



DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES
3771 Eastwood Drive
Jackson, Mississippi 39211
(601) 432-8000

INVITATION: Sealed bids, subject to the conditions herein stated and attached hereto, will be received at this office **until 3:00 p.m. Central Time on Tuesday, December 22, 2015**, and then publicly opened for furnishing the services as described below for the Mississippi Department of Information Technology Services.

DESCRIPTION

For the acquisition of Persona Access Control equipment and software for the University of Southern Mississippi (USM), School of Nursing:

Bidder Information

Attachment A: Bid Form and Specifications

Attachment B: Reference Form

Attachment C: Standard Contract

Attachment D: Exception Summary Form

Bidder must submit bid and attachments to:

Attn: Paula Conn
Technology Consultant
Dept. of Information Technology Services
3771 Eastwood Drive
Jackson, MS 39211
(601) 432-8046

To prevent opening by unauthorized individuals, your bid should be placed in a sealed envelope and plainly identified as follows:

SUBMITTED IN RESPONSE TO REQUEST FOR BID NUMBER 3836.



Craig R. Orgeron, Executive Director

**REQUEST FOR BID
BIDDER INFORMATION
PROJECT 38585**

This document contains general information for bidders responding to a Request for Bid issued by the ITS.

I. Miscellaneous Conditions and Information

1. Bidders are expected to examine all documents, forms, specifications, standard provisions and all instructions. Failure to do so will be at the bidder's risk.
2. Any bid not received in writing at this office by the date and time specified will be declared a late bid. The State will not be responsible for any delays in delivery. It is solely the responsibility of the bidder that bids reach the opening on time. Any bid received after closing time will be returned unopened.
3. Bids or alterations by fax, e-mail or phone will not be accepted.
4. All bid openings are open to the public. The ITS staff will read the name of bidder responding.
5. All disclosures of bid information to interested parties will be made in compliance with ITS policies and procedures established in accordance with the Mississippi Public Records Act of 1983 defined in Section 25-61-1 et seq. of the Mississippi Code.
6. No negotiations, decisions, or actions shall be executed by any bidder as a result of any discussions with any state employee. Only transactions which are in writing from ITS may be considered official.
7. ITS reserves the right to reject any and all bids and to waive any defect or informality in any bid or bid procedure.
8. Bidder must provide three (3) verifiable references for projects with similar size and scope. Required information includes name, address, telephone number, and length of time the account has been a reference. A Reference Form for providing reference information is included in Attachment B. The Bidder must make arrangements in advance with the account references so that they may be contacted at the Project team's convenience without further clearance or Bidder intercession. Failure to provide this information in the manner described may subject the Bidder's proposal to being rated unfavorably relative to these criteria or disqualified altogether at the State's sole discretion.

References should be based on the following profiles and be able to substantiate the following information from both management and technical viewpoints:

- The reference installation product/service must be configured similarly or identically to this RFB; and
- The reference installation must have been operational for at least six (6) months.

9. All bid material submitted in writing shall become the property of the State.
10. Expenses for the development and delivery of bids are entirely the responsibility of the bidder and shall not be chargeable to the State.
11. This procurement, in its entirety, is a component of a construction project being managed by the Mississippi Department of Finance and Administration Bureau of Building, Grounds, and Real Property Management (BoB). Any estimated completion date provided herein is a good-faith estimate based on the current project schedule. Construction delays may occur due to unforeseen circumstance outside of ITS' and the awarded Vendor's control that prevent the Vendor from completing some or all of the obligations for this award by the projected date (e.g., delay in need for delivery of equipment).
12. Vendor will invoice the Bureau of Building with GS# 108-261. The GS number must be used on all correspondence and invoices to BoB. The invoice must be sent to ITS for processing. Additional information regarding will be provided at time of award.
13. The equipment and software listed in Attachment A, Bid Form, will interface with the existing Persona Access Control System used throughout the campus of the University of Southern Mississippi.

II. Format and Content of Bid

1. The Bidder is required to submit three (3) identical copies of his bid.
2. The Bidder should note that original signatures are required on each copy of the bid.
3. The Bidder must complete all forms included in this RFB in their entirety.
4. The State reserves the right to reject bids from bidders who submit incomplete bids.

III. Clarifications and Updates After the Bid Opening Date and Time

Bid clarifications and updates submitted after the bid opening date and time will be accepted or rejected at the sole discretion of ITS. ITS will accept no price increases for a 90-day period after the bid opening. However, the State will always take advantage of price decreases. ITS will consider updates in the evaluation and selection of lowest and best bid only if: (a) The update provided is in effect nationally and has been publicly announced; and (b) the update is received early enough in the evaluation process to allow adequate time for re-evaluation. Bidders must follow the procedure outlined below in submitting updates to bids:

1. The Bidder must submit a statement outlining the circumstances under which he is submitting a clarification or update to the original bid.
2. The Bidder must submit updates in three (3) copies and in the format of the specifications of only those pages in the bid document that should replace the old pages or that should be added. The revised pages must be marked as a bid clarification or update, dated, and page numbered.

IV. Project Schedule

Task	Date
First Advertisement Date for RFB	12/08/15
Second Advertisement Date for RFB	12/15/15
Open Bid Responses	12/22/15
Evaluation of Bids	12/22—23/15
Notification of Award	01/04/16
Contract Negotiation	01/04—19/16
Installation Commencement	03/2016
Installation Completion	08/2016

**ATTACHMENT A
BID FORM**

I. Specifications

1. Vendor must have a service center within 150 miles of Hattiesburg, Mississippi, with technicians trained on the Persona Access Control hardware and software. Vendor must document that the location is within 150 miles of Hattiesburg and that the technicians located at that service center are trained on the Persona Access Control hardware and software.
2. Vendor will be expected to begin work in the March 2016 time frame. Vendor will be expected to coordinate with the general contractor (Hanco) regarding access to the building during construction. The implementation will be completed prior to the start of class in August 2016.
3. Vendor must provide pricing for the following Persona equipment and software. Pricing must be guaranteed until the project is completely installed. Vendor must provide a copy of As Built drawings upon completion.
4. The State reserves the right to increase or decrease quantities, using the unit cost provided by the Vendor.

PART NUMBER	DESCRIPTION	QTY	UNIT COST	EXTENDED COST
	HID V1000 Persona Controller	1		
	HID V100 Persona Door Controller	32		
	HID W644 Card Swipe Readers	59		
	iDec PS 5R A05 Power supply	32		
	Securitron XMS Motion Sensor	10		
	Securitron DPS Door Position Switches	10		
	Altronix RBSNP Relay	4		
	Persona Reader Licenses	70		
	Installation, including wire, J hooks, terminations			
	TOTAL			

Fully loaded change order rate (must include lodging, per diem, travel) \$ _____

This is to certify that the bidder will be responsible for the Persona Access Control System as per specifications stipulated by ITS.

Original Signature of Officer in Bind of Company

Name (Typed) _____

Title _____

Company Name _____

Date _____

**ATTACHMENT B
REFERENCE FORM**

Complete three (3) Reference Forms.

Contact Name:

Company Name:

Address:

Phone #:

E-Mail:

Description of product/services/project, including start and end dates:

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**ATTACHMENT C
STANDARD CONTRACT**

A properly executed contract is a requirement of this RFB. After an award has been made, it will be necessary for the winning Bidder to execute a contract with **ITS**. The inclusion of this contract does not preclude **ITS** from, at its sole discretion, negotiating additional terms and conditions with the selected Vendor(s) specific to the projects covered by this RFB.

If Bidder cannot comply with any term or condition of this Standard Contract, Bidder must list and explain each specific exception on the Exception Summary Form included in Attachment D. If no Exception Summary Form is included, the Bidder is indicating that he takes no exceptions. Bidders who fail to take exception to any point in the RFB or the Standard Contract may not later do so during contract negotiations.

**PROJECT NUMBER 38585
PURCHASE AGREEMENT
BETWEEN
INSERT VENDOR NAME
AND
MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES
AS CONTRACTING AGENT FOR THE
MISSISSIPPI BUREAU OF BUILDING, GROUNDS & REAL PROPERTY MANAGEMENT
ON BEHALF OF THE
UNIVERSITY OF SOUTHERN MISSISSIPPI**

This Purchase Agreement (hereinafter referred to as "Agreement") is entered into by and between **INSERT VENDOR NAME**, a **INSERT STATE OF INCORPORATION** corporation having its principal place of business at **INSERT VENDOR ADDRESS** (hereinafter referred to as "Seller"), and Mississippi Department of Information Technology Services having its principal place of business at 3771 Eastwood Drive, Jackson, Mississippi 39211 (hereinafter referred to as "ITS"), as contracting agent for Mississippi Bureau of Building, Grounds & Real Property Management ("BOB") on behalf of the University of Southern Mississippi located at 118 College Drive, Hattiesburg, Mississippi 39406 (hereinafter referred to as "Purchaser"). ITS, BOB and Purchaser are sometimes collectively referred to herein as "State".

WHEREAS, Purchaser, pursuant to Request for Bid ("RFB") No. 3836, requested bids for the acquisition of certain equipment and software (hereinafter referred to as "Products") as listed in Exhibit A which is attached hereto and incorporated herein; and

WHEREAS, Seller was the successful proposer in an open, fair and competitive procurement process;

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

ARTICLE 1 TERM OF AGREEMENT

1.1 This Agreement will become effective on the date it is signed by all parties and will continue in effect until all tasks required herein, including any post warranty maintenance/support specified in Exhibit A, have been completed. Seller agrees to complete all tasks required under this Agreement, with the exception of warranty service, on or before the close of business on August 15, 2016, or within such other period as may be agreed to by the parties.

1.2 This Agreement will become a binding obligation on the State only upon the approval of the project by BOB's Public Procurement Review Board, receipt of Award Letter by Seller and the issuance by ITS of the CP-1 Acquisition Approval Document following contract execution.

ARTICLE 2 FURNISHING OF EQUIPMENT

2.1 Subject to the terms and conditions set forth herein, Seller agrees to provide and Purchaser agrees to buy as needed, the Products listed in the attached Exhibit A and at the purchase price set forth therein, but in no event will the total compensation to be paid hereunder exceed the specified sum of **\$INSERT AMOUNT** unless prior written authorization from ITS has been obtained. Purchaser shall submit a notice to proceed to Seller which shall be subject to the terms and conditions of this Agreement. The parties agree that Purchaser reserves the right to adjust the quantities of purchases based upon the availability of funding or as determined necessary by Purchaser. Seller guarantees pricing for a period of 180 days from the effective date of this Agreement. In the event there is a national price decrease of the Products bid during this time, Seller agrees to extend the new, lower pricing to Purchaser.

2.2 The Products provided by Seller shall meet or exceed the minimum specifications set forth in RFB No. 3836 and the Seller's Proposal in response thereto.

ARTICLE 3 DELIVERY, RISK OF LOSS, INSTALLATION AND ACCEPTANCE

3.1 Seller shall deliver the Products to the location specified by Purchaser and pursuant to the delivery schedule set forth by Purchaser.

3.2 Seller shall assume and shall bear the entire risk of loss and damage to the Products from any cause whatsoever while in transit and at all times throughout its possession thereof.

3.3 Seller shall complete installation of the Products pursuant to the requirements set forth in RFB No. 3836. Seller acknowledges that installation shall be accomplished with minimal interruption of Purchaser's normal day to day operations.

3.4 Seller shall be responsible for replacing, restoring or bringing to at least original condition any damage to floors, ceilings, walls, furniture, grounds, pavements, sidewalks, and the like caused by its personnel and operations during the installation, subject to final approval of ITS. The repairs will be done only by technicians skilled in the various trades involved, using materials and workmanship to match those of the original construction in type and quality.

3.5 Seller shall be responsible for installing all equipment, cable and materials in accordance with all State, Federal and industry standards for such items.

3.6 Purchaser shall accept or reject the Products provided by Seller after a five (5) day testing period utilizing testing criteria developed by Purchaser. During the acceptance period, Purchaser shall have the opportunity to evaluate and test the Products to confirm that it performs without any defects and performs pursuant to the specifications set forth in RFB No. 3836. Purchaser shall notify Seller in writing of its acceptance of the Products.

3.7 In the event the Product fails to perform as stated above, Purchaser shall notify Seller. Seller shall, within five (5) working days and at Seller's sole expense, correct the defects identified by Purchaser or replace the defective Product. Purchaser reserves the right to return the defective Product to Seller at the Seller's expense and to cancel this Agreement.

ARTICLE 4 TITLE TO EQUIPMENT

Title to the equipment provided under this Agreement shall pass to Purchaser upon its acceptance of the equipment.

ARTICLE 5 CONSIDERATION AND METHOD OF PAYMENT

5.1 Once the Products have been accepted by Purchaser as prescribed in Article 3 herein, Seller shall submit an invoice for the cost and shall certify that the billing is true and correct. Services will be invoiced as they are rendered. Seller shall submit invoices and supporting documentation to Purchaser electronically during the term of this Agreement using the processes and procedures identified by the State. BOB agrees to pay Seller in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies", Sections 31-7-301, et seq. of the 1972 Mississippi Code Annotated, as amended, which generally provides for payment of undisputed amounts by the State within forty-five (45) days of receipt of the invoice. Seller understands and agrees that Purchaser is exempt from the payment of taxes. All payments shall be in United States currency. Payments by state agencies using Mississippi's Accountability System for Government Information and Collaboration (MAGIC) shall be made and remittance information provided electronically as directed by the State. The payments by these agencies shall be deposited into the bank account of the Seller's choice. No payment, including final payment, shall be construed as acceptance of defective

Products or incomplete work, and the Seller shall remain responsible and liable for full performance in strict compliance with the contract documents specified in the article herein titled "Entire Agreement".

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

ARTICLE 6 WARRANTIES

6.1 Seller represents and warrants that Seller has the right to sell the equipment and license the software provided under this Agreement.

6.2 Seller represents and warrants that Purchaser shall acquire good and clear title to the equipment purchased hereunder, free and clear of all liens and encumbrances.

6.3 Seller represents and warrants that each unit of equipment delivered shall be delivered new and not as "used, substituted, rebuilt, refurbished or reinstalled" equipment.

6.4 Seller represents and warrants that it has and will obtain and pass through to Purchaser any and all warranties obtained or available from the licensor of software or the manufacturer of the equipment.

6.5 Seller represents and warrants that all equipment provided pursuant to this Agreement shall, for a period of twelve (12) months from the date of acceptance of each item of equipment, be free from defects in material, manufacture, design and workmanship. Seller's obligation pursuant to this warranty shall include, but is not limited to, the repair or replacement of the equipment at no cost to Purchaser. In the event Seller cannot repair or replace an item of equipment during the warranty period, Seller shall refund the purchase price of the equipment, and refund any fees paid for services that directly relate to the defective hardware.

6.6 Seller represents and warrants that the Products provided by Seller shall meet or exceed the minimum specifications set forth in RFB No. 3836 and Seller's Proposal in response thereto.

6.7 Seller represents and warrants that all software furnished shall be free from material defects for a period of twelve (12) months after acceptance and will function in accordance with the specifications as stated in RFB No. 3836 and the Seller's Proposal in response thereto. If the software does not function accordingly, Seller shall, at no cost to Purchaser, replace the software or refund the fees paid for the software and for any services that directly relate to the defective software.

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

6.9 Seller represents and warrants that the software, as delivered to Purchaser, does not contain a computer virus. For any breach of this warranty, Seller, at its expense, shall, within five (5) working days after receipt of notification of the breach, deliver Products to Purchaser that are free of any

virus and shall be responsible for repairing, at Seller's expense, any and all damage done by the virus to Purchaser's site.

6.10 Seller represents and warrants that its services hereunder shall be performed by competent personnel and shall be of professional quality consistent with generally accepted industry standards for the performance of such services and shall comply in all respects with the requirements of this Agreement. For any breach of this warranty, the Seller shall, for a period of ninety (90) days from performance of the service, perform the services again, at no cost to Purchaser, or if Seller is unable to perform the services as warranted, Seller shall reimburse Purchaser the fees paid to Seller for the unsatisfactory services.

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

6.12 Seller represents and warrants that the system provided pursuant to this Agreement will pass both internal security audits and independent security audits. For any breach of the preceding warranty at any time during which the system is covered by warranty, maintenance and/or support, Seller shall, at its own expense and at no cost to Purchaser, remediate any defect, anomaly or security vulnerability in the system by repairing and/or replacing any and all components of the system necessary in order for the system to be secure.

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

6.14 The Seller represents and warrants that no elected or appointed officer or other employee of the State of Mississippi, nor any member of or delegate to Congress has or shall benefit financially or materially from this Agreement. No individual employed by the State of Mississippi shall be admitted to any share or part of the Agreement or to any benefit that may arise therefrom. The State

of Mississippi may, by written notice to the Seller, terminate the right of the Seller to proceed under this Agreement if it is found, after notice and hearing by the ITS Executive Director or his/her designee, that gratuities in the form of entertainment, gifts, jobs, or otherwise were offered or given by the Seller to any officer or employee of the State of Mississippi with a view toward securing this Agreement or securing favorable treatment with respect to the award, or amending or making of any determinations with respect to the performing of such contract, provided that the existence of the facts upon which the ITS Executive Director makes such findings shall be in issue and may be reviewed in any competent court. In the event this Agreement is terminated under this article, the State of Mississippi shall be entitled to pursue the same remedies against the Seller as it would pursue in the event of a breach of contract by the Seller, including punitive damages, in addition to any other damages to which it may be entitled at law or in equity.

ARTICLE 7 INFRINGEMENT INDEMNIFICATION

Seller represents and warrants that neither the hardware, replacement parts nor software, their elements or the use thereof violates or infringes upon any copyright, patent, trademark, servicemark, trade secret or other proprietary right of any person or entity. Seller, at its own expense, shall defend or settle any and all infringement actions filed against Seller or Purchaser which involve the hardware, software or other items provided under this Agreement and shall pay all settlements, as well as all costs, attorney fees, damages and judgment finally awarded against Purchaser. If the continued use of the products for the purpose intended is threatened to be enjoined or is enjoined by any court of competent jurisdiction, Seller shall, at its expense: (a) first procure for Purchaser the right to continue using such products, or upon failing to procure such right; (b) modify or replace them with non-infringing products, or upon failing to secure either such right, (c) refund to Purchaser the purchase price or software license fees previously paid by Purchaser for the products Purchaser may no longer use. Said refund shall be paid within ten (10) working days of notice to Purchaser to discontinue said use.

ARTICLE 8 EMPLOYMENT STATUS

8.1 Seller shall, during the entire term of this Agreement, be construed to be an independent contractor. Nothing in this Agreement is intended to nor shall it be construed to create an employer-employee relationship or a joint venture relationship.

8.2 Seller represents that it is qualified to perform the duties to be performed under this Agreement and that it has, or will secure, if needed, at its own expense, applicable personnel who shall be qualified to perform the duties required under this Agreement. Such personnel shall not be deemed in any way directly or indirectly, expressly or by implication, to be employees of Purchaser. Seller shall pay, when due, all salaries and wages of its employees, and it accepts exclusive responsibility for the payment of federal income tax, state income tax, social security, unemployment compensation, and any other withholdings that may be required. Neither Seller nor employees of Seller are entitled to state retirement or leave benefits.

8.3 Any person assigned by Seller to perform the services hereunder shall be the employee of Seller, who shall have the sole right to hire and discharge its employee. Purchaser may, however, direct Seller to replace any of its employees under this Agreement. If Seller is notified within the first eight (8) hours of assignment that the person is unsatisfactory, Seller will not charge Purchaser for those hours.

8.4 It is further understood that the consideration expressed herein constitutes full and complete compensation for all services and performances hereunder, and that any sum due and payable to Seller shall be paid as a gross sum with no withholdings or deductions being made by Purchaser for any purpose from said contract sum.

ARTICLE 9 BEHAVIOR OF EMPLOYEES/SUBCONTRACTORS

Seller will be responsible for the behavior of all its employees and subcontractors while on the premises of any Purchaser location. Any employee or subcontractor acting in a manner determined by the administration of that location to be detrimental, abusive, or offensive to any of the staff and/or student body, will be asked to leave the premises and may be suspended from further work on the premises. All Seller employees and subcontractors who will be working at such locations to install or repair Products shall be covered by Seller's comprehensive general liability insurance policy.

ARTICLE 10 MODIFICATION OR RENEGOTIATION

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

ARTICLE 11 AUTHORITY, ASSIGNMENT AND SUBCONTRACTS

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

11.2 Neither party may assign or otherwise transfer this Agreement or its obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld. Any attempted assignment or transfer of its obligations without such consent shall be null and void. This Agreement shall be binding upon the parties' respective successors and assigns.

11.3 Seller must obtain the written approval of Purchaser before subcontracting any portion of this Agreement. No such approval by Purchaser of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of Purchaser in addition to the total fixed price agreed upon in this Agreement. All subcontracts shall incorporate the terms of this Agreement and shall be subject to the terms and conditions of this Agreement and to any conditions of approval that Purchaser may deem necessary.

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

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

ARTICLE 12 AVAILABILITY OF FUNDS

It is expressly understood and agreed that the obligation of Purchaser to proceed under this Agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds for the performances required under this Agreement. If the funds anticipated for the fulfillment of this Agreement are not forthcoming, or are insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds, or if there is a discontinuance or material alteration of the program under which

funds were available to Purchaser for the payments or performance due under this Agreement, Purchaser shall have the right to immediately terminate this Agreement, without damage, penalty, cost or expense to Purchaser of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination. Purchaser shall have the sole right to determine whether funds are available for the payments or performances due under this Agreement.

ARTICLE 13 TERMINATION

Notwithstanding any other provision of this Agreement to the contrary, this Agreement may be terminated, in whole or in part, as follows: (a) upon the mutual, written agreement of the parties; (b) If either party fails to comply with the terms of this Agreement, the non-defaulting party may terminate the Agreement upon the giving of thirty (30) days written notice unless the breach is cured within said thirty (30) day period; (c) Purchaser may terminate the Agreement in whole or in part without the assessment of any penalties upon thirty (30) days written notice to Seller if Seller becomes the subject of bankruptcy, reorganization, liquidation or receivership proceedings, whether voluntary or involuntary, or (d) Purchaser may terminate the Agreement without the assessment of any penalties for any reason after giving thirty (30) days written notice specifying the effective date thereof to Seller. The provisions of this Article do not limit either party's right to pursue any other remedy available at law or in equity.

ARTICLE 14 GOVERNING LAW

This Agreement shall be construed and governed in accordance with the laws of the State of Mississippi and venue for the resolution of any dispute shall be Jackson, Hinds County, Mississippi. Seller expressly agrees that under no circumstances shall Purchaser or ITS be obligated to pay an attorneys fee, prejudgment interest or the cost of legal action to Seller. Further, nothing in this Agreement shall affect any statutory rights Purchaser may have that cannot be waived or limited by contract.

ARTICLE 15 WAIVER

Failure of either party hereto to insist upon strict compliance with any of the terms, covenants and conditions hereof shall not be deemed a waiver or relinquishment of any similar right or power hereunder at any subsequent time or of any other provision hereof, nor shall it be construed to be a modification of the terms of this Agreement. A waiver by the State, to be effective, must be in writing, must set out the specifics of what is being waived, and must be signed by an authorized representative of the State.

ARTICLE 16 SEVERABILITY

If any term or provision of this Agreement is prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law provided that the State's purpose for entering into this Agreement can be fully achieved by the remaining portions of the Agreement that have not been severed.

ARTICLE 17 CAPTIONS

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

ARTICLE 18 HOLD HARMLESS

To the fullest extent allowed by law, Seller shall indemnify, defend, save and hold harmless, protect and exonerate Purchaser, ITS and the State, its Board Members, officers, employees, agents and representatives from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses of every kind and nature whatsoever, including without limitation, court costs, investigative fees and expenses, attorney fees and claims for damages arising out of or

caused by Seller and/or its partners, principals, agents, employees, or subcontractors in the performance of or failure to perform this Agreement.

ARTICLE 19 THIRD PARTY ACTION NOTIFICATION

Seller shall notify Purchaser in writing within five (5) business days of Seller filing bankruptcy, reorganization, liquidation or receivership proceedings or within five (5) business days of its receipt of notification of any action or suit being filed or any claim being made against Seller or Purchaser by any entity that may result in litigation related in any way to this Agreement and/or which may affect the Seller's performance under this Agreement. Failure of the Seller to provide such written notice to Purchaser shall be considered a material breach of this Agreement and the Purchaser may, at its sole discretion, pursue its rights as set forth in the Termination Article herein and any other rights and remedies it may have at law or in equity.

ARTICLE 20 AUTHORITY TO CONTRACT

Seller warrants that it is a validly organized business with valid authority to enter into this Agreement; that entry into and performance under this Agreement is not restricted or prohibited by any loan, security, financing, contractual or other agreement of any kind, and notwithstanding any other provision of this Agreement to the contrary, that there are no existing legal proceedings, or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this Agreement.

ARTICLE 21 NOTICE

Any notice required or permitted to be given under this Agreement shall be in writing and personally delivered or sent by electronic means provided that the original of such notice is sent by certified United States mail, postage prepaid, return receipt requested, or overnight courier with signed receipt, to the party to whom the notice should be given at their business address listed herein. ITS' address for notice is: Craig P. Orgeron, Ph.D., Executive Director, Mississippi Department of Information Technology Services, 3771 Eastwood Drive, Jackson, Mississippi 39211. Purchaser's address for notice is: Chris Crenshaw, Ph.D., Associate Vice President for Facilities Planning and Management, University of Southern Mississippi, 118 College Drive, Hattiesburg, Mississippi 39406. BOB's address for notice is: Mr. Glenn Kornbrek, Director, Mississippi Bureau of Building, Grounds & Real Property Management, 501 North West Street, Suite 1401B Woolfolk Building, Jackson, Mississippi 39201 The Seller's address for notice is: **INSERT VENDOR NOTICE INFORMATION**. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

ARTICLE 22 RECORD RETENTION AND ACCESS TO RECORDS

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

ARTICLE 23 INSURANCE

Seller represents that it will maintain workers' compensation insurance as prescribed by law which shall inure to the benefit of Seller's personnel, as well as comprehensive general liability and

employee fidelity bond insurance. Seller will, upon request, furnish Purchaser with a certificate of conformity providing the aforesaid coverage.

ARTICLE 24 DISPUTES

Any dispute concerning a question of fact under this Agreement which is not disposed of by agreement of the Seller and Purchaser shall be decided by the Executive Director of ITS or his/her designee. This decision shall be reduced to writing and a copy thereof mailed or furnished to the parties. Disagreement with such decision by either party shall not constitute a breach under the terms of this Agreement. Such disagreeing party shall be entitled to seek such other rights and remedies it may have at law or in equity.

ARTICLE 25 COMPLIANCE WITH LAWS

25.1 Seller shall comply with, and all activities under this Agreement shall be subject to, all Purchaser policies and procedures, and all applicable federal, state and local laws, regulations, policies and procedures as now existing and as may be amended or modified. Specifically, but not limited to, Seller shall not discriminate against any employee nor shall any party be subject to discrimination in the performance of this Agreement because of race, creed, color, sex, age, national origin or disability. Further, if applicable, Seller shall comply with the provisions of the Davis-Bacon Act including, but not limited to, the wages, recordkeeping, reporting and notice requirements set forth therein.

25.2 Seller represents and warrants that it will comply with the state's data breach notification laws codified at Section 75-24-29 of the Mississippi Code Annotated (Supp. 2012). Further, to the extent applicable, Seller represents and warrants that it will comply with the applicable provisions of the HIPAA Privacy Rule and Security Regulations (45 CFR Parts 160, 162 and 164) ("Privacy Rule" and "Security Regulations", individually; or "Privacy and Security Regulations", collectively); and the provisions of the Health Information Technology for Economic and Clinical Health Act, Title XIII of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 (the "HITECH Act").

ARTICLE 26 CONFLICT OF INTEREST

Seller shall notify Purchaser of any potential conflict of interest resulting from the representation of or service to other clients. If such conflict cannot be resolved to Purchaser's satisfaction, Purchaser reserves the right to terminate this Agreement.

ARTICLE 27 SOVEREIGN IMMUNITY

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

ARTICLE 28 CONFIDENTIAL INFORMATION

28.1 Seller shall treat all Purchaser data and information to which it has access by its performance under this Agreement as confidential and shall not disclose such data or information to a third party without specific written consent of Purchaser. In the event that Seller receives notice that a third party requests divulgence of confidential or otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of such information, Seller shall promptly inform Purchaser and thereafter respond in conformity with such subpoena to the extent mandated by state and/or federal laws, rules and regulations. This Article shall survive the termination or completion of this Agreement, shall continue in full force and effect, and shall be binding upon the Seller and its agents, employees, successors, assigns, subcontractors, or any party or entity claiming an interest in this Agreement on behalf of or under the rights of the Seller following any termination or completion of this Agreement.

28.2 With the exception of any attached exhibits which are labeled as "confidential", the parties understand and agree that this Agreement, including any amendments and/or change orders

thereto, does not constitute confidential information, and may be reproduced and distributed by the State without notification to Seller. ITS will provide third party notice to Seller of any requests received by ITS for any such confidential exhibits so as to allow Seller the opportunity to protect the information by court order as outlined in ITS Public Records Procedures.

28.3 The parties understand and agree that pursuant to §25-61-9(7) of the Mississippi Code of 1972, as amended, the contract provisions specifying the commodities purchased or the services provided; the price to be paid; and the term of this Agreement shall not be deemed confidential information.

ARTICLE 29 EFFECT OF SIGNATURE

Each person signing this Agreement represents that he or she has read the Agreement in its entirety, understands its terms, is duly authorized to execute this Agreement on behalf of the parties and agrees to be bound by the terms contained herein. Accordingly, this Agreement shall not be construed or interpreted in favor of or against the State or the Seller on the basis of draftsmanship or preparation hereof.

ARTICLE 30 OWNERSHIP OF DOCUMENTS AND WORK PRODUCTS

All data, electronic or otherwise, collected by Seller and all documents, notes, programs, data bases (and all applications thereof), files, reports, studies, and/or other material collected and prepared by Seller in connection with this Agreement, whether completed or in progress, shall be the property of Purchaser upon completion of this Agreement or upon termination of this Agreement. Purchaser hereby reserves all rights to the databases and all applications thereof and to any and all information and/or materials prepared in connection with this Agreement. Seller is prohibited from use of the above described information and/or materials without the express written approval of Purchaser.

ARTICLE 31 NON-SOLICITATION OF EMPLOYEES

Seller agrees not to employ or to solicit for employment, directly or indirectly, any of the Purchaser's employees until at least one (1) year after the expiration/termination of this Agreement unless mutually agreed to the contrary in writing by the Purchaser and the Seller and provided that such an agreement between these two entities is not a violation of the laws of the State of Mississippi or the federal government.

ARTICLE 32 ENTIRE AGREEMENT

32.1 This Agreement constitutes the entire agreement of the parties with respect to the subject matter contained herein and supersedes and replaces any and all prior negotiations, understandings and agreements, written or oral, between the parties relating hereto, including all terms of any unsigned or "shrink-wrap" license included in any package, media or electronic version of Seller-furnished software, or any "click-wrap" or "browse-wrap" license presented in connection with a purchase via the internet. The RFB No. 3836 and Seller's Proposal in response to RFB No. 3836 are hereby incorporated into and made a part of this Agreement.

32.2 The Agreement made by and between the parties hereto shall consist of, and precedence is hereby established by the order of the following:

- A.** This Agreement signed by both parties;
- B.** Any exhibits attached to this Agreement;
- C.** RFB No. 3836 and written addenda, and
- D.** Seller's Proposal, as accepted by Purchaser, in response to RFB No. 3836.

32.3 The intent of the above listed documents is to include all items necessary for the proper execution and completion of the services by the Seller. The documents are complementary, and what is required by one shall be binding as if required by all. A higher order document shall

supersede a lower order document to the extent necessary to resolve any conflict or inconsistency arising under the various provisions thereof; provided, however, that in the event an issue is addressed in one of the above mentioned documents but is not addressed in another of such documents, no conflict or inconsistency shall be deemed to occur by reason thereof. The documents listed above are shown in descending order of priority, that is, the highest document begins with the first listed document ("A. This Agreement") and the lowest document is listed last ("D. Seller's Proposal").

ARTICLE 33 SURVIVAL

Articles 6, 7, 14, 18, 22, 27, 28, 30, 31, and all other articles, which by their express terms so survive or which should so reasonably survive, shall survive any termination or expiration of this Agreement.

ARTICLE 34 DEBARMENT AND SUSPENSION CERTIFICATION

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

ARTICLE 35 COMPLIANCE WITH ENTERPRISE SECURITY POLICY

Seller and Purchaser understand and agree that all products and services provided by Seller under this Agreement must be and remain in compliance with the State of Mississippi's Enterprise Security Policy. The parties understand and agree that the State's Enterprise Security Policy is based on industry-standard best practices, policy, and guidelines at the time of contract execution. The State reserves the right to introduce a new policy during the term of this Agreement and require the Seller to comply with same in the event the industry introduces more secure, robust solutions or practices that facilitate a more secure posture for the State of Mississippi.

ARTICLE 36 STATUTORY AUTHORITY

By virtue of Section 25-53-21 of the Mississippi Code Annotated, as amended, the Executive Director of ITS is the purchasing and contracting agent for the State of Mississippi in the negotiation and execution of all contracts for the acquisition of information technology equipment, software, and services. The parties understand and agree that ITS as contracting agent is not responsible or liable for the performance or non-performance of any of Purchaser's or Seller's contractual obligations, financial or otherwise, contained within this Agreement. The parties further acknowledge that ITS is not responsible for ensuring compliance with any guidelines, conditions, or requirements mandated by Purchaser's funding source.

ARTICLE 37 TRANSPARENCY

In accordance with the Mississippi Accountability and Transparency Act of 2008, §27-104-151, et seq., of the Mississippi Code of 1972, as Amended, the American Accountability and Transparency Act of 2009 (P.L. 111-5), where applicable, and §31-7-13 of the Mississippi Code of 1972, as amended, where applicable, a fully executed copy of this Agreement and any subsequent

amendments and change orders shall be posted to the State of Mississippi's accountability website at: <https://www.transparency.mississippi.gov>. Prior to ITS posting the Agreement and any subsequent amendments and change orders to the website, any attached exhibits which contain trade secrets or other proprietary information and are labeled as "confidential" will be redacted by ITS. Notwithstanding the preceding, however, it is understood and agreed that pursuant to §25-61-9(7) of the Mississippi Code of 1972, as amended, the contract provisions specifying the commodities purchased or the services provided; the price to be paid; and the term of this Agreement shall not be deemed a trade secret or confidential commercial or financial information and shall thus not be redacted.

ARTICLE 38 LIQUIDATED DAMAGES

It is agreed by the parties hereto that time is of the essence, and that in the event of a delay in the delivery and installation deadlines or delay in the satisfactory completion and acceptance of the services provided for herein, damage shall be sustained by Purchaser. In the event of a delay as described herein, Seller shall pay Purchaser, within five (5) calendar days from the date of receipt of notice, fixed and liquidated damages of \$500.00 per day for each calendar day of delay caused by Seller. Purchaser may offset amounts due it as liquidated damages against any monies due Seller under this Agreement. Purchaser will notify Seller in writing of any claim for liquidated damages pursuant hereto on or before the date Purchaser deducts such sums from money payable to Seller. Any liquidated damages assessed are in addition to and not in limitation of any other rights or remedies of Purchaser.

ARTICLE 39 PERFORMANCE BOND

As a condition precedent to the formation of this Agreement, the Seller must provide a performance bond as herein described. To secure the Seller's performance, the Seller shall procure, submit to the State with this executed Agreement, and maintain in effect at all times during the course of this Agreement, a performance bond in the total amount of this Agreement. The bond shall be accompanied by a duly authenticated or certified document evidencing that the person executing the bond is a licensed Mississippi agent for the bonding company. This certified document shall identify the name and address of the person or entity holding the performance bond and shall identify a contact person to be notified in the event the State is required to take action against the bond. The term of the performance bond shall be concurrent with the term of this Agreement, with the exception of post-warranty maintenance and support, and shall not be released to Seller until final acceptance of all products and deliverables required herein or until the warranty period, if any, has expired, whichever occurs last. If applicable, and at the State's sole discretion, the State may, at any time during the warranty period, review Seller's performance and performance of the products/services delivered and determine that the Seller's performance bond may be reduced or released prior to expiration of the full warranty period. The performance bond shall be procured at Seller's expense and be payable to the Purchaser. The cost of the bond may be invoiced to the Purchaser after project initiation only if itemized in the Seller's cost proposal and in the attached Exhibit A. Prior to approval of the performance bond, the State reserves the right to review the bond and require Seller to substitute an acceptable bond in such form as the State may reasonably require. The premiums on such bond shall be paid by Seller. The bond must specifically refer to this Agreement and shall bind the surety to all of the terms and conditions of this Agreement. If the Agreement is terminated due to Seller's failure to comply with the terms thereof, Purchaser may claim against the performance bond.

ARTICLE 40 PERSONAL ASSIGNMENT GUARANTEE

Seller guarantees that the personnel assigned to this project will remain a part of the project throughout the duration of the Agreement, as long as the personnel are employed by the Seller and are not replaced by Seller pursuant to the third paragraph of the Article herein titled "Employment Status." Seller further agrees that the assigned personnel will function in the capacity for which their services were acquired throughout the life of the Agreement, and any failure by Seller to so provide

these persons shall entitle the State to terminate this Agreement for cause. Seller agrees to pay the Purchaser fifty percent (50%) of the total contract amount if any of the assigned personnel is removed from the project prior to the ending date of the contract for reasons other than departure from Seller's employment or replacement by Seller pursuant to the third paragraph of the Article herein titled "Employment Status." Subject to the State's written approval, the Seller may substitute qualified persons in the event of the separation of the incumbents therein from employment with Seller or for other compelling reasons that are acceptable to the State and may assign additional staff to provide technical support to Purchaser. The replacement personnel shall have equal or greater ability, experience, and qualifications than the departing personnel and shall be subject to the prior written approval of the Purchaser. The Seller shall not permanently divert any staff member from meeting work schedules developed and approved under this Agreement, unless approved in writing by the Purchaser. In the event of Seller personnel loss or redirection, the services performed by the Seller shall be uninterrupted and the Seller shall report in required status reports its efforts and progress in finding replacements and the effect of the absence of those personnel.

ARTICLE 41 ESCROW OF SOURCE CODE

41.1 With the execution of this Agreement, the Seller shall sign on to the MS ITS/NCC Group Three Party Escrow Agreement and maintain a current copy of the data dictionary, Documentation, object code, and source code in escrow. The escrow agreement shall authorize the NCC Group to release, at no cost to Purchaser, the data dictionary, Documentation, object code, and source code to Purchaser if and when Purchaser is deemed to have a right under this article. Purchaser shall pay all costs of providing and maintaining the escrow agreement, including the fees of the NCC Group. The copy of the source code placed in escrow shall be reproduced and maintained on by utilizing the secure online deposit update portal or disk using a commonly accepted data recording protocol. Program documentation sufficient to allow a competent programmer to use and maintain the source code programs must accompany the source code. When a change is made to the object code or source code by or on behalf of the Seller during the term of the escrow agreement, the revised code, including the change, shall be delivered to the NCC Group not later than thirty (30) calendar days after the change is effected by or on behalf of the Seller.

41.2 Provided that Purchaser is not then in substantial default under this Agreement, the Seller shall provide to Purchaser, at no cost and within ten (10) calendar days after receipt of Purchaser's written request for it, one (1) complete copy of the data dictionary, Documentation, object code, and source code used in the preparation of the Software and custom modifications to the source code and object code as a result of this Agreement, brought up to date as of the date of delivery of such source code to Purchaser, upon the occurrence of any of the following events: (a) Seller's cessation, for any reason, to do business; (b) Bankruptcy, receivership, insolvency, reorganization, dissolution, liquidation or other similar proceedings are instituted by or against Seller; (c) A general assignment for the benefit of creditors by Seller; (d) Seller discontinues providing maintenance of the software in accordance with its obligations pursuant to the Agreement; (e) Seller has breached (and if subject to a cure period, has not cured such breach within such period) a material term or condition of this Agreement or the Escrow Agreement; (f) Seller refused or fails to renew its maintenance and support obligations under this Agreement after Purchaser has requested such renewal; or (g) any or all material parts of the source code or object code are generally made available, with or without additional cost, to other users of comparable software.

41.3 Upon Purchaser's written request, NCC Group shall promptly conduct, at Purchaser's expense, a Verification of the deposit materials in accordance with Purchaser's requirements and with the requirements herein stated. "Verification" as used herein, means a procedure or process to determine the accuracy, completeness, sufficiency and quality of the deposit materials at a level of detail reasonably requested by Purchaser. Verification may include, as required by Purchaser (or by a third party on behalf of Purchaser), file listing, compilation, size comparison, function comparison

and on-line comparison services. A copy of the verification results shall be immediately provided by NCC Group to the State.

41.4 Purchaser (or a third party on behalf of Purchaser) reserves the right from time to time and at any time to cause Verification of the deposit materials and to examine the deposit materials to verify conformance to the requirements of RFB No. 3836, the Seller's Proposal, as accepted by Purchaser, in response thereto, and this Agreement, all at Purchaser's expense. Except as otherwise required by Purchaser (or by a third party on behalf of Purchaser and reasonably approved by Seller), all Verification tasks shall be performed solely by employees of NCC Group and, at Purchaser's option, of Purchaser or a third party engaged by Purchaser (subject to Seller's reasonable approval of Purchaser), without interference from Seller; provided, however, that if and to the extent requested by Purchaser (or by a third party on behalf of Purchaser), Seller shall at Seller's expense provide to NCC Group and/or Purchaser all reasonably necessary assistance and cooperation in connection with the performance of any Verification. Any Technical Verification performed by NCC Group or a third party engaged by the escrow agent (and acceptable to Purchaser) shall be performed in a good, workmanlike, timely and professional manner by qualified persons fully familiar with the requirements, materials and technology involved in performing such Verifications.

41.5 Seller shall, at its expense, implement a procedure whereby the NCC Group shall notify Purchaser of all deposits to the software escrow based on software release updates. It is understood and agreed that updates shall occur at least on a quarterly basis.

ARTICLE 42 CHANGE ORDER RATE AND PROCEDURE

42.1 It is understood that the State may, at any time, by a written order, make changes in the scope of the project. No changes in scope are to be conducted or performed by the Seller except by the express written approval of the State. The Seller shall be obligated to perform all changes requested by the Purchaser which have no price or schedule effect.

42.2 The Seller shall have no obligation to proceed with any change that has a price or schedule effect until the parties have mutually agreed in writing thereto. Neither the State nor the Seller shall be obligated to execute such a change order; if no such change order is executed, the Seller shall not be obliged or authorized to perform services beyond the scope of this Agreement and the contract documents. All executed change orders shall be incorporated into previously defined deliverables.

42.3 With respect to any change orders issued in accordance with this Article, the Seller shall be compensated for work performed under a change order according to the hourly change order rate specified in the attached Exhibit A, which is incorporated herein. If there is a service that is not defined in the change order rate, the Seller and the State will negotiate the rate. The Seller agrees that each change order rate shall be a "fully loaded" rate, that is, it includes the cost of all materials, travel expenses, per diem, and all other expenses and incidentals incurred by the Seller in the performance of the change order. The Seller shall invoice the Purchaser upon acceptance by the Purchaser of all work documented in the change order, and the Purchaser shall pay invoice amounts on the terms set forth in this Agreement.

42.4 Upon agreement of the parties to enter into a change order, the parties will execute such a change order setting forth in reasonable detail the work to be performed thereunder, the revisions necessary to the specifications or performance schedules of any affected project work plan, and the estimated number of professional services hours that will be necessary to implement the work contemplated therein. The price of the work to be performed under any change order will be determined based upon the change order rate; however, the change order will be issued for a total fixed dollar amount and may not be exceeded regardless of the number of hours actually expended

by the Seller to complete the work required by that change order. The project work plan will be revised as necessary.

42.5 The Seller will include in the progress reports delivered under this Agreement the status of work performed under all then current change orders.

42.6 In the event the Seller and the State enter into a change order which increases or decreases the time required for the performance of any part of the work under this Agreement, the Seller shall submit to the Purchaser a revised version of the project work plan, clearly indicating all changes, at least five (5) working days prior to implementing any such changes.

42.7 The Purchaser shall promptly review all revised project work plans submitted under this Agreement and shall notify the Seller of its approval or disapproval, in whole or in part, of the proposed revisions, stating with particularity all grounds for any disapproval, within ten (10) working days of receiving the revisions from the Seller. If the Purchaser fails to respond in such time period or any extension thereof, the Purchaser shall be deemed to have approved the revised project work plan.

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

**State of Mississippi, Department of
Information Technology Services, on
behalf of the Mississippi Bureau of
Building, Grounds & Real Property
Management on behalf of the University of
Southern Mississippi**

INSERT VENDOR NAME

By: _____
Authorized Signature

By: _____
Authorized Signature

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

Printed Name: _____

Title: Executive Director

Title: _____

Date: _____

Date: _____

EXHIBIT A

**ATTACHMENT D
EXCEPTION SUMMARY FORM**

List and clearly explain any exceptions, for Articles in the Standard Contract, in the table below.

ITS Standard Contract Article	Bidder Proposal Reference	Brief Explanation of Exception	ITS Acceptance (sign here only if accepted)
(Reference specific contract article to which exception is taken)	(Page, section, items in Bidder's proposal where exception is explained)	(Short description of exception being made)	