of such royalties or other compensation as the Agency deems appropriate. Unless otherwise requested by Agency, upon completion or termination of this Contract, Contractor will immediately turn over to Agency all Deliverables not previously delivered to Agency, and no copies thereof shall be retained by Contractor or its employees, agents, subcontractors or affiliates, without the prior written consent of Agency.

**14.2 Waiver.** To the extent any of Contractor’s rights in any Deliverables are not subject to assignment or transfer hereunder, including any moral rights and any rights of attribution and of integrity, Contractor hereby irrevocably and unconditionally waives all such rights and enforcement thereof and agrees not to challenge the State’s rights in and to the Deliverables.

**14.3 Further Assurances.** At the Agency’s request, Contractor will execute and deliver such instruments and take such other action as may be requested by the Agency to establish, perfect or protect the State’s rights in and to the Deliverables and to carry out the assignments, transfers and conveyances set forth in Section 14.1

**SECTION 15. WARRANTIES**

**15.1 Construction of Warranties Expressed in this Contract with Warranties Implied by Law.** Warranties made by the Contractor in this Contract, whether:

**(a)** this Contract specifically denominates the Contractor's promise as a warranty; or

**(b)** the warranty is created by the Contractor's affirmation or promise, by a description of the Deliverables to be provided, or by provision of samples to the Agency, shall not be construed as limiting or negating any warranty provided by law, including without limitation, warranties that arise through course of dealing or usage of trade.

The warranties expressed in this Contract are intended to modify the warranties implied by law only to the extent that they expand the warranties applicable to the Deliverables provided by the Contractor. The provisions of this section apply during the term of this Contract and any extensions or renewals thereof.

**15.2 Contractor represents and warrants that:**

**(i)** all Deliverables shall be wholly original with and prepared solely by Contractor; or it owns, possesses, holds, and has received or secured all rights, permits, permissions, licenses and authority necessary to provide the Deliverables to the Agency hereunder and to assign, grant and convey the rights, benefits, licenses and other rights assigned, granted or conveyed to the Agency hereunder or under any license agreement related hereto without violating any rights of any third party;

**(ii)** Contractor has not previously and will not grant any rights in any Deliverables to any third party that are inconsistent with the rights granted to the Agency herein; and

**(iii)** the Agency shall peacefully and quietly have, hold, possess, use and enjoy the Deliverables without suit, disruption or interruption.

**15.3 Contractor represents and warrants that:**

**(i)** the Deliverables (and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables); and

**(ii)** the Agency’s use of, and exercise of any rights with respect to, the Deliverables (and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables), do not and will not, under any circumstances, misappropriate a trade secret or infringe upon or violate any copyright, patent, trademark, trade dress or other intellectual property right, proprietary right or personal right of any third party.

Contractor further represents and warrants there is no pending or threatened claim, litigation or action that is based on a claim of infringement or violation of an intellectual property right, proprietary right or personal right or misappropriation of a trade secret related to the Deliverables. Contractor shall inform the Agency in writing immediately upon becoming aware of any actual, potential or threatened claim of or cause of action for infringement or violation or an intellectual property right, proprietary right, or personal right or misappropriation of a trade secret. If such a claim or cause of action arises or is likely to arise, then Contractor shall, at the Agency’s request and at the Contractor’s sole expense:

1. procure for the Agency the right or license to continue to use the Deliverable at issue;
2. (replace such Deliverable with a functionally equivalent or superior Deliverable free of any such infringement, violation or misappropriation;
3. modify or replace the affected portion of the Deliverable with a functionally equivalent or superior Deliverable free of any such infringement, violation or misappropriation; or
4. accept the return of the Deliverable at issue and refund to the Agency all fees, charges and any other amounts paid by the Agency with respect to such Deliverable.

In addition, Contractor agrees to indemnify, defend, protect and hold harmless the State and its officers, directors, employees, officials and agents as provided in the Indemnification section of this Contract, including for any breach of the representations and warranties made by Contractor in this section. The foregoing remedies shall be in addition to and not exclusive of other remedies available to the Agency and shall survive termination of this Contract.

**15.4 Contractor represents and warrants that the Deliverables (in whole and in part) shall:**

**(i)** be free from material Deficiencies; and

**(ii)** meet, conform to and operate in accordance with all Specifications and in accordance with this Contract during the Warranty Period. The Warranty Period will be two years from the “go-live” date as it relates to application errors (breaks/fixes) on deliverables. The Contractor makes no other warranties express or implied, except as is related to the Deliverables within the Contract and Attachment A “Statement of Work” and not the underlying software application. The Contractor will not be held responsible for issues caused by state hosted environment (such as: operating system security patches, firewall, and network connectivity).

During the Warranty Period Contractor shall, at its expense, repair, correct or replace any Deliverable that contains or experiences material Deficiencies or fails to meet, conform to or operate in accordance with Specifications within five (5) business days of receiving notice of such Deficiencies or failures from the Agency or within such other period as the Agency specifies in the notice. In the event Contractor is unable to repair, correct or replace such Deliverable to the Agency’s satisfaction, Contractor shall refund the fees or other amounts paid for the Deliverables and for any services related thereto. The foregoing shall not constitute an exclusive remedy under this Contract, and the Agency shall be entitled to pursue any other available contractual, legal or equitable remedies. Contractor shall be available at all reasonable times to assist the Agency with questions, problems and concerns about the Deliverables, to inform the Agency promptly of any known Deficiencies in any Deliverables, repair and correct any Deliverables not performing in accordance with the warranties contained in this Contract, notwithstanding that such Deliverable may have been accepted by the Agency, and provide the Agency with all necessary materials with respect to such repaired or corrected Deliverable.

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

**15.6 Contractor represents and warrants** that the Deliverables will comply with any applicable federal, state, foreign and local laws, rules, regulations, codes, and ordinances in effect during the term of this Contract, including applicable provisions of Section 508 of the Rehabilitation Act of 1973, as amended, and all standards and requirements established by the Architectural and Transportation Barriers Access Board and the Iowa Department of Administrative Services, Information Technology Enterprise.

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

**SECTION 16. CONTRACT ADMINISTRATION**

**16.1 Independent Contractor.** The status of the Contractor shall be that of an independent contractor. The Contractor, its employees, agents and any subcontractors performing under this Contract are not employees or agents of the State or any agency, division or department of the State simply by virtue of work performed pursuant to this Contract. Neither the Contractor nor its employees shall be considered employees of the Agency or the State for federal or state tax purposes simply by virtue of work performed pursuant to this Contract. The Agency will not withhold taxes on behalf of the Contractor (unless required by law).

**16.2 Incorporation of Documents.** To the extent this Contract arises out of an RFP, the parties acknowledge that the Contract consists of these contract terms and conditions as well as the RFP and the Bid Proposal. The RFP and the Bid Proposal are incorporated into the Contract by reference, except that no objection or amendment by the Contractor to the provisions of the RFP shall be incorporated by reference into the Contract unless the Agency has explicitly accepted the Contractor’s objection or amendment in writing. If there is a conflict between the Contract, the RFP and the Bid Proposal, the conflict shall be resolved according to the following priority, ranked in descending order: (1) the Contract; (2) the RFP; (3) the Bid Proposal.

**16.3. Intent of References to Bid Documents.** The references to the parties' obligations, which are contained in this Contract, are intended to supplement or clarify the obligations as stated in the RFP and the Bid Proposal. The failure of the parties to make reference to the terms of the RFP or the Bid Proposal in this Contract shall not be construed as creating a conflict and will not relieve the Contractor of the contractual obligations imposed by the terms of the RFP and the Contractor’s Bid Proposal. The contractual obligations of the Agency cannot be implied from the Bid Proposal.

**16.4. Compliance with the Law.** The Contractor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations and orders when providing Deliverables under this Contract, including without limitation, all laws that pertain to the prevention of discrimination in employment and in the provision of services. For employment, this would include equal employment opportunity and affirmative action, and the use of targeted small businesses as subcontractors or suppliers. The Contractor may be required to provide a copy of its affirmative action plan, containing goals and time specifications, and non-discrimination and accessibility plans and policies regarding services to clients. Failure to comply with this provision may cause this contract to be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for future state contracts or be subject to other sanctions as provided by law or rule. The Contractor, its employees, agents and subcontractors shall also comply with all federal, state and local laws regarding business permits and licenses that may be required to carry out the work performed under this Contract. The Contractor may be required to submit its affirmative action plan to the Department of Management to comply with the requirements of 541 IAC chapter 4. If all or a portion of the funding used to pay for the Deliverables is being provided through a grant from the Federal Government, Contractor acknowledges and agrees that pursuant to applicable federal laws, regulations, circulars and bulletins, the awarding agency of the Federal Government reserves certain rights including, without limitation a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes, the Deliverables developed under this Contract and the copyright in and to such Deliverables.

**16.5 Procurement.** Contractor shall use procurement procedures that comply with all applicable federal, state, and local laws and regulations.

**16.6 Non-Exclusive Rights.** This Contract is not exclusive. The Agency reserves the right to select other contractors to provide Deliverables similar or identical to those described in the Scope of Work during the term of this Contract.

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

**16.8 Compliance with Iowa Code chapter 8F.** If the Contract is subject to the provisions of Iowa Code chapter 8F, the Contractor shall comply with Iowa Code chapter 8F with respect to any subcontracts it enters into pursuant to this Contract. Any compliance documentation, including but not limited to certifications, received from subcontractors by the Contractor shall be forwarded to the Agency.

**16.9 Amendments.** This Contract may be amended in writing from time to time by mutual consent of the parties. Amendments to the General Terms for Services Contracts may appear in the Special Terms.

**16.10 Third Party Beneficiaries**. There are no third party beneficiaries to this Contract. This Contract is intended only to benefit the State and the Contractor.

**16.11 Use of Third Parties.** The Agency acknowledges that the Contractor may contract with third parties for the performance of any of the Contractor’s obligations under this Contract. The Contractor shall notify the Agency in writing of all subcontracts relating to Deliverables to be provided under this Contract prior to the time the subcontract(s) become effective. The Agency reserves the right to review and approve all subcontracts. The Contractor may enter into these contracts to complete the project provided that the Contractor remains responsible for all Deliverables provided under this Contract. All restrictions, obligations and responsibilities of the Contractor under this Contract shall also apply to the subcontractors and the Contractor shall include in all of its subcontracts a clause that so states. The Agency shall have the right to request the removal of a subcontractor from the Contract for good cause.

**16.12 Choice of Law and Forum.** The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this Contract without regard to the conflict of law provisions of Iowa law. Any and all litigation commenced in connection with this Contract shall be brought and maintained solely in Polk County District Court for the State of Iowa, Des Moines, Iowa, or in the United States District Court for the Southern District of Iowa, Central Division, Des Moines, Iowa, wherever jurisdiction is appropriate. This provision shall not be construed as waiving any immunity to suit or liability including without limitation sovereign immunity in State or Federal court, which may be available to the Agency or the State of Iowa.

**16.13 Assignment and Delegation.** Contractor may not assign, transfer or convey in whole or in part this Contract without the prior written consent of the Agency. For the purpose of construing this clause, a transfer of a controlling interest in the Contractor shall be considered an assignment. The Contractor may not delegate any of its obligations or duties under this Contract without the prior written consent of the Agency. The Contractor may not assign, pledge as collateral, grant a security interest in, create a lien against, or otherwise encumber, any payments that may or will be made to the Contractor under this Contract.

**16.14 Integration.** This Contract represents the entire Contract between the parties. The parties shall not rely on any representation that may have been made which is not included in this Contract.

**16.15 Headings or Captions.** The paragraph headings or captions used in this Contract are for identification purposes only and do not limit or construe the contents of the paragraphs.

**16.16 Not a Joint Venture.** Nothing in this Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties hereto. Each party shall be deemed to be an independent contractor contracting for services and acting toward the mutual benefits expected to be derived herefrom. No party, unless otherwise specifically provided for herein, has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to this Contract.

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

**16.18 Supersedes Former Contracts or Agreements**. This Contract supersedes all prior contracts or agreements between the Agency and the Contractor for the Deliverables to be provided in connection with this Contract.

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

**16.20 Notice.** Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by a reliable carrier which shall be addressed to the person who signed the Contract on behalf of the party at the address identified in the Contract Declarations & Execution Page(s) at the address specified on the forms. Each such notice shall be deemed to have been provided:

**i.** At the time it is actually received; or,

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

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

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

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

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

**16.23 Time is of the Essence.** Time is of the essence with respect to the Contractor’s performance of the terms of this Contract. Contractor shall ensure that all personnel providing Deliverables to the Agency are responsive to the Agency’s requirements and requests in all respects.

**16.24. Authorization.** Contractor represents and warrants that:

**i**. It has the right, power and authority to enter into and perform its obligations under this Contract.

**ii**. It has taken all requisite action (corporate, statutory or otherwise) to approve execution, delivery and performance of this Contract, and this Contract constitutes a legal, valid and binding obligation upon itself in accordance with its terms.

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

**16.26. Records Retention and Access.** The Contractor shall maintain accurate, current, and complete records of the financial activity of this Contract which sufficiently and properly document and calculate all charges billed to the Agency throughout the term of this Contract and for a period of at least five (5) years following the date of final payment or completion of any required audit (whichever is later). If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the five (5) year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular five (5) year period, whichever is later. The Contractor shall permit the Agency, the Auditor of the State or any other authorized representative of the State and where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of the Contractor relating to orders, invoices or payments or any other documentation or materials pertaining to this Contract, wherever such records may be located. The Contractor shall not impose a charge for audit or examination of the Contractor’s books and records. Based on the audit findings, the Agency reserves the right to address the Contractor’s board or other managing entity regarding performance and expenditures. When state or federal law or the terms of this Contract require compliance with OMB Circular A-87, A-110, or other similar provision addressing proper use of government funds, the Contractor shall comply with these additional records retention and access requirements:

**i.** Records of financial activity shall include records that adequately identify the source and application of funds. When the terms of this Contract require matching funds, cash contributions made by the Contractor and third party in-kind (property or service) contributions must be verifiable from the Contractor’s records. These records must contain information pertaining to contract amount, obligations, unobligated balances, assets, liabilities, expenditures, income and third-party reimbursements.

**ii.** The Contractor shall maintain accounting records supported by source documentation that may include but are not limited to cancelled checks, paid bills, payroll, time and attendance records, and contract award documents.

**iii**. The Contractor, in maintaining project expenditure accounts, records and reports, shall make any necessary adjustments to reflect refunds, credits, underpayments or overpayments, as well as any adjustments resulting from administrative or compliance reviews and audits. Such adjustments shall be set forth in the financial reports filed with the Agency.

**iv.** The Contractor shall maintain a sufficient record keeping system to provide the necessary data for the purposes of planning, monitoring and evaluating its program.

**v.** The Contractor shall retain all medical records for a period of six (6) years from the last date of service for each patient; or in the case of a minor patient or client, for a period consistent with that established by Iowa Code section 614.1(9). Client records, which are non-medical, must be maintained for a period of five (5) years.

**16.27 Audits.** Local governments and non-profit subrecipient entities that expend $500,000 or more in a year in federal awards (from all sources) shall have a single audit conducted for that year in accordance with the provisions of OMB Circular A-133 “Audit of States, Local Governments, and Non-Profit Organizations.” A copy of the final audit report shall be submitted to the Agency if either the schedule of findings and questioned costs or the summary schedule of prior audit findings includes any audit findings related to federal awards provided by the Agency. If an audit report is not required to be submitted per the criteria above, the subrecipient must provide written notification to the Agency that the audit was conducted in accordance with Government Auditing Standards and that neither the schedule of findings and questioned costs nor the summary schedule of prior audit findings includes any audit findings related to federal awards provided by the Agency. See A-133 Section 21 for a discussion of subrecipient versus vendor relationships. Contractor shall provide the Agency with a copy of any written audit findings or reports, whether in draft or final form, within 24 hours following receipt by the Contractor. The requirements of this paragraph shall apply to the Contractor as well as any subcontractors.

**16.28 Qualifications of Staff.** The Contractor shall be responsible for assuring that all persons, whether they are employees, agents, subcontractors or anyone acting for or on behalf of the Contractor, are properly licensed, certified or accredited as required under applicable state law and the Iowa Administrative Code. The Contractor shall provide standards for service providers who are not otherwise licensed, certified or accredited under state law or the Iowa Administrative Code.

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

**16.30 Obligations Beyond Contract Term.** This Contract shall remain in full force and effect to the end of the specified term or until terminated pursuant to this Contract. All obligations of the Agency and the Contractor incurred or existing under this Contract as of the date of expiration or termination will survive the termination or expiration of this Contract.

**16.31 Counterparts.** The parties agree that this Contract has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

**16.32 Delays or Impossibility of Performance.** Neither party shall be in default under the Contract if performance is prevented, delayed or made impossible to the extent that such prevention, delay, or impossibility is caused by a “force majeure.” The term “force majeure” as used in this Contract includes an event that no human foresight could anticipate or which if anticipated, is incapable of being avoided. Circumstances must be abnormal and unforeseeable, so that the consequences could not have been avoided through the exercise of all due care, such as acts of God, war, civil disturbance and other similar causes. The delay or impossibility of performance must be beyond the control and without the fault or negligence of the parties. “Force majeure” does not include: financial difficulties of the Contractor or any parent, subsidiary, affiliated or associated company of Contractor; claims or court orders that restrict Contractor’s ability to deliver the Deliverables contemplated by this Contract; strikes; labor unrest; or supply chain disruptions. If delay results from a subcontractor’s conduct, negligence or failure to perform, the Contractor shall not be excused from compliance with the terms and obligations of the Contract unless the subcontractor or supplier is prevented from timely performance by a “force majeure” as defined in this Contract. If a “force majeure” delays or prevents the Contractor’s performance, the Contractor shall immediately use its best efforts to directly provide alternate, and to the extent possible, comparable performance. Comparability of performance and the possibility of comparable performance shall be determined solely by the Agency. The party seeking to exercise this provision and not perform or delay performance pursuant to a “force majeure” shall immediately notify the other party of the occurrence and reason for the delay. The parties shall make every effort to minimize the time of nonperformance and the scope of work not being performed due to the unforeseen events. Dates by which performance obligations are scheduled to be met will be extended only for a period of time equal to the time lost due to any delay so caused.

**16.33 Suspensions and Debarment.** The Contractor certifies pursuant to 48 CFR Part 9 that neither it nor its principles are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract by any federal Agency or agency. The Contractor certifies that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contracts with the State of Iowa. The Contractor shall execute the certification regarding debarment attached as Attachment

C.

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

**16.35 Certification regarding sales and use tax**. By executing this Contract, the Contractor certifies it is either (a) registered with the Iowa Department of Revenue, collects, and remits Iowa sales and use taxes as required by Iowa Code chapter 423; or (b) not a “retailer” or a “retailer maintaining a place of business in this state” as those terms are defined in Iowa Code subsections 423.1(42) & (43). The Contractor also acknowledges that the Agency may declare the Contract void if the above certification is false. The Contractor also understands that fraudulent certification may result in the Agency or its representative filing for damages for breach of contract.

**16.36 Right to Address the Board of Directors or Other Managing Entity.** The Agency reserves the right to address the Contractor’s board of directors or other managing entity of the Contractor regarding performance, expenditures and any other issue as appropriate. The Agency determines appropriateness.

**16.37 Repayment Obligation**. In the event that any State and/or federal funds are deferred and/or disallowed as a result of any audits or expended in violation of the laws applicable to the expenditure of such funds, the Contractor shall be liable to the Agency for the full amount of any claim disallowed and for all related penalties incurred. The requirements of this paragraph shall apply to the Contractor as well as any subcontractors.

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

**16.39 Reporting Requirements.** If this Contract permits other State agencies and political subdivisions to make purchases off of the Contract, the Contractor shall keep a record of the purchases made pursuant to the Contract and shall submit a report to the Agency on a quarterly basis. The report shall identify all of the State agencies and political subdivisions making purchases off of this Contract and the quantities purchased pursuant to the Contract during the reporting period.

**16.40 Immunity from Liability.** Every person who is a party to the Contract is hereby notified and agrees that the State, the Agency, and all of their employees, agents, successors, and assigns are immune from liability and suit for or from Contractor’s and/or subcontractors’ activities involving third parties and arising from the Contract.

**16.41 Public Records.** The laws of the State require procurement records to be made public unless otherwise provided by law.

**16.42 Use of Name or Intellectual Property.** Contractor agrees it will not use the Agency and/or State’s name or any of their intellectual property, including but not limited to, any State, state agency, board or commission trademarks or logos in any manner, including commercial advertising or as a business reference, without the expressed prior written consent of the Agency and/or the State.

**16.43 Taxes.** The State is exempt from Federal excise taxes, and no payment will be made for any taxes levied on Contractor’s employee’s wages. The State is exempt from State and local sales and use taxes on the Deliverables.

**16.44 No Minimums Guaranteed.** The contract does not guarantee any minimum level of purchases or any minimum amount of compensation.

**16.45 Lobbying Restrictions.** The Contractor shall comply with all certification and disclosure requirement prescribed by 31 U.S.C Section 1352 and any implementing regulations and shall be responsible for ensuring that any subcontractor fully complies with all certification and disclosure requirements. The Contractor shall execute the certification regarding lobbying attached as Attachment B.

**17. Acceptance Testing.**

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

**(i)** require Contractor to correct and repair such Deliverable within such period of time as the Agency may specify in a written notice to Contractor;

**(ii)** refuse to accept such Deliverable without penalty and without any obligation to pay any fees or other amounts associated with such Deliverable (or receive a refund of any fees or amounts already paid with respect to such Deliverable);

**(iii)** accept such Deliverable on the condition that any fees or other amounts payable with respect thereto shall be reduced or discounted to reflect, to the Agency’s satisfaction, the Deficiencies present therein and any reduced value or functionality of such Deliverable or the costs likely to be incurred by the Agency to correct such Deficiencies; or

**(iv**) terminate this Contract and/or seek any and all available remedies, including damages.

Notwithstanding the provisions of Section 7.1 of this Contract, the Agency may terminate this Contract pursuant to this section without providing Contractor with any notice or opportunity to cure provided for in Section 7.1. The Agency’s right to exercise the foregoing rights and remedies, including termination of this Contract, shall remain in effect until Acceptance Tests are successfully completed to the Agency’s satisfaction and the Agency has provided Contractor with written notice of Final Acceptance. If the Agency determines that all Deliverables satisfy its Acceptance Tests, the Agency shall provide Contractor with notice of Final Acceptance with respect to such Deliverables. Contractor’s receipt of any notice of Acceptance, including Final Acceptance, with respect to any Deliverable(s) shall not be construed as a waiver of any of the Agency’s rights to enforce the terms of this Contract or require performance in the event Contractor breaches this Contract or any Deficiency is later discovered with respect to such Deliverable(s).

**SECTION 18. EXECUTION**

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

Iowa Department of Inspections and Appeals

Name and Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Computer Aid, Incorporated

Name and Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Attachment A: Statement of Work**



Statement of Work to the

Iowa Department of Inspections and Appeals

for Implementation of **USAFoodSafety**, an AgraGuard Module

Computer Aid, Inc.

Febrary 26, 2013

# USAFoodSafety

**USAFOODSAFETY** is an enterprise system that consolidates food safety information from state and local sources into a statewide repository. It synchronizes and seamlessly integrates on-the-ground inspection data with licensing and certifications; laboratory sampling, billing, and accounting processes; and a citizens’ portal for Internet access to public information.

**USAFOODSAFETY** arose from requirements by the Pennsylvania Department of Agriculture (PDA) for a single, state-wide system to monitor the food chain at the wholesale/retail level. An enhanced version is now available to other states free of charge from the non-profit National Agribusiness Technology (NATC), as part of their AgraGuard software suite.

**USAFOODSAFETY** was designed to protect the food and dairy supply within a state. It isa completely integrated software product designed to support regulating and inspectingfacilities and equipment where food and dairy products are manufactured, prepared, orsold. In Pennsylvania it currently supports more than 200 state and local inspector sanitarians performing 15 different types of inspections at more than 80,000restaurants, dairy barns, and carnival food stands.

**USAFoodSafety**is pre-configured to support the following programs:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  |  | **Functions** | | |
|  | **Program Area** | **Certifications** | **Inspections** | **Lab Services** |
| **Food and Dairy**  **Production and Distribution** | Wholesale - Processing, Mfg, and Distribution | √ | √ | √ |
| Export Certificates of Free Sale | √ | √ |  |
| Egg, Fruit, and Vegetable Inspection | √ | √ | √ |
| HACCP for Seafood and Juice Processing | √ | √ | √ |
| Milk Sanitation Program | √ | √ | √ |
| Egg Quality Assurance Program | √ | √ | √ |
| National Shellfish Sanitation Program (NSSP) | √ | √ | √ |
| **Food Service Regulation** | Retail Foods Facilities and Restaurants | √ | √ | √ |
| Fair and/or Temporary Food Facilities | √ | √ | √ |
| Frozen Dessert | √ | √ |  |
| Seasonal Farm Labor Camps |  |  |  |
| Food Safety Inspection Results Web Portal |  |  |  |
| **Health Safety Programs** | Public Bathing Place | √ | √ |  |
| Pre-Schools | √ | √ |  |
| Hospital or Long Term Care Facility | √ | √ |  |
| Child Day Care Center | √ | √ |  |
| Mobile Home Park | √ | √ |  |
| Campground or Organized Camp | √ | √ |  |
| Mobile Retail Food Facility | √ | √ |  |
| Mobile Food Facility | √ | √ |  |
| Swimming Pools | √ | √ |  |
| **New for Iowa** |  |  |  |  |
| **Additional Programs for this SOW** | Hotel/Motels | √ | √ |  |
| Home Food | √ | √ |  |
| Retail (two categories) | √ | √ |  |
| Wholesale | √ | √ |  |
| Farmer’s Market | √ | √ |  |
| Mobile Food | √ | √ |  |
| Temporary Eating and Drinking | √ | √ |  |
| Vending Machines | √ | √ |  |
| Warehouse | √ | √ |  |

It provides automated support for the following major functions:

* **Program Maintenance**
* Create state/local food safety programs
* Set up criteria for scheduling inspections
* Record licenses/renewals for food manufacturing/distribution facilities
* **Inspections**
* Generate work lists for inspections, including past-due
* Provide disconnected support for on-site inspections
* Establish program-specific inspection criteria as a series of questions
* Obtain stylus signature from licensee or other person in charge
* Issue inspection report on-site
* **Inspection Support**
* Relate inspection tasks to specific regulations, including verbiage
* Display map, directions to facilities
* Provide easily visible history of past citations, violations, and trends
* **External Access**
* Seamless interface to lab systems for samples to be tested
* Public portal displays inspection history, including violations

## Infrastructure

**USAFoodSafety**is a Microsoft-based application. The accompanying table shows the recommended configuration with the associated Microsoft products. The number of laptops, PCs, and/or tablets will vary based on the user community.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Function | Operating System | Minimum GB RAM | Minimum Speed | Hard Disk | Other |
| Web Application Server | Windows Server 2003 Enterprise x64 Edition Service Pack 2 | 4+ GB | 2.4 GHz Intel | 100 GB | .NET Framework 3.5 |
| Synchronization Server (Optional)**\*** | Windows Server 2003 Enterprise x64 Edition Service Pack 2 | 8+ GB | 2.4 GHz Intel | 100 GB | .NET Framework 3.5 |
| Database Server | Windows Server 2003 Enterprise x64 Edition Service Pack 2 | 8+ GB | 2.4 GHz Dual Core Intel processor | 100 GB | SQL Server 2008 Standard Edition**\*\*** |
| PCs, laptops, tablets | Windows XP/Windows 7 (64 Bit) | 2.5 GB | 1.83 GHz Dual Core processor | 100 GB |  |

**\***Can be combined with Web Server with these minimums: 12 GB RAM, 2.4 GHz Intel Quad Core, 100 GB disk

**\*\*Second license may be required.** Most configurations require a separate copy of SQL Server, installed on the web application server for its SQL Server Reporting Services (SSRS) component, which **USAFoodSafety** uses to generate all standard reports.

## Licensing

AgraGuard is a comprehensive suite of Microsoft-based software offered by the National Agribusiness Technology Center. AgraGuard is a practical, effective means for state agencies to deploy government focused, off-the-shelf (GOTS) software to support them in their role of protecting the nation’s food supply. The software comprises five components, all associated with various aspects of agriculture regulation and food safety. As of 2011, the total investment to develop and enhance the AgraGuard System is $9.3 million.

Founded in 2008, the NATC is a non-profit corporation dedicated to identifying best of-breed technologies and promoting all aspects of food safety, “from farm to fork.” The center was formed to pursue and assist the development and use of the "best available technologies" that will have an immediate result in increased economic viability and enhanced productivity for those involved in the food supply chain. The NATC is responsible for licensing all AgraGuard modules, including USAFoodSafety.

AgraGuard software is available to public-sector agencies under the following terms:

* The license is available at no cost from the NATC. The recipient agency is responsible for infrastructure and systems software necessary to support the AgraGuard modules.
* The agency must pay an NATC-certified vendor for customization, data conversion, or other assistance, if required, to configure the software. At present, Computer Aid, Inc. (CAI) is the only firm certified to support AgraGuard, including **USAFoodSafety**.
* Any enhancements specific to one useris available to all other licensees at no additional charge. Where appropriate, members may share development costs for jointly requested enhancements.

A copy of the license from NATC is attached to this statement of work (SOW).

# Statement of Work

This SOW represents the scope of work for CAI to modify **USAFoodSafety** on behalf of the Iowa Department of Inspections and Appeals (DIA); configure it for use by DIA based on Iowa policy; and implement it on a server within the State’s technical environment.

## System Enhancements

This section describes the system-wide enhancements required by the State, with associated cost estimates.

| Requirement | CAI Notes | Cost |
| --- | --- | --- |
| Online licensing, renewal, document submission system | | |
| The system must connect to the state log-in (A and A) system. |  | $5,400 |
| Individuals should be able to renew and pay for licenses online (the system would redirect to the State payment engine). |  | $3,600 |
| The systems should allow for certain information to be electronically submitted such as risk control plans etc. Structural plans….etc. Depending on type it should move to the appropriate workflow. |  | $9,000 |
| Individual’s ability to apply for and pay for, a temporary license and submitting to the inspector, jurisdiction, etc for review and approval |  | $3,600 |
| Overall ability to send items electronically | | |
| Ideally able to record two types of email address.  Person in charge of food safety and the person in charge of paying the bill.  (Not the exact titles). | Functionality already available viaBusiness Contacts | N/A |
| Ability to batch email renewal and past due notices to the person in charge of paying the bill. | Estimate also addresses emailing inspection report | $7,200 |
| Ability to print/email blank application forms with the correct regulatory authority (i.e. for certain licenses a contracting local health department, for others, the state). |  | $3,600 |
| Ability to email an inspection report | Included in prior estimate | $0 |
| System should only print and display the fee structure that applies to that particular license | Functionality already available | N/A |
| Inspections | | |
| Ability to assign risk levels to a variety of establishments up to 5 levels and associate the inspection frequency with the risk level, but allowing the frequency to be overridden by the inspector or supervisors. |  | $3,600 |
| Ability to automatically move due dates for corrective actions to the “to due” list for the inspector.  Also ability for the supervisor to see what’s not completed on the to do list. |  | N/A |
| If a license is printed (for example, for walk-in customer), the license should be removed from the batch to be printed. |  | $2,160 |
| Ability to record check number or cash receipt number, check date, amount received, and date issued on payment screen. | Functionality already available via Payment Maintenance | N/A |
| We would need to set this up for both state and local government users (we have 26 local agencies that handle licensing and inspections in their area).  The online renewal process would be unified (same system from one website). | Functionality already available | N/A |
| We also need the ability to easily switch the “regulatory authority” from state to local agency or vice versa. State should always have the ability to enter information on a firm. (Additional information received in email from Steve Mandernach 2/5/2012) |  | $7,200 |
| In manufactured foods (food processing) the ability, to identify specialized processes (i.e. the FDA identified specialized process…seafood, acidified, low acid, or juice and add additional questions to the inspection report for each of these if the facility has that specialized process).   (i.e those facilities regulated under 21 CFR Part 110). |  | $10,800 |
| Would like the ability for the inspector to add notes under individual areas on inspection reports that are not visible on the public portal, whether the firm is in or out of compliance. |  | $4,320 |
| Ability to add FDA registration and identification numbers. |  | $1,440 |
| Ability to assign products types and multiple product types (Additional information received in email from Scott Platt 2/6/2012) | This can be done using the operation types on Business Program Maintenance | N/A |
| Inspectors should be able to update information in the field, such as out-of-business, etc, but additional information should be required. |  | $3,600 |
| Ability to link and inspection to multiple license types (RS-restaurant and FE-grocery). | Functionality already available | N/A |
| The items listed in the following document for retail food inspections (restaurant, grocery, convenience store, etc.) | Functionality already available | N/A |
| Ability to license and inspect hotels/motels. | Included in standard configuration/setup | N/A |
| Items from Mobile Inspection Document | | |
| The ability to issue Guidance Documents and web links from the application |  | $10,800 |
| Ability to view Food Code language and public health rational for the regulation from the inspection questions application. Ability to view report marking instructions |  | $7,200 |
| Follow up Activities |  | $10,800 |
| At the end of the inspection ask sanitarian if risk level/inspection frequency should be updated |  | $3,600 |
| Risk criteria maintenance and visibility |  | $3,600 |
| Pre-inspection questions |  | $3,600 |
| Post-inspection questions |  | $3,600 |
| Other | | |
| SSRS Report Model (ad hoc reporting) | Create a report model for end-users to navigate database via SSRS | $3,600 |
|  | **Totals:** | **$112,320** |

## 

## Standard Implementation Tasks

The table below outlines the work effort required and State responsibilities to deploy a new installation of the **USAFoodSafety**. For DIA, we will configure it for 80-100 users, 23 organizations, and 24,000 facilities, as well as the 11 programs listed on page 2.

| Item | CAI Tasks | State Responsibilities |
| --- | --- | --- |
| Gap Analysis | Conduct on-site gap analysis to confirm detailed scope of work. | Have key personnel available to review the system for any specific needs; provide access to current data. |
| Project Startup | Project startup tasks including meeting preparation and implementation planning. | Have key personnel available to participate in webinars (if needed); review specifications and final implementation plans. |
| Security Module | Configure the security. | Create users within **USAFoodSafety**.  Assign specific permissions to individuals. |
| Preparation of Operational Data in Database | This item is to prepare and populate the operational database tables with the necessary values for the installation. Most of these tables can be configured via the user interface if changes are needed to the seed data. | Cleanse existing data before providing it for import into **USAFoodSafety**.  Provide data to be converted in the CAI-designated layout. |
| Configuration of the application | Configure the software for specifications identified during gap analysis. This does not include enhancements or interface changes to the application. | A checklist will be provided and these decisions should be made prior to go-live. Your database will come preloaded with these configurations. This information may be changed via the maintenance tables if needed. |
| Customization of the application | Modify the application based on the agreed-upon modules and enhancements that are in scope for the implementation. | Key staff available to answer questions regarding enhancement requirements or questions regarding program setup. |
| Environment Setup | Establish and deploy the system on CAI’s server for testing and training purposes. | Prior to go-live (and each production release), we recommend testing the software in CAI’s environment as well as the State’s staging environment. |
| Data Acceptance Testing | Perform tests on the system after the operational and business data tables have been populated. | Prior to the release on your local environment, we may deploy to a Beta environment here at CAI for you to review the data which we have imported. |
| User Training | Supply a system trainer to the customer for four days of on-site user training. | Make users available for the training, based on user roles. Provide a conference room, projector, and several PCs for hands-on training. |
| Implementation | Install the application to the customer’s production environment and perform final data conversion for go-live. | Ideally, we prefer to work directly on State infrastructure, working remotely via the Internet. If we are not allowed access to the servers, we will provide detailed instructions for the State to perform the deployment. |
| Post-Implementation Support | CAI will supply a full-time resource for one week to support the software in production. | Provide work space for any on-site support, if required/desired. |

## Maintenance

Maintenance and support are provided on an annual basis, with Year 1 maintenance effective immediately after go-live($25,000 annually). Services include the following:

* **Call Support/Problem Resolution**

We maintain a support team in Harrisburg, PA, available to designated State representatives via email or telephone. All problem calls will be logged and tracked by the CAI resource through resolution. This SOW includes 150 hours of CAI support; unused support hours can be applied to enhancements. We also provide monthly status reports of any time required to support the State.

The service is available 8:00 a.m. to 5:00 p.m. Eastern Time on business work days. This is Level 2/Level 3 support. The State is responsible for identifying the point of contact (POC) authorized to contact CAI for support issues.

* **Automatic Upgrades**

**USAFoodSafety** is periodically modified, based on requirements across the AgraGuard community. Normally, two major releases of the software occur each year. CAI will implement the newly enhanced software on the State’s staging server, if allowed. Otherwise we will provide detailed scripts for State technical staff to install it. We will also provide functional release notes as a memorandum to the user community, describing new functionality or specific issues addressed.

* **Release Consultation**

We will assist the user community in coordinating requirements, including potential cost-sharing across state licensees.

* **Additional Support/Enhancements**

CAI will provide additional support and/or software enhancements at the rate of $125 per hour. For specific enhancements, we will provide an estimate, confirm the scope with the State, and invoice it as a fixed-price SOW.

Post-implementation support beginswhen the software is deployed in a production environment and the State signs the maintenance agreement. It continues for 12 months and is renewable annually.

## Scope of Work

This section defines the scope of work for implementing **USAFoodSafety** for DIA.

### CAI Responsibilities

We will need approximately six months from contract signing to configure, enhance, and install the software. The actual implementation date will depend on the scope of approved enhancements (page 35) and any State dependencies.

Upon notification to proceed, we will prepare a Microsoft Project plan for the engagement and use it to monitor task completion until go-live. The primary tasks are described under the**Standard Implementation Tasks**heading above (page 37), including State responsibilities. Approximately six weeks prior to go-live, we will jointly commit to a detailed implementation schedule, for use by both parties in scheduling training, travel, and all logistics associated with go-live. This will address State availability for training and user acceptance testing (UAT) as well as any other State dependencies that impact the go-live date.

### Deliverables/Fee Schedule

The accompanying table summarizes the components for the major deliverables and associated payments for the engagement.

|  |  |  |  |
| --- | --- | --- | --- |
| Deliverables/ Milestones | Due after project start | Amount | Acceptance Criteria |
| Base Implementation | | | |
| Gap Analysis | 5 days | $0 | CAI will deliver a functional gap analysis and confirm the detailed scope of work. |
| Detailed project plan and design specifications for enhancements | 30 days | $0 | CAI will deliver an updated MS Project plan with design specifications for all enhancements. |
| Configuration of **USAFoodSafety** | 90 days | $0 | Configurations/customizations specific for the DIA implementation; |
| **USAFoodSafety**  Enhancements &Implementation **Retail** (See Go-Live) | 90 days | $0 | Enhancement and implementation specific for the DIA implementation of the Retail Foods program. |
| **USAFoodSafety**  Enhancements & Implementation **Manufactured Food** (See Go-Live) | 150 days | $0 | Enhancement and implementation specific for the DIA implementation of the Manufactured Food program. |
| **USAFoodSafety**  Enhancements & Implementation **Complaints** (See Go-Live) | 150 days | $0 | Enhancement and implementation specific for the DIA implementation for Complaint Processing. |
| **USAFoodSafety** System-Wide Enhancements | 150 days | $0 | **USAFoodSafety**enhancements described on page 5; sandbox implementation of base system on CAI server with DIA lookup data. |
| Install **USAFoodSafety** on Statestaging environment  With production-level data conversion | 155 days | $120,000 | Installed version of **USAFoodSafety** on DIA infrastructure, includes snapshot of production data for evaluation purposes. |
| On-site Training | 165 days | $28,120 | CAI will conduct four days of on-site training for DIA staff. |
| **USAFoodSafety**Go-Live   * Enhancements &Implementation  **Retail**  $44,000 * Enhancements & Implementation  **Manufactured Food** $65,000 * Enhancements & Implementation  **Complaints** $50,000 | 180 days | $181,500 | **USAFoodSafety** live in DIA production environment. |
| Production data conversion | 180 days | $11,000 | Final data conversion. |
| Year 1 Maintenance | 180 days | $25,000 | New software installed twice per year; 150 hours of email/call support, with monthly status reporting. |
|  | **Total** | **$365,620** |  |

### Assumptions

These are key assumptions that impact scope and delivery.

Implementation

* **Infrastructure**

DIA is responsible for procuring and setting up hardware and operating system software (page 33) at least 30 days prior to go-live.

* **Seed Data versus Data Conversion**

As part of base configuration, we will set up static data, such as table lookups, and load **USAFoodSafety** with baseline data needed for the software to align with DIA’s business model.

* **Data Conversion**

Our quotation makes the following assumptions about the quantity and structure of data to be converted:

* 24,000 facilities to be inspected, 25,000 inspections per year
* 80-100 users, 23 organizations
* Current database 1.6 GB
* **Number of system users**
* 80-100 users
* **Programs**

We will configure **USAFoodSafety** to support the following programs: Hotels/Motels, Home Food, Retail (two categories), Wholesale, Farmer’s Market, Mobile Food, Temporary Eating and Drinking, Vending Machines,and Warehouse Distribution Centers.

Post-Implementation

* **Ongoing Support**

As part of Year 1 maintenance, a **USAFoodSafety**subject matter expert (SME)is available for Level 2/3 support from 8 a.m. to 5 p.m. Eastern Time on Federal work days. He/she will communicate with the State-designated POC, not with the end-user community.

* **Support Hours**

Our ability to provide adequate support with 150 hours per year assumes a maximum user community of 100 public-sector employees. This is sufficient for State management, DIA and county/local inspectors, and potentially for Environmental Health inspectors.

**Attachment B**

**Certification Regarding Lobbying**

The undersigned certifies, to the best of his or her knowledge and belief, that:

A.     No federal appropriated funds have been paid or will be paid on behalf of the Sub-Grantee to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of the Congress, an officer or employee of the Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant loan or cooperative agreement.

B.     If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of the Congress, or an employee of a Member of Congress in connection with this Contract, grant, loan, or cooperative agreement, the applicant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

C.    The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C.A. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Organization:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

**Attachment C**

**CERTIFICATION REGARDING DEBARMENT,**

**SUSPENSION, INELIGIBILITY AND VOLUNTARY**

**EXCLUSION—LOWER TIER COVERED TRANSACTIONS**

By signing and submitting this Proposal, the bidder is providing the certification set out below:

1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the bidder knowingly rendered an erroneous certification, in addition to other remedies available to the federal government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

2. The bidder shall provide immediate written notice to the person to whom this Proposal is submitted if at any time the bidder learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principle, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this Proposal is submitted for assistance in obtaining a copy of those regulations.

4. The bidder agrees by submitting this Proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

5. The bidder further agrees by submitting this Proposal that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. A participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

7. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

8. Except for transactions authorized under paragraph 4 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**CERTIFICATION REGARDNG DEBARMENT,**

**SUSPENSION, INELIGIBILITY AND VOLUNTARY**

**EXCLUSION—LOWER TIER COVERED TRANSACTIONS**

(1) The bidder certifies, by submission of this Proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

2 Where the bidder is unable to certify to any of the statements in this certification, such bidder shall attach an explanation to this Proposal.

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(Signature)

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(Company Name)