

Title of Contract: Nationwide ARC Employer Database		Bid Proposal Number RFP# 1109309227	Contract Number MA 3557-09
This Agreement is entered into between the State of Iowa (by and through its agency, Iowa Workforce Development) on behalf ARC, and the Contractor named below:			
State Agency's Name: Iowa Workforce Development ("IWD") on behalf of ARC and in association with the Employment and Training Administration (ETA) of the U.S. Department of Labor.			
Contractor's Name: infoUSA – Government Division ("Contractor")			
Contract to Begin: May 5, 2009	Date of Expiration: May 4, 2012	Annual Extensions: Two (2)	
Performance Bond Required upon execution		None	
Maximum Amount of Compensation with extensions		\$2,450,000	
The parties agree to comply with the terms and conditions of the following attachments which are by this reference made a part of the Agreement:			
Attachment 1 – General Terms and Conditions Page 2			
Attachment 2 – Definitions and Special Terms and Conditions.....Page 21			
Attachment 3 – Scope of Work & Required Services.....Page 26			
Attachment 4 – Performance Standards--Delivery..... Page 31			
Attachment 5 – RFP 1109309227 and all amendments.....Page 32			
Attachment 6 – Contractor's response to RFP..... Page 33			
Attachment 7 – LICENSE AGREEMENTPage 34			
Attachment 8 – End User License RestrictionsPage 46			
Attachment 9 – Intermediate User License Restrictions.....Page 47			
Attachment 10 - Licensee User License Restrictions.....Page 48			

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto

Contractor:
infoUSA – Government Division

By (Authorized Signature)	Date Signed
Printed Name and Title of Person Signing D.J. Thayer, President	
Address 5711 S. 86th Circle, Omaha, NE 68127 and 900 17 th St. NW, Washington, D.C. 20005 Ph: 402.593.4583; FAX: 402.537.7785	

State of Iowa:
Iowa Workforce Development

By (Authorized Signature)	Date Signed
Printed Name and Title of Person Signing Elisabeth Buck, Director	
Address 1000 East Grand Avenue, Des Moines, Iowa 50319-0209 Telephone: (515) 281-5387	

Attachment 1
General Terms and Conditions

A. DEFINITIONS AND GENERAL INFORMATION

The following words shall be defined as set forth below:

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 or otherwise satisfy the Agency, as determined by the Agency in its sole discretion.
4. **“Bid Proposal”** or **“Proposal”** means the Contractor’s proposal submitted in response to the RFP.
5. **“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).
6. **“Contract Declarations & Execution Page(s)”** means the document that contains basic information about the Contract and incorporates by reference these General Terms for Services Contracts, the Special Terms, and all other attachments to the Contract Declarations and Executions Page(s).
7. **“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.
8. **“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.
9. **“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.

10. **“RFP”** means the Request for Proposals 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.
11. **“Special Contract Attachments”** means any attachment to this Contract indicated on the Contract Declarations & Execution Page(s).
12. **“Special Terms”** means the Contract attachment entitled “Special Terms” that contains terms specific to this Contract, including but not limited to the Scope of Work, contract payment terms, and any amendments to these General Terms and Conditions for Services Contracts. If there is a conflict between the General Terms for Services Contracts and the Special Terms, the Special Terms shall prevail.
13. **“Specifications”** means all specifications, requirements, technical standards, performance standards, representations and other criteria related to the Deliverables stated or expressed in this Contract, the Documentation, the RFP, and the Proposal. 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.
14. **“State”** means the State of Iowa Workforce Development (IWD)

B. Duration of Contract. The term of the Contract shall begin and end on the dates specified on the Contract Declarations & Execution Page(s), unless extended or terminated earlier in accordance with the termination provisions 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 thirty (30) days prior to the expiration of the initial term or renewal term.

C. Scope of Work. The Contractor shall provide Deliverables that comply with and conform to the Specifications.

D. Compensation

1. Pricing. The Contractor will be compensated in accordance with the payment terms outlined in the Contract Payment Terms and Scope of Work described in the Special Terms. The Contractor shall submit, on the frequency established on the Contract Declarations & Execution Page(s) 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. 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.

2. 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.

3. 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.

E. Termination.

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, the RFP or the Proposal 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.

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.

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.

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 E.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 E.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 E.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.

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.

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.

F. Confidential Information.

1. Access to Confidential Information. The Contractor's employees, agents and subcontractors may have access to confidential information 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 information shall remain the property of the Agency at all times.

2. No Dissemination of Confidential information. No confidential information collected, maintained, or used in the course of performance of the Contract shall be disseminated by Contractor except as authorized by law and only with the prior written consent of the Agency, either during the period of the Contract or thereafter. Any data supplied by the Agency to the Contractor or created by the Contractor in the course of the performance of this Contract 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. The Contractor may be held civilly or criminally liable for improper disclosure of confidential information.

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.

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

5. Survives Termination. The Contractor's obligations under this section shall survive termination or expiration of this Contract.

G. Indemnification.

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.

2. Survives Termination. Contractor's duties and obligations under this section shall survive the termination of this Contract 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.

H. Insurance.

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 thereof. The Contractor's insurance shall, among other things, be occurrence based and shall insure against any 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.

2. Types and Amounts of Insurance Required. Unless otherwise requested by the Agency in writing, the Contractor shall cause to be issued insurance coverages insuring the Contractor and/or subcontractors against all general liabilities, product liability, personal injury, property damage, and (where applicable) professional liability in the amount specified on the Contract Declarations and Execution Page for each occurrence. In addition, the Contractor shall ensure it has any necessary workers' compensation and employer liability insurance as required by Iowa law.

3. Certificates of Coverage. Contractor shall maintain all insurance policies required by this Contract in 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 Agency. The Contractor shall submit certificates of the insurance, which indicate coverage and notice provisions as required by this Contract, to the Agency upon execution of this Contract. The certificates shall be subject to approval by the Agency. The insurer shall state in the certificate that no cancellation of the insurance will be made without at least thirty (30) days' prior written notice to the Agency. Approval of the insurance certificates by the Agency shall not relieve the Contractor of any obligation under this Contract.

4. Waiver 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 supplied to the State.

I. **Project Management & Reporting.**

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 Deliverables being provided under this Contract.

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.

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:

- i. Any event not within the control of the Contractor or the Agency that accounts for the problem;
- ii. Modifications to the Contract agreed to by the parties in order to remedy or solve the identified problem;
- iii. Damages incurred as a result of any party's failure to perform its obligations under this Contract; and
- iv. Any request or demand by one party that another party believes is not included within the terms of this Contract.

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 or damages 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.

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

- i. **Written Request.** The Agency shall specify in writing the desired modifications to the same degree of specificity as in the original Scope of Work.
- ii. **The Contractor's Response.** The Contractor shall submit to the Agency a firm cost proposal for the requested change order within five (5) business days of receiving the change order request.
- iii. **Acceptance of the Contractor Estimate.** If the Agency accepts the cost proposal presented by the Contractor, the Contractor shall provide the modified Deliverable subject to the cost proposal included in the Contractor response. The Contractor's

provision of the modified deliverables shall be governed by the terms and conditions of this Contract.

- iv. 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.

J. 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.

K. Intellectual Property.

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.

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.

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 K.1.

L. Warranties.

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.

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.

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 of 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: (i) procure for the Agency the right or license to continue to use the Deliverable at issue; (ii) replace such Deliverable with a functionally equivalent or superior Deliverable free of any such infringement, violation or misappropriation; (iii) 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 (iv) 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.

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, as defined in the Special Terms. 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.

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.

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.

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.

M. 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 Nonacceptance 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 E.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 E.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).

N. Contract Administration.

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).

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.

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.

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.

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

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.

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.

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.

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.

10. Third Party Beneficiaries. This contract is intended to benefit the State, the Contractor, and the Licensees as defined in Attachment 7. Other than the Licensees, there are no third party beneficiaries to the Contract.

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.

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.

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.

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.

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. 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 here from. 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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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

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.

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. State of Iowa Tax Exempt Letter

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

Attachment 2 Special Terms and Conditions

1. Special Definitions:

“**ARC**” shall mean Analyst Resource Center consisting of state workforce agencies from the states of Connecticut, Florida, Georgia, Illinois, Iowa, Maine, Massachusetts, Minnesota, Montana, Nebraska, Nevada, North Carolina, Oregon, South Carolina, Texas, Wisconsin, Wyoming and the Employment and Training Administration of the U.S. Department of Labor.

“ARC Employer Database” or “Database” shall mean all unduplicated employer records from Contractor’s Database as prepared by Contractor under the terms described in the RFP and this Agreement and in the database format defined by ARC. The ARC Employer Database shall contain at least 12,900,000 unduplicated employer records.

“**Contractor**” means InfoUSA.

“**Contractor’s Database**” means a database of non-confidential information about employer establishments maintained by Contractor.

“**End User**” means an individual who accesses the Database through a Licensee or Intermediate User to obtain employer information.

“**ETA**” means the Employment and Training Administration of the U.S. Department of Labor.

“**Licensee**” means each U.S. state, the District of Columbia, U.S. Virgin Islands, Puerto Rico and the ETA that has entered into a License Agreement with Contractor for use of the ARC Employer Database.

“**Users**” shall mean the individuals and entities that will use the Database and shall include:

1. Individual job seekers - One of the primary uses of the Database is for job search and career exploration by individuals in the United States labor force, which totals approximately 154 million persons. Job seekers are assisted through Internet applications provided by Licensees and are considered “End Users” of the Database.
2. One Stop Career Centers
3. Workforce Development Boards
4. Public Economic Development Entities
5. State Workforce Agencies
6. Public Welfare Agencies
7. State employment statistics agencies as defined under section 309 of the Workforce Investment Act of 1998
8. All mandatory and option partners described under the Workforce Investment Act of 1998, Chapter 3, Section 121.(b) and any successor legislation
9. The Employment and Training Administration of the U.S. Department of Labor and other partner agencies.

“**Uses**” shall mean the purposes for which the Users may use the Database and include career exploration, job search, job development, employment support services, labor market research, (including, but not limited to, enhancement of existing employer name and address files) and related public workforce and public economic development system efforts. The Database will be made available through a variety of means and media, including but not limited to standalone PC’s, client-server systems and Internet/Intranet systems. The information in the database may be displayed, downloaded, printed, used to generate mailing lists, and used for other activities related to the purposes above.

2. Costs and Payment Procedures

Payments by the State to Contractor under the Contract are dependant on performance. Payment of Contractor's invoices will be made to Contractor in accordance with the General Terms for Services Contracts and upon successful completion and written acceptance by the State of the described deliverables and tasks for each payment milestone as follows (also see Attachment 4):

- a) Delivery and acceptance of the initial full Database and all associated software required to permit all Uses by the Users in format prescribed by Contract # CT2865 between IWD and Contractor (“#CT2865 format”) to all Licensees.
- b) Delivery and acceptance of the first 6-month updated Database and search and extraction software in format prescribed by this Contract (MA# 3557-09).
- c) Delivery and acceptance of each of the four (4) subsequent 6-month updates for the remainder of the initial term of the Contract.
- d) Delivery and acceptance of CD/DVD copies of the Database with each deliverable of the Database.
- e) Delivery and acceptance of each of the 6-month Database updates during the renewal term(s), if any.

The following costs are in U.S. Dollars and include the cost of: the Database; all software applications as described in the License Agreement; distribution costs and expenses, FOB Destination; up to four thousand (4000) additional copies of the CD/DVD with each delivery of the Database; and all travel, training and other expenses of any kind required to permit the Users and Uses as provided in this Contract and the License Agreement. Payment terms: Net 60 days.

Deliverable	Cost
Year 1: Initial Database	\$ 300,000
Year 1: Update 1	\$ 200,000
Year 2: Update 1	\$ 300,000
Year 2: Update 2	\$ 200,000
Year 3: Update 1	\$ 300,000
Year 3: Update 2	\$ 200,000
Year 4: Update 1	\$ 300,000
Year 4: Update 2	\$ 175,000
Year 5: Update 1	\$ 300,000
Year 5: Update 2	\$ 175,000
Total	\$2,450,000

3. Retention in lieu of Performance Bond

For each deliverable upon receipt of written acceptance from the State that the Database, required software, uncompressed Database in the required record layout and in ASCII delimited format, updates and CD/DVD copies have been received and accepted by the

State, Contractor shall submit a documented invoice to the State requesting payment of ninety percent (90%) of each allowable milestone payment. The invoice shall contain appropriate documentation as necessary to support the fee included in the invoice and shall comply with all applicable rules concerning payment of such fees. The retained amount from each of the payment milestones will be held by the State until all deliverables are received and accepted by the State.

4. Licensees' Rights and Duties

- a) Licensees shall have the right to incorporate all or any part of the Database into information delivery systems for the identified Uses and Users.
- b) Licensees shall have the right to use all or any part of the Database for the identified Uses and Users, in any and all formats, media and means of delivery, including the Internet, for a period of fifteen (15) months from and after the issuance of each updated Database. This right shall survive the termination or expiration of the Contract.
- c) Licensee shall sign the license agreement (Attachment 7) for use of the Database, which shall provide for all means and modes of delivery of the data in the Database.

5. Amendments to General Terms for Services Contracts

The General Terms for Services Contracts (Attachment 1) are amended as follows:

- a) Section E.2--Termination upon Notice is deleted in its entirety.
- b) Section F--Confidential Information is deleted in its entirety.
- c) Section K--Intellectual Property is deleted and the following sections 1 and 2 are inserted:
 1. Rights in Data. The Contractor retains ownership of the Database provided to the Users pursuant to this Contract, subject to the licenses granted in accordance with Section 4 of these Special Terms and Conditions and Attachment 7— Employer Database License Agreement.
 2. Proprietary Rights. The State acknowledges that all rights, title and interest to the Database, regardless of the format or media in which it is contained, shall be and are retained by Contractor, subject to the licenses granted to the State and the Users in Section 4 of these Special Terms and in Attachment 7-- Employer Database License Agreement.
- d) Section L--Warranties is modified and amended as follows:
 1. The title of the Section is changed to Warranties and Limitation of Liability.
 2. Subsection 1 is deleted in its entirety.
 3. Subsection 4 is deleted and the following language is substituted:

The State acknowledges that Contractor's Database used to create the ARC Employer Database contains information compiled from telephone directories, annual reports, 10K filings, trade journals and other sources which Contractor does not control. The creation of the ARC Employer Database is dependent on a number of automated and non-automated systems and although infrequent, errors do occur. The parties acknowledge that some errors of omission and erroneous entries are and will continue to be present in the ARC Employer Database. Notwithstanding the foregoing, **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. Without limiting the foregoing, THE ARC EMPLOYER DATABASE IS PROVIDED ON A STRICTLY "AS IS" BASIS. CONTRACTOR DOES NOT ASSURE OR WARRANT THE

CORRECTNESS, COMPREHENSIVENESS OR COMPLETENESS OF THE ARC EMPLOYER DATABASE AND EXCEPT AS EXPLICITLY PROVIDED FOR BELOW, CONTRACTOR EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES OF ANY NATURE, EXPRESS, IMPLIED OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, AND/OR FITNESS FOR A PARTICULAR PURPOSE. IN LIEU OF ANY AND ALL SUCH WARRANTIES, CONTRACTOR PROVIDES THE FOLLOWING LIMITED WARRANTY: THE STATE AND/OR LICENSEES SHALL HAVE 30 DAYS AFTER RECEIPT OF DELIVERABLES, TO INSPECT THEM AND NOTIFY CONTRACTOR OF ANY PROBLEMS OR MISTAKES. IF CONTRACTOR HAS MADE A MATERIAL MISTAKE IN A DELIVERABLE, CONTRACTOR SHALL PROMPTLY CORRECT THE MISTAKE AT NO CHARGE. IF THE STATE OR OTHER LICENSEES DO NOT NOTIFY CONTRACTOR OF ANY PROBLEMS OR MISTAKES WITHIN THE 30 DAY PERIOD, CONTRACTOR SHALL HAVE NO OBLIGATION TO CORRECT THE MISTAKE FOR SUCH DELIVERABLE BUT SHALL CORRECT THE MISTAKE IN THE NEXT SCHEDULED DELIVERABLE. CONTRACTOR SHALL NOT BE LIABLE FOR SPECIAL, INCIDENTAL, AND/OR CONSEQUENTIAL DAMAGES CAUSED IN WHOLE OR IN PART BY THE USE OF THE ARC EMPLOYER DATABASE WHETHER SUCH DAMAGES ARE ASSERTED IN AN ACTION BROUGHT IN CONTRACT, IN TORT OR PURSUANT TO SOME OTHER THEORY AND WHETHER THE POSSIBILITY OF SUCH DAMAGES WAS MADE KNOWN OR WAS FORESEEABLE. THE MAXIMUM LIABILITY OF THE CONTRACTOR UNDER THIS CONTRACT SHALL BE ONE TIMES THE CONTRACT VALUE (CONTRACT VALUE IS DEFINED AS THE AGGREGATE TOTAL COMPENSATION PAID BY THE STATE TO THE CONTRACTOR FOR THE CURRENT CONTRACT YEAR GIVING RISE TO THE CLAIM.). UNDER NO CIRCUMSTANCES, HOWEVER, SHALL THE FOREGOING LIMITATION OF LIABILITY APPLY TO: (i) INTENTIONAL TORTS, CRIMINAL ACTS, FRAUDULENT CONDUCT, INTENTIONAL OR WILLFUL MISCONDUCT, OR GROSS NEGLIGENCE, (ii) CLAIMS RELATED TO DEATH, BODILY INJURY, OR DAMAGE TO REAL OR PERSONAL PROPERTY, (iii) ANY CONTRACTUAL OBLIGATIONS OF THE CONTRACTOR PERTAINING TO INDEMNIFICATION, INTELLECTUAL PROPERTY OR COMPLIANCE WITH APPLICABLE LAWS.

The State and Licensees acknowledge that the ARC Employer Database may fail to function in connection with any equipment, software or database which has not been clearly identified in this Contract or which is not in a record layout accepted by ARC. The parties acknowledge that the record layout format accepted by ARC may evolve over time. The parties acknowledge that many factors impact whether any particular individual is successful in finding a job. As a result, the parties agree that Contractor does not make any guarantees to the State, Licensees, or Users that any individual User of the ARC Employer Database will in fact secure employment, or that any employment program will obtain the desired results.

4. Subsections 2, 3, 5, 6 and 7 shall remain in full force and effect as written.

e) Section M--Acceptance Testing, first paragraph is revised as follows (changes highlighted):

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 reasonably 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 thirty (30) days of Contractor's receipt of notice of Nonacceptance so that the Agency may re-conduct its Acceptance Tests with respect to such Deliverable. In the event the Agency reasonably 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:

Subsections (i)-(iv) shall remain as written.

Attachment 3 SCOPE OF WORK

Contractor shall provide to Licensees the Database and all associated software applications required to permit all Uses by Users, in accordance with the specifications as provided in this Attachment and in Attachment 5.

1. Mandatory Product Requirements

- a) Contractor shall incorporate three (3) specifically defined levels of User access to the Database: Licensee, Intermediate User, and End User. The Licensee, usually through the Licensee's State Employment Security/Workforce Agency, shall be able to download the entire Database to a PC or server (along with a Contractor-supplied search engine, at the Licensee's option), or search the Database using the CD/DVD directly. The intermediate User, a local One-Stop, Public Economic Development entity or other User, shall be able to search the entire Database and return an unlimited number of records for display. Up to 100 of these records may be selected for download, and/or printing at a time. The End User, an individual engaged in job search or career exploration, shall be able to search the entire Database and retrieve up to 25 records at a time for uses including, but not limited to, display, download, and printing.
- b) Contractor shall deliver to Licensees an application for data retrieval and display on CD/DVD and this application must be able to run on Intel-compatible PC's and networks. This application shall allow retrieval and display of data from the CD/DVD Database as provided in this Contract. A search mechanism must be available through which multiple fields can be searched simultaneously. Examples of such search criteria include, but are not limited to, business name, North American Industry Classification System (NAICS) code, city, state, zip code, phone number and employment size.
- c) Contractor shall deliver an extract and download program with the required packaged application which shall function to selectively download data to the PC by state(s), county(ies) or Minor Civil Division(s) (e.g., cities, or in the case of New England states, townships). The extract system must allow the User to download, by geography, the entire employer record for each employer establishment or selected fields from that record for each establishment in the specified geographic area in a format specified by the ARC.
- d) The Contractor shall provide to each Licensee and the ETA one copy of the uncompressed Database in the prescribed record layout and ASCII delimited format on CD/DVD, or by FTP. The Contractor shall make this data available to Licensees by each of these means.
- e) The Contractor represents and warrants that the CD/DVD, Database and software application provided will work without defect. In the case of problems, the Contractor is responsible for providing a service contact telephone number, email address and assistance in the correction of any problem directly related to the product(s) supplied by the Contractor. The Contractor shall respond via telephone assistance or via the same medium in which the problem was reported by the close of business on the day subsequent to the business day the problem was originally reported. The Contractor shall be required to keep a record of summary information on trouble calls and provide a periodic listing to the State. Any damaged or infected media will be replaced at no cost. The Contractor shall exercise due diligence to prevent the transmittal of viruses or other potentially damaging computer code via the deliverables covered under this Contract. Failure to exercise due diligence shall make the Contractor liable for the costs of resultant damage.

- f) The Contractor must provide a count of the additional CD/DVD's being provided to the Licensees and report this number to IWD at the time of initial delivery and for each subsequent delivery.

2. Mandatory Data Requirements

- a) The ARC will supply Contractor the FIPS township codes for the New England states for inclusion in the Database and use in the display application and extract program. The Contractor shall assign these codes to the records in the Database.
- b) The Database shall include data for all fifty (50) U.S. states, the District of Columbia, Puerto Rico and the Virgin Islands. The Database shall include all types and sizes of public and private sector employer establishments for the United States. The Database shall contain at least 12,900,000 unduplicated employer records.
- c) Contractor shall eliminate all duplicate records (e.g., individual lawyers within a single law firm, individual health professionals in a clinic, etc., must be reduced to one business listing) in the Database prior to delivery to Licensees.
- d) The Database shall contain all mandatory data elements identified in the table below with the letter "M". Contractor shall include in the Database the field values specified in the table below. Optional field values should be assigned and identified by the Contractor.

Req	Column	Description
M	lastupdate	last date the record was verified
M	uniqueid	unique id (assigned by vendor)
M	fein	federal employer identification number
M	name1	trade name
M	stfips	fips state code
M	ctfips	fips county code
M	Twfips**	fips township code
M	censtract	census tract
M	blockgrp	census block group
M	address	street number and street, if available; otherwise, P.O Box, Rural Route, landmark, etc., as available
M	address2	second address line (as needed)
M	city	City
M	state	State
M	zipcode	zip code
M	zipplus	zip code+4
M	addressty	address type code (1=location; 2=mailing; 3=landmark)
M	adtypdesc	address type description (e.g., location, mailing, landmark)
M	lat	Latitude
M	long	Longitude
M	geocode	geocode precision code (the precision of the longitude and latitude coordinates; 1=address, 2=zip)

Req	Column	Description
		code+4, n=block, zip code, etc., where n=vendor assigned code)
M	contacttyp	contact type code (1=HR/Personnel officer; n=CEO, owner, president, etc., where n=vendor assigned code)
M	cntcttydes	contact type description (e.g., HR director, owner, president)
M	cntctlname	contact last name
M	cntctfname	contact first name
M	cntcttitle	contact title
M	telenum	contact telephone number
M	teleext	contact telephone extension
M	email	contact email address
M	faxnumber	contact fax number
M	weburl	internet address (provide protocol)
M	webflag	internet address active/inactive flag
M	busdesc	business description (a one-line 'line of business' identifier)
M	naiccode	North American Industry Classification (NAIC)
	siccode	Standard Industrial Classification (SIC)
M	indcodrank	industry code rank (1=primary; 2=2 nd ; 3=3 rd , 4=4 th , etc.)
M	privpubsta	private/public status (e.g., private, federal, state, local govt)
	legalstat	legal status (e.g., corporation, partnership, sole proprietor)
M	locstat	Home office/branch office/single location firm status
	stkexcd	Stock exchange code
	stkexdesc	Stock exchange description
	sticker	Stock ticker code
	wcollar	white collar percent
	wcollind	White collar indicator
M	empsizrng	employment size range (0=0; 1=1-4; 2=5-9; 3=10-19; 4=20-49; 5=50-99; 6=100-249; 7=250-499; 8=500-999; 9=1000+)
M	empsizval	employment size value
	empsizflg	employment size flag (1=collected; 2=estimated)
	annsalrng	annual sales range
	annsalval	annual sales value
	annsalflg	annual sales flag (1=collected; 2=estimated)
M	yearest	year business established or identified
	creditcd	credit code (a measure of a business's financial status)
M	hdqtrsld	unique id of the business headquarters

Req	Column	Description
M	parentid	unique id of immediate corporate parent of the business
M	ultparentid	unique id of ultimate corporate parent of the business
	forparnt	Foreign parent indicator
	expimpind	Import/export code

- e) The Contractor shall provide GIS longitudinal and latitudinal coordinates for each establishment at the precision level that identifies the site/street address for that establishment whenever possible. In no case can it be less precise than zip code plus four centroid.
- f) Contractor shall use U.S. Postal Service standards (e.g., two-character state identifiers, no use of periods) in populating the address fields. The following address types have been identified: physical, mailing, and landmark; Contractor shall provide a minimum of one (1) of these addresses per record and must also provide other addresses as available.
- g) Contractor shall provide data for one employer contact, which shall be that of the Human Resource/Personnel officer or comparable position, if such contact is available. Additional contacts are encouraged.
- h) Contractor shall provide industry classification codes for each business under the most current version of the North American Industrial Classification System (NAICS). Contractor shall provide all codes assigned to each business.

3. Mandatory Distribution Requirements

- a) The Database shall be delivered by Contractor on CD/DVD. One CD/DVD or several regional CD/DVD's are allowable. Additional electronic media, in addition to CD/DVD, are allowable and should be described for both the initial release and subsequent updates.
- b) Contractor shall deliver the initial full Database and application to Licensees on or before May 6, 2009 unless otherwise negotiated (see Attachment 4 for all delivery performance standards). Contractor shall update and deliver updates to the Database at six-month intervals subsequent to the delivery of the initial Database. Each update shall include a complete employer listing, not just records which have changed since the last update. Contractor shall provide all employer Database files and applications on CD/DVD. Contractor may provide alternative delivery methods in addition to CD/DVD. The search engine/application and extract utility shall be upgraded by Contractor as mutually determined by Contractor and IWD at no additional cost to IWD and other Licensees. Data updates shall not require reinstallation of the associated application unless modifications to the application have been incorporated since the prior release.
- c) With each subsequent delivery of the Database and associated software during the period of the Contract, the Contractor shall provide to IWD a count, by state, of the total number of records and fields updated in the Database since the prior delivery.
- d) The Contractor shall accept a single license agreement with Licensees for all media/platforms and shall make all data available to all Licensees.
- e) Three (3) copies of the employer Database and associated software in CD/DVD format shall be distributed by the Contractor to each of the Licensees. In addition, the Contractor

shall provide to each Licensee one copy of the uncompressed Employer Database in the prescribed record layout and ASCII delimited format.

- f) In addition to the three (3) copies of the Database per Licensee as provided in Section 2e, the Contractor shall provide, at the request of a Licensee, additional CD/DVD-ROM copies of the Database for distribution for the Uses by Users.
- g) All distribution as provided in this Section is the sole cost and responsibility of the Contractor. Contractor shall provide a detailed distribution plan to IWD, including a description of its methods of distribution.

Attachment 4

PERFORMANCE STANDARDS--DELIVERY

- 3-31-2009 Iowa Workforce Development Contract # CT2865 end date
- 5-05-2009 Iowa Workforce Development Contract # MA 3557-09 commencement date
- 5-06-2009 First Data Deliverable under Iowa Contract #MA 3557-09 (Flat file and 3 CD/DVD's in existing format) to all States.
- 5-06-2009 Master Contract and State License Agreement to be sent electronically to all LMI Directors and ARC Database Administrators. States will also be asked to submit any changes to their additional CD/DVD requirements.
- 6-20-2009 Uncompressed database (flat file) in new format delivered to Iowa Workforce Development for testing by ARC Employer Database Steering Committee.
- 7-15-2009 Target date for individual State Licenses to be signed. License must be executed for a state to receive any further deliverables.
- 10-01-2009 Uncompressed database (flat file) in new format delivered by infoUSA to all Licensees (states with signed licenses) under Iowa Workforce Development contract data and format requirements. * If Licensee implements an application that downloads (exports) records, captcha software must be enabled.
- 10-15-2009 Three (3) CD/DVDs and additional no cost CD/DVD's in new format to be delivered to each Licensee.*

The Contractor shall promptly inform the Project Manager (Dan Brown) if Contractor anticipates a delay in delivery or any other changes to the above schedule and shall obtain Project Manager's approval of all changes to the schedule.

* Updates issued every six (6) months during the remainder of the term of Contract # MA 3557-09.

Attachment 5

**RFP # 1109309227
and Amendments
by reference**

Attachment 6
InfoUSA Technical and Cost Proposal
by Reference

Attachment 7
ANALYST RESOURCE CENTER (ARC)
EMPLOYER DATABASE LICENSE AGREEMENT

LICENSE AGREEMENT made and entered into as of _____, 2009 (the "Effective Date") by and between *infoUSA* Inc. ("*infoUSA*" or "Licensor"), whose business address is 5711 South 86th Circle, P.O. Box 27347, Omaha Nebraska 68127 and _____ (hereinafter "LICENSEE") whose address is _____.

RECITALS

infoUSA has produced an ARC EMPLOYER DATABASE from its proprietary database of employer information in accordance with the terms and conditions of a MASTER CONTRACT with the State of Iowa, Iowa Workforce Development. This License is for LICENSEE's use and sublicense of the ARC EMPLOYER DATABASE, the ASSOCIATED PROPRIETARY SEARCH/RETRIEVAL AND EXTRACTION/DOWNLOAD SOFTWARE, the UNCOMPRESSED DATABASE and additional CD/DVD copies supplied by *infoUSA* is granted to the LICENSEE for the express USES and USERS defined by the MASTER CONTRACT and subject to the terms and conditions contained within that contract and as provided in this LICENSE AGREEMENT. All capitalized terms not specifically defined herein shall have the meanings ascribed to them in the MASTER CONTRACT.

1. DEFINITIONS

- a. "ARC" shall mean the Analyst Resource Center ,consisting of state workforce agencies from the states of Connecticut, Florida, Georgia, Illinois, Iowa, Maine, Massachusetts, Minnesota, Montana, Nebraska, Nevada, North Carolina, Oregon, South Carolina, Texas, Wisconsin and Wyoming, and the Employment and Training Administration of the U.S. Department of Labor.
- b. "ARC EMPLOYER DATABASE" or "DATABASE" shall mean all unduplicated employer records in the *infoUSA* DATABASE as compiled and maintained by *infoUSA* under the terms described in the MASTER CONTRACT and in the database format defined by ARC. The ARC EMPLOYER DATABASE shall contain at least 12,900,000 unduplicated employer records.
- c. "ASSOCIATED PROPRIETARY SEARCH AND EXTRACTION SOFTWARE" shall mean the custom software utilities developed by *infoUSA* to enable USERS to perform USES in accordance with the terms of this LICENSE AGREEMENT and the MASTER CONTRACT, which *infoUSA* shall distribute in conjunction with the ARC EMPLOYER DATABASE.
- d. "CD/DVD" shall mean a CD/DVD product that provides the ARC EMPLOYER DATABASE in a searchable application for retrieval and display for the USES and USERS as defined in paragraphs 1(h) and 1(i).
- e. "END USER" shall mean an individual who accesses the DATABASE through a LICENSEE or INTERMEDIATE USER to obtain employer information.

- f. "INTERMEDIATE USER" shall mean a USER with which the LICENSEE has entered into a sublicense agreement permitting the INTERMEDIATE USER to provide the ARC EMPLOYER DATABASE to USERS for the USES as provided herein.
- g. "UNCOMPRESSED DATABASE" shall mean the uncompressed DATABASE in the record layout accepted by ARC and in ASCII delimited format.
- h. "USERS" shall mean the individuals or entities that will use the DATABASE and shall include:
 - * Individual job seekers
 - * One Stop Career Centers
 - * Workforce development boards
 - * Economic Development Entities regularly supported, in whole or in part, with public funds.
 - * State Workforce Agencies
 - * Public welfare agencies
 - * State employment statistics agencies as defined under section 309 of the Workforce Investment Act of 1998
 - * All mandatory and option partners described under the Workforce Investment Act of 1998, Chapter 3, Section 121(b) and any successor legislation
 - * The Employment and Training Administration of the United States Department of Labor, and other partner agencies.
- i. "USES" shall mean the purposes for which the USERS may use the DATABASE, which shall include career exploration, job search, job development, employment support services, labor market research (including, but not limited to LICENSEE's enhancement of existing employer name and address files) and related public workforce and public economic development system efforts. The DATABASE will be made available through a variety of means and media, including but not limited to standalone PC's, client-server systems and Internet/Intranet systems. The information in the DATABASE may be displayed, downloaded, printed, used to generate mailing lists, and used for other activities related to the purposes above.

2. GRANT OF LICENSE

- a. Subject to the terms and conditions of this LICENSE AGREEMENT, *infoUSA* hereby grants to the LICENSEE a limited, royalty-free, non-exclusive license to provide the ARC EMPLOYER DATABASE and ASSOCIATED PROPRIETARY SEARCH AND EXTRACTION SOFTWARE to USERS for the USES defined in this AGREEMENT and as specifically described and agreed to in the MASTER CONTRACT, including without limitation the right to incorporate data from the ARC EMPLOYER DATABASE into the ARC DATABASE and other related products and applications, to sublicense the ARC EMPLOYER DATABASE to INTERMEDIATE USERS, and to download data from the DATABASE for Web export. All such USES shall conform to the levels of access as provided in Section 3 of this LICENSE AGREEMENT.
- b. If LICENSEE sublicenses the ARC EMPLOYER DATABASE to an INTERMEDIATE USER pursuant to the license granted above, LICENSEE shall:
 - (i) enter into a sublicense agreement with an INTERMEDIATE USERS that

contains restrictions which are no less restrictive than the terms contained in this LICENSE AGREEMENT; (ii) on an annual basis, provide *infoUSA* a complete list of all INTERMEDIATE USERS, including name and address; (iii) require each INTERMEDIATE USER to utilize username and password protection technology when accessing the ARC EMPLOYER DATABASE under a INTERMEDIATE USER level of access as defined in Section 3; and (iv) not provide INTERMEDIATE USER access to public, college, or university libraries.

- c. In accordance with the license granted above, LICENSEE may integrate the ARC EMPLOYER DATABASE into a branded local search directory platform or branded website, located at [www\(Insert web address here\)](#). LICENSEE shall provide *infoUSA* written notice of any changes or additions to any such directory platforms.
- d. The ARC EMPLOYER DATABASE and ASSOCIATED PROPRIETARY SEARCH AND EXTRACTION SOFTWARE are licensed solely for the USERS and for the USES defined in this AGREEMENT. Other uses, users or purposes must be approved in advance, in writing, by *infoUSA*. The contents of the ARC EMPLOYER DATABASE as supplied by *infoUSA* are recognized as the property of *infoUSA*. In the event that a public records request, subpoena or other legal process is served upon LICENSEE for records containing contents of the DATABASE, LICENSEE will promptly notify *infoUSA* to allow *infoUSA* the opportunity to seek a protective order for the information requested.
- e. LICENSEE shall use commercially reasonable efforts to establish and maintain a system of data security designed to:
 - 1. Control access to the ARC EMPLOYER DATABASE;
 - 2. Prevent unauthorized usage of the ARC EMPLOYER DATABASE and ASSOCIATED PROPRIETARY SEARCH AND EXTRACTION SOFTWARE.

Internet applications developed by or on behalf of the LICENSEE for use by INTERMEDIATE and END USERS which enable the download for Web export of downloadable records (in accordance with Attachments 8, 9, and 10) from the DATABASE shall include a "captcha" or similar software system that requires the manual or sound entry of coded words, letters, answers to questions or similar human intervention and response before the USER can download data from the DATABASE. Attached to this LICENSE AGREEMENT as Schedule 2(e)(3) is a list of websites which, as of the Effective Date, provide free "captcha" software which programs the parties agree are acceptable and compliant with the terms of this subsection. In addition to the systems listed in Schedule 2(e)(3), any "captcha" software application developed by ARC which has been approved by *infoUSA* may also be used. On an annual basis ARC and *infoUSA* shall review the list of applications in Schedule 2(e)(3) to determine if any of the applications is no longer acceptable or has been updated and/or if there are applications the parties mutually agree to add to the list of accepted "captcha" alternatives, and shall communicate any such changes to LICENSEE. LICENSEE specifically acknowledges that downloading records from the ARC EMPLOYER DATABASE

without first installing and implementing an approved form of “captcha” software may, in infoUSA’s sole but reasonable determination, constitute a material breach of this LICENSE AGREEMENT. **Notwithstanding any of the foregoing, it is specifically understood and agreed by infoUSA that data security measures such as “captcha” software do not always prevent unauthorized access and usage of data and therefore, LICENSEE shall have no liability whatsoever for breaches or failures of the approved “captcha” software systems required herein.**

3. Seek to prevent USERS from creating mailing or telemarketing lists from the DATABASE, unless authorized in this LICENSE AGREEMENT.
- f. The LICENSEE and USERS shall have the right to use any and all data in the initial DATABASE and each update for the USES for a minimum of 15 months subsequent to its delivery date without regard to the termination date of the MASTER CONTRACT and/or this LICENSE AGREEMENT; provided, however, that during such 15-month period, each display of a DATABASE record shall include the following notice: “Employer information is provided under license by infoUSA®, Omaha, NE, 800/555-5211 Copyright © [date]. The information was last updated (date) and may not represent the most current information available from infoUSA.” Provided, however, that if the Master Contract is terminated due to lack of federal funds in accordance with section E.3 of the MASTER CONTRACT, each display of an ARC EMPLOYER DATABASE record shall include the following notice: “Employer information was provided by infoUSA®, Omaha, NE, 800/555.5211 pursuant to an agreement that was funded by the U.S. Department of Labor. The Agreement was terminated due to the lack of funding from the U.S. Department of Labor. As a result, the information was last updated (date) and may not represent the most current information available from infoUSA.”
 - g. Copyright Notice. Each display of an ARC EMPLOYER DATABASE record shall include the following copyright notice: “Employer information is provided by infoUSA®, Omaha, NE, 800/555-5211. Copyright © [date]. All Rights Reserved.” Copyright dates specified shall accurately reflect the applicable issue date of the DATABASE. In addition, where feasible, the LICENSEE shall show on each display of records from the ARC EMPLOYER DATABASE the infoUSA logo displaying the infoUSA name and banner in color, in a size no smaller than 62 x 24 pixels:



At the sole option of the LICENSEE, records may also be hyperlinked to www.infoUSA.com.

3. SEARCH CRITERIA AND LEVELS OF USER ACCESS

- a. Search Criteria: Internet applications developed by or on behalf of LICENSEE for use by INTERMEDIATE and END USERS will have the capability to search for,

locate, view, and download the ARC EMPLOYER DATABASE subject to the following conditions:

1. Business Category searches will be limited to a single business category (4-digit NAICS code or SIC code) at one time; multiple 4-digit NAICS code or SIC code searches are allowed solely through an occupational search.
 2. All searches must include a geographical area and at least one of the following elements: Company Name, Business Description, 4-digit NAICS code or SIC code, or an occupational search. A geographical search area can cross state boundaries, but a geographical search cannot encompass two or more States in their entirety.
 3. Employee Size searches may be a custom range, provided that the range spans at least 10 employees.
 4. Displaying the Credit code requires the following language be displayed, "The information or data obtained from the EMPLOYER DATABASE shall not be used in any manner as a factor in establishing an employer's eligibility for credit.
 5. Initial Display Pages – In response to a search, LICENSEE may publish an Initial Display of one or more pages with results. The Initial Display Pages may only publish the Company Name, Partial Street Address, City, and State. Partial address means street name only; for example, "123 Main St" is displayed as "Main St". The Initial Display Pages will be limited to twenty-five (25) results or business names.
- b. Levels of USER Access: The ARC EMPLOYER DATABASE may be used according to the following levels of USER access:
1. END USER: END USERS may search and retrieve information based on the data elements listed under "User Search Elements" in Attachment 8 attached hereto and incorporated herein. In addition, LICENSEE shall implement the following restrictions on END USERS' level of access:
 - a. After completing an initial search, END USERS may receive a display of partial records of which not more than 25 records can be downloaded, displayed, or printed at one time. A partial record may include the data elements shown in the column entitled "Partial Display" in Attachment 8.
 - b. From the partial record display, END USERS may click on a single partial display to see the full record display for that single business. A full record display may include some or all of the data elements shown in the column entitled "Full-Record Display" on Attachment 8.
 - c. END USERS may print the data elements shown in the column entitled "Print Elements" on Attachment 8 for up to twenty-five records at a time (i.e., per single print request).

- d. END USERS may email the data elements shown in the column entitled "E-mail Elements" on Attachment 8 for up to twenty-five records at a time (i.e., per single download request) to an e-mail address.
 - e. End Users may pass (transmit or communicate) the data elements shown in the column entitled "Linkable Elements" on Attachment 8 to another system (e.g. mapping, web browser).
 - f. END USERS will not be able to view any email address in the ARC EMPLOYER DATABASE. LICENSEE shall implement and manage a digital delivery mechanism for the deployment of email address from the ARC EMPLOYER DATABASE. An email address shall be used solely for one-to-one correspondence. Email blasts and multiple or batch email deployment are strictly prohibited.
2. INTERMEDIATE USERS: INTERMEDIATE USERS may search and retrieve information based on the data elements listed under "User Search Elements" in Attachment 9 attached hereto and incorporated herein. In addition, LICENSEE shall implement the following restrictions on INTERMEDIATE USERS' level of access:
- a. After completing an initial search, INTERMEDIATE USERS may retrieve and display an unlimited number of partial records of which not more than 25 records can be viewed at one time. A partial record may include the data elements shown in the column entitled "Partial Display" on Attachment 9.
 - b. From the single line record display, INTERMEDIATE USERS may click on a partial display to see the full record display for that business. A full record display may include some or all of the data elements shown in the column entitled "Full-Record Display" in Attachment 9.
 - c. INTERMEDIATE USERS may print the data elements shown in the column entitled "Print Elements" on Attachment 9 for up to one hundred (100) records at a time (i.e., per single print request).
 - d. INTERMEDIATE USERS may download the data elements shown in the column entitled "Downloadable Elements" on Attachment 9 for up to one hundred (100) records at a time (i.e., per single download request).
 - e. INTERMEDIATE USERS may pass (transmit or communicate) the data elements shown in the column entitled "Linkable Elements" on Attachment 9 to another system (e.g. mapping, web browser).
 - f. INTERMEDIATE USERS may view email addresses in the ARC EMPLOYER DATABASE. Email address shall be used solely for one-to-one correspondence. Email blasts and multiple or batch email deployment are strictly prohibited.
3. LICENSEE: LICENSEE may search and retrieve information based on the data elements listed under "User Search Elements" in Attachment 10 attached hereto and incorporated herein. In addition, LICENSEE's level of access is limited as follows:

- a. After completing an initial search, LICENSEE may retrieve and display an unlimited number of partial records. A partial record may include the data elements shown in the column entitled "Partial Display" on Attachment 10.
- b. From the partial record display, LICENSEE may click on a partial display to see the full record display for that business. A full record display shall include the data elements shown in the column entitled "Full-Record Display" on Attachment 10.
- c. LICENSEE may print an unlimited number of records containing the data elements shown in the column entitled "Print Elements" on Attachment 10.
- d. LICENSEE may download an unlimited number of records containing the data elements shown in the column entitled "Downloadable Elements" on Attachment 10.
- e. LICENSEE may pass (transmit or communicate) the data elements shown in the column entitled "Linkable Elements" on Attachment 10 to another system (e.g. mapping, web browser).
- f. LICENSEE may view email addresses in the ARC EMPLOYER DATABASE. An Email address shall be used solely for one-to-one correspondence. Email blasts and multiple or batch email deployment are strictly prohibited.
- g. LICENSEE may use the ARC EMPLOYER DATABASE to batch enhance (i.e. use technological means to enhance) existing employer name and address files subject to the following terms:
 1. For any individual records that are enhanced using the EMPLOYER DATABASE, LICENSEE will identify the enhanced individual record as having been enhanced using the EMPLOYER DATABASE by appending the *infoUSA* Unique ID number to each individual record enhanced;
 2. For any individual *infoUSA* Elements from the EMPLOYER DATABASE that are added to existing employer name and address files, LICENSEE will identify the *infoUSA* Elements as having been obtained from the EMPLOYER DATABASE, copyright *infoUSA*;
 3. Enhanced employer name and address files shall only be used by the LICENSEE and, except as provided for in this subsection, shall not be made available to any other person or entity. The LICENSEE may share enhanced employer name and address files with INTERMEDIATE and END USERS at the level of access provided for such USERS in the Grant of License under this LICENSE AGREEMENT.

4. COMPENSATION

The parties acknowledge that infoUSA shall be compensated for the Services and Deliverables and all costs associated with this LICENSE AGREEMENT according to the terms of Attachment 2 of the MASTER CONTRACT and that LICENSEES shall not otherwise be required to pay any costs or fees whatsoever in conjunction with this LICENSE AGREEMENT. The MASTER CONTRACT requires *infoUSA* to deliver to the LICENSEE three copies of the initial and every update of the DATABASE on CD/DVD and a copy of the ASSOCIATED PROPRIETARY SEARCH AND EXTRACTION SOFTWARE. In addition, the LICENSEE may request additional CD/DVD copies of the DATABASE AND RELATED APPLICATIONS from *infoUSA* at no cost according to the provisions of the MASTER CONTRACT. *infoUSA* SHALL NOT, UNDER ANY CIRCUMSTANCES, CHARGE OR ATTEMPT TO CHARGE THE LICENSEE FOR ADDITIONAL CD/DVD COPIES OF THE DATABASE AND RELATED APPLICATIONS.

5. DELIVERY

- a. *infoUSA* will supply the LICENSEE with the most current version of the ARC EMPLOYER DATABASE and ASSOCIATED PROPRIETARY SEARCH AND EXTRACTION SOFTWARE, UNCOMPRESSED DATABASE AND ADDITIONAL CD/DVD COPIES in accordance with the time frames established in the MASTER CONTRACT.
- b. *infoUSA* shall deliver a minimum of three (3) copies of the initial version of the ARC EMPLOYER DATABASE and ASSOCIATED PROPRIETARY SEARCH AND EXTRACTION SOFTWARE, AND THE UNCOMPRESSED DATABASE to the LICENSEE as provided in Attachment 3 and Attachment 4 of the MASTER CONTRACT. *infoUSA* shall send the ARC EMPLOYER DATABASE and ASSOCIATED SEARCH AND EXTRACTION PROPRIETARY SOFTWARE in CD/DVD format and the UNCOMPRESSED DATABASE in the format prescribed by ARC and ASCII delimited format on CD-ROM, DVD-ROM, or FTP format to the LICENSEE at the following address:

Agency Name

Agency Contact

Street Address

P.O. Box

City, State, Zip Code

Email Address

Delivery of subsequent updates shall not require a new LICENSE AGREEMENT.

6. TERM

- a. The term of this LICENSE AGREEMENT shall be from the Effective Date through the end date of the MASTER CONTRACT, unless terminated earlier in accordance with the termination provisions of this LICENSE AGREEMENT or of the MASTER CONTRACT.
- b. THE LICENSEE SHALL BE ABLE TO USE THE DATABASE SUPPLIED UNDER THIS LICENSE AGREEMENT FOR A MINIMUM OF FIFTEEN MONTHS FOLLOWING TERMINATION OF THIS LICENSE AGREEMENT, OR ANY EXTENSION THEREOF, AND THE DATA SUPPLIED UNDER THIS LICENSE AGREEMENT SHALL REMAIN AVAILABLE TO THE LICENSEE FOR THIS PERIOD OF TIME.

7. TERMINATION

- a. The LICENSEE may terminate this LICENSE AGREEMENT in accordance with the termination provisions of the MASTER CONTRACT. In addition, LICENSEE may elect to voluntarily terminate this LICENSE AGREEMENT, at any time and for any reason, with thirty (30) days' written notice to *infoUSA*.
- b. If the LICENSEE materially breaches a material term or provision of this LICENSE AGREEMENT, the LICENSOR shall give written notice of the alleged breach to the LICENSEE. Within 30 days of receiving the written notice, the LICENSEE shall either (a) correct the breach, or (b) file a request with the ARC to have the LICENSOR's claim that the LICENSEE is in breach reviewed by a three-person review panel. If the LICENSEE does not correct the breach or file a request for review within 30 days of receiving written notice of the alleged breach, the LICENSOR may terminate this LICENSE AGREEMENT. The review panel shall be made up of one representative of the LICENSEE's choice, one representative of the LICENSOR's choice, and one representative from the State of Iowa or, if the State of Iowa declines to serve on the panel, a mutually agreeable third party. The panel shall review LICENSOR's claim and shall issue a determination as to whether the LICENSEE's actions constitute a material breach of a term or provision of this LICENSE AGREEMENT within 30 days of LICENSEE's request for review. If the panel determines that the LICENSEE's actions constitute a material breach of a term or provision of this LICENSE AGREEMENT and the LICENSEE fails to correct the breach within 30 days of such determination, *infoUSA* may terminate this LICENSE AGREEMENT immediately and all rights of the LICENSEE to use the DATABASE shall cease. Termination of a LICENSEE's LICENSE AGREEMENT as provided in this subsection 7(b) shall have no effect on the MASTER AGREEMENT or on LICENSE AGREEMENTS with other USERS or LICENSEES covered by the MASTER CONTRACT.

8. MODIFICATION

No modification of this LICENSE AGREEMENT shall be binding upon the LICENSEE and *infoUSA* unless made in writing and signed by duly authorized officers of both parties.

9. NOTICES

Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar and reliable carrier which shall be addressed to each party as set forth as follows:

If to the LICENSEE: **[ENTER AGENCY NAME AND ADDRESS]**

If to the LICENSOR: *infoUSA Inc.*
Director, Government Division
5711 S. 86th Circle
Omaha, NE 68127

With a copy to: *infoUSA, Inc.*
Attn: Corporate Counsel
5711 S. 86th Circle
Omaha, NE 68127

With a copy to: Iowa Workforce Development
Attn: ARC Employer Database Project Manager
1000 East Grand Avenue
Des Moines IA 50319

Each such notice shall be deemed to have been provided at the earliest of: (a) at the time it is actually received; or, (b) within one day in the case of overnight hand delivery, courier or services such as Federal Express with guaranteed next day delivery; or, (c) 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.

10. WARRANTIES

The provisions of the Master Contract are incorporated by reference into this License Agreement.

11. MISCELLANEOUS

- a. LICENSEE shall provide a signed copy of this LICENSE AGREEMENT to *infoUSA* and the State of Iowa, Iowa Workforce Development.
- b. LICENSEE shall comply with all federal, state, and local laws, rules and regulations applicable to its use of the DATABASE under the terms of this LICENSE AGREEMENT including, but not limited to, "do not call," "CAN SPAM" and "do not fax" regulations. Licensee shall provide opt-out availability for e-mail messages (i.e. if a recipient opts out, Licensee cannot send to that recipient again) and shall process opt-out requests within 10 days of receipt. LICENSEE shall, only to the extent indemnification is consistent with any constitutional or statutory limitations on the LICENSEE's ability to indemnify others, indemnify and

hold *infoUSA* harmless against all claims directly related to LICENSEE's failure to comply with such laws, rules and regulations.

- c. The laws of the state of the LICENSEE shall govern and determine all matters arising out of or in connection with this LICENSE AGREEMENT without regard to the conflict of law provisions LICENSEE's state. Any litigation in connection with this LICENSE AGREEMENT shall be brought in the appropriate state court in the LICENSEE's state. This provision shall not be construed as waiving any immunity from suit or liability, including without limitation, sovereign immunity, which may be available to the LICENSEE.

12. 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 License Agreement and have caused their duly authorized representatives to execute this License Agreement.

LICENSEE

Signature

Name

Title

Date

infoUSA

Signature

Name

Title

Date

Schedule 2(e)3

BotDetect Captcha- <http://captcha.biz/captcha.html>

Web Wiz Captcha- <http://www.webwizguide.com/webwizcaptcha/>

Free Captcha Service- <http://captchas.net/>

ReCaptcha- <http://recaptcha.net/>

End User License Restrictions:

(Licensee Provided Access for End User)

Attachment 8

	infoUSA Elements	User Search Elements	Partial Display	Full-Record Display	System Elements	Print Elements	Download Elements (Mailing)	Linkable Elements
1	Lastupdate	x	x	x	x	x	x	x
2	Uniqueid	x	x	x	x	x	x	x
3	FEIN	x	x	x	x	x	x	x
4	Name1	Name1	Name1	Name1	x	Name1	Name1	Name1
5	Stfips	Stfips (**)	Stfips	x	x	x	x	Stfips
6	Ctfips (Cnty Name)	Ctfips (Cnty Name)(**)	Ctfips (Cnty Name)	Ctfips (Cnty Name)	x	Ctfips (Cnty Name)	x	Ctfips (Cnty Name)
7	Twfips	Twfips (**)	Twfips	x	x	x	x	Twfips
8	Censtract	x	x	x	x	x	x	x
9	Blockgrp	x	x	x	x	x	x	x
10	Address	x	Partial Address(^)	Address	x	Address	Address	Address
11	Address2	x	x	Address2	x	Address2	Address2	Address2
12	City	City (**)	City	City	x	City	City	City
13	State	State (**)	State	State	x	State	State	State
14	Zipcode	Zipcode (**)	x	Zipcode	x	Zipcode	Zipcode	Zipcode
15	Zipplus	x	x	Zipplus	x	Zipplus	Zipplus	Zipplus
16	Addressty	x	x	x	x	x	x	x
17	Adtypdesc	x	x	Adtypdesc	x	Adtypdesc	x	x
18	Lat	Lat(**)	x	x	x	x	x	Lat
19	long	long(**)	x	x	x	x	x	long
20	Geocode	x	x	x	x	x	x	Geocode
21	Contacttyp	x	x	x	x	x	x	x
22	Contctydes	x	x	Contctydes	x	Contctydes	Contctydes	x
23	Cntctlname	x	x	Cntctlname	x	Cntctlname	Cntctlname	x
24	cntctfname	x	x	cntctfname	x	cntctfname	cntctfname	x
25	cntcttitle	x	x	cntcttitle	x	cntcttitle	cntcttitle	x
26	Telenium	x	x	Telenium	x	Telenium	x	x
27	Teleext	x	x	Teleext	x	Teleext	Teleext	x
28	Email	x	x	x	x	x	x	x
29	Faxnumber	x	x	Faxnumber	x	Faxnumber	x	x
30	Weburl	x	x	Weburl	x	Weburl	x	x
31	Webflag	x	x	x	x	x	x	x
32	Busdesc	Busdesc (*)	Busdesc	Busdesc	x	Busdesc	Busdesc	Busdesc
33	NAICScode	NAICScode (*)	x	NAICScode	x	NAICScode	x	NAICScode (*)
34	SICcode	SICcode (*)	x	SICcode	x	SICcode	x	SICcode (*)
35	Indcodrank	x	x	Indcodrank	x	Indcodrank	x	x
36	PrivPubsta	PrivPubsta	x	PrivPubsta	x	PrivPubsta	x	x
37	Legalstat	x	x	x	x	x	x	x
38	Locstat	x	x	x	x	x	x	x
39	Stkexcd	x	x	Stkexcd	x	Stkexcd	x	x
40	Stkexdesc	x	x	Stkexdesc	x	Stkexdesc	x	x
41	Sticker	x	x	Sticker	x	Sticker	x	x
42	Wcollar	x	x	x	x	x	x	x
43	Wcollind	x	x	x	x	x	x	x
44	Empsizrng	Empsizrng(***)	Empsizrng	Empsizrng	x	Empsizrng	x	x
45	Empsizval	x	x	x	x	x	x	x
46	Empsizflg	x	x	x	x	x	x	x
47	Annsalrng	x	Annsalrng	Annsalrng	x	Annsalrng	x	x
48	Annsalval	x	x	x	x	x	x	x
49	Annsalflg	x	x	x	x	x	x	x
50	Yearest	x	x	Yearest	x	Yearest	x	x
51	Creditcd	x	x	Creditcd (^)	x	Creditcd	x	x
52	Hdqtrsid	x	x	x	x	x	x	x
53	Parentid	x	x	x	x	x	x	x
54	Ultparentid	x	x	x	x	x	x	x
55	Forparnt	x	x	x	x	x	x	x
56	Eximpind	x	x	x	x	x	x	x
(*) One 4-digit NAICScode or SICcode or BusDesc search allowed at one time; multiple 4-digit NAICScode or SICcode searches allowed through Occupational Code search (Linkable Elements)								
(**) All End User searches must include a geographical area and at least one of the following infoUSA data elements: Name1, Busdesc, 4-digit NAICScode/SICcode, or an occupational search.								
A geographic search area can cross state boundaries, but the largest geographical search area cannot encompass two or more States in their entirety.								
(***) Custom range allowed provided that the range spans at least 10 employees.								
(^) Each display of the Credit cd must include the following language: "The infoUSA data shall not be used in any manner as a factor in establishing an employer's eligibility for credit."								
(^) Partial address means street name only. For example, "123 Main St" is displayed at "Main St" for the partial address.								

Intermediate User License Restrictions: (Licensee Provided Access for Intermediate User) Attachment 9

	infoUSA Elements	User Search Elements	Partial Display	Full-Record Display	System Elements	Print Elements	Download Elements (Mailing)	Linkable Elements
1	Lastupdate	x	x	x	x	x	x	x
2	Uniqueid	x	x	x	x	x	x	x
3	FEIN	x	FEIN	FEIN	x	FEIN	FEIN	x
4	Name1	Name1	Name1	Name1	x	Name1	Name1	Name1
5	Stfips	Stfips (**)	x	x	x	x	x	Stfips
6	Ctfips (Cnty Name)	Ctfips (Cnty Name)(**)	Ctfips (Cnty Name)	Ctfips (Cnty Name)	x	Ctfips (Cnty Name)	x	Ctfips (Cnty Name)
7	Twfips	Twfips (**)	x	x	x	x	x	Twfips
8	Censtract	x	Censtract	Censtract	x	Censtract	x	x
9	Blockgrp	x	Blockgrp	Blockgrp	x	Blockgrp	x	x
10	Address	x	Partial Address(**)	Address	x	Address	Address	Address
11	Address2	x	x	Address2	x	Address2	Address2	Address2
12	City	City (**)	City	City	x	City	City	City
13	State	State (**)	State	State	x	State	State	State
14	Zipcode	Zipcode (**)	x	Zipcode	x	Zipcode	Zipcode	Zipcode
15	Zipplus	x	x	Zipplus	x	Zipplus	Zipplus	Zipplus
16	Addresssty	x	x	x	x	x	x	x
17	Adtypdesc	x	x	Adtypdesc	x	Adtypdesc	x	x
18	Lat	Lat(**)	x	x	x	x	x	Lat
19	long	long(**)	x	x	x	x	x	long
20	Geopcode	x	x	x	x	x	x	Geopcode
21	Contacttyp	Contacttyp	x	x	x	Contacttyp	Contacttyp	Contacttyp
22	Contctydes	x	x	Contctydes	x	Contctydes	Contctydes	Contctydes
23	Cntctlname	x	x	Cntctlname	x	Cntctlname	Cntctlname	x
24	cntctfname	x	x	cntctfname	x	cntctfname	cntctfname	x
25	cntcttitle	x	x	cntcttitle	x	cntcttitle	cntcttitle	x
26	Telenium	x	x	Telenium	x	Telenium	Telenium	x
27	Teleext	x	x	Teleext	x	Teleext	Teleext	x
28	Email	x	x	Email (**)	x	x	x	x
29	Faxnumber	x	x	Faxnumber	x	Faxnumber	x	x
30	Weburl	x	x	Weburl	x	Weburl	x	x
31	Webflag	x	x	Webflag	x	Webflag	x	x
32	Busdesc	Busdesc(*)	Busdesc	Busdesc	x	Busdesc	Busdesc	Busdesc
33	NAICScode	NAICScode(**)	NAICScode	NAICScode	x	NAICScode	NAICScode	NAICScode(*)
34	SICcode	SICcode(*)	SICcode	SICcode	x	SICcode	SICcode	SICcode(*)
35	Indcodrank	x	x	Indcodrank	x	Indcodrank	x	x
36	Privpubsta	Privpubsta	x	Privpubsta	x	Privpubsta	x	x
37	Legalstat	x	x	x	x	x	x	x
38	Locstat	x	x	Locstat	x	Locstat	x	x
39	Stkexcd	x	x	Stkexcd	x	Stkexcd	x	x
40	Stkexdesc	x	x	Stkexdesc	x	Stkexdesc	x	x
41	Sticker	x	x	Sticker	x	Sticker	x	x
42	Wcollar	x	x	x	x	x	x	x
43	Wcollind	x	x	x	x	x	x	x
44	Empsizrng	Empsizrng(***)	Empsizrng	Empsizrng	x	Empsizrng	x	x
45	Empsizval	Empsizval	Empsizval	Empsizval	x	Empsizval	x	x
46	Empsizflg	x	x	x	x	x	x	x
47	Annsalrng	Annsalrng	Annsalrng	Annsalrng	x	Annsalrng	x	x
48	Annsalval	x	x	x	x	x	x	x
49	Annsalflg	x	x	x	x	x	x	x
50	Yearest	Yearest	Yearest	Yearest	x	Yearest	x	x
51	Creditcd	x	Creditcd(*)	Creditcd(*)	x	Creditcd(*)	x	x
52	Hdqrsid	x	x	x	x	x	x	x
53	Parentid	x	x	x	x	x	x	x
54	Ultparentid	x	x	x	x	x	x	x
55	Forparnt	Forparnt	x	Forparnt	x	Forparnt	x	x
56	Eximpind	Eximpind	x	Eximpind	x	Eximpind	x	x
x - Data Element excluded								
(*) One 4-digit NAICScode or SICcode or BusDesc search allowed at one time; multiple 4-digit searches allowed through Occupational Code search (Linkable Elements)								
(**) All End User searches must include a geographical area and at least on of the following infoUSA data elements; Name1, Busdesc, 4-digit NAICS/SIC code, or and occupational search.132:132 A Geographic Search area can cross state boundaries, but the largest geographical search area cannot encompass two or more states in their entirety.								
(***) Custom range allowed provided that the range spans at least 10 employees.								
(*) Each display of the Creditcd must include the following language: "The infoUSA data shall not be used in any manner as a factor in establishing an employer's eligibility for credit."								
(**) Partial address means street name only. For example, "123 Main St" is displayed as "Main St" for the partial address.								
(***) Email addresses can only be used for one-to-one correspondence.								

Licensee User License Restrictions:			(Licensee Uses for Internal Data Processing & Reference Use)				Attachment 10
infoUSA Elements	User Search Elements	Partial Display	Full-Record Display	System Elements	Print Elements	Download Elements	Linkable Elements
1	Lastupdate	Lastupdate	Lastupdate	Lastupdate	Lastupdate	Lastupdate	Lastupdate
2	Uniqueid	Uniqueid	Uniqueid	Uniqueid	Uniqueid	Uniqueid	Uniqueid
3	FEIN	FEIN	FEIN	FEIN	FEIN	FEIN	FEIN
4	Name1	Name1	Name1	Name1	Name1	Name1	Name1
5	Stfips	Stfips	Stfips	Stfips	Stfips	Stfips	Stfips
6	Ctfips (Cnty Name)	Ctfips (Cnty Name)	Ctfips (Cnty Name)	Ctfips (Cnty Name)	Ctfips (Cnty Name)	Ctfips (Cnty Name)	Ctfips (Cnty Name)
7	Twfips	Twfips	Twfips	Twfips	Twfips	Twfips	Twfips
8	Censtract	Censtract	Censtract	Censtract	Censtract	Censtract	Censtract
9	Blockgrp	Blockgrp	Blockgrp	Blockgrp	Blockgrp	Blockgrp	Blockgrp
10	Address	Address	Address	Address	Address	Address	Address
11	Address2	Address2	Address2	Address2	Address2	Address2	Address2
12	City	City	City	City	City	City	City
13	State	State	State	State	State	State	State
14	Zipcode	Zipcode	Zipcode	Zipcode	Zipcode	Zipcode	Zipcode
15	Zipplus	Zipplus	Zipplus	Zipplus	Zipplus	Zipplus	Zipplus
16	Adressty	Adressty	Adressty	Adressty	Adressty	Adressty	Adressty
17	Adtypdesc	Adtypdesc	Adtypdesc	Adtypdesc	Adtypdesc	Adtypdesc	Adtypdesc
18	Lat	Lat	Lat	Lat	Lat	Lat	Lat
19	long	long	long	long	long	long	long
20	Geopcode	Geopcode	Geopcode	Geopcode	Geopcode	Geopcode	Geopcode
21	Contacttyp	Contacttyp	Contacttyp	Contacttyp	Contacttyp	Contacttyp	Contacttyp
22	Contctydes	Contctydes	Contctydes	Contctydes	Contctydes	Contctydes	Contctydes
23	Cntctlname	Cntctlname	Cntctlname	Cntctlname	Cntctlname	Cntctlname	Cntctlname
24	cntctfname	cntctfname	cntctfname	cntctfname	cntctfname	cntctfname	cntctfname
25	cntcttitle	cntcttitle	cntcttitle	cntcttitle	cntcttitle	cntcttitle	cntcttitle
26	Telenium	Telenium	Telenium	Telenium	Telenium	Telenium	Telenium
27	Teleext	Teleext	Teleext	Teleext	Teleext	Teleext	Teleext
28	Email	Email	Email	Email	Email	Email	Email
29	Faxnumber	Faxnumber	Faxnumber	Faxnumber	Faxnumber	Faxnumber	Faxnumber
30	Weburl	Weburl	Weburl	Weburl	Weburl	Weburl	Weburl
31	Webflag	Webflag	Webflag	Webflag	Webflag	Webflag	Webflag
32	Busdesc	Busdesc	Busdesc	Busdesc	Busdesc	Busdesc	Busdesc
33	NAICScode	NAICScode	NAICScode	NAICScode	NAICScode	NAICScode	NAICScode
34	SICcode	SICcode	SICcode	SICcode	SICcode	SICcode	SICcode
35	Indcodrank	Indcodrank	Indcodrank	Indcodrank	Indcodrank	Indcodrank	Indcodrank
36	PrivPubsta	PrivPubsta	PrivPubsta	PrivPubsta	PrivPubsta	PrivPubsta	PrivPubsta
37	Legalstat	Legalstat	Legalstat	Legalstat	Legalstat	Legalstat	Legalstat
38	Locstat	Locstat	Locstat	Locstat	Locstat	Locstat	Locstat
39	Stkexcd	Stkexcd	Stkexcd	Stkexcd	Stkexcd	Stkexcd	Stkexcd
40	Stkexdesc	Stkexdesc	Stkexdesc	Stkexdesc	Stkexdesc	Stkexdesc	Stkexdesc
41	Sticker	Sticker	Sticker	Sticker	Sticker	Sticker	Sticker
42	Wcollar	Wcollar	Wcollar	Wcollar	Wcollar	Wcollar	Wcollar
43	Wcollind	Wcollind	Wcollind	Wcollind	Wcollind	Wcollind	Wcollind
44	Empsizrng	Empsizrng	Empsizrng	Empsizrng	Empsizrng	Empsizrng	Empsizrng
45	Empsizval	Empsizval	Empsizval	Empsizval	Empsizval	Empsizval	Empsizval
46	Empsizflg	Empsizflg	Empsizflg	Empsizflg	Empsizflg	Empsizflg	Empsizflg
47	Annsalrng	Annsalrng	Annsalrng	Annsalrng	Annsalrng	Annsalrng	Annsalrng
48	Annsalval	Annsalval	Annsalval	Annsalval	Annsalval	Annsalval	Annsalval
49	Annsalflg	Annsalflg	Annsalflg	Annsalflg	Annsalflg	Annsalflg	Annsalflg
50	Yearest	Yearest	Yearest	Yearest	Yearest	Yearest	Yearest
51	Creditcd	Creditcd	Creditcd	Creditcd	Creditcd	Creditcd	Creditcd
52	Hdqtrsid	Hdqtrsid	Hdqtrsid	Hdqtrsid	Hdqtrsid	Hdqtrsid	Hdqtrsid
53	Parentid	Parentid	Parentid	Parentid	Parentid	Parentid	Parentid
54	Ultparentid	Ultparentid	Ultparentid	Ultparentid	Ultparentid	Ultparentid	Ultparentid
55	Forparnt	Forparnt	Forparnt	Forparnt	Forparnt	Forparnt	Forparnt
56	Eximpind	Eximpind	Eximpind	Eximpind	Eximpind	Eximpind	Eximpind
Notes:							
- First column -- infoUSA complete list of data elements that they have agreed to give us;							
- Second column -- Search elements by user type (x indicates not licensed for this use);							
- Third column -- Elements that can be included in a one-line display (x indicates not licensed for this use);							
- Fourth column -- Elements that can be included in a full-record display (x indicates not licensed for this use);							
- Fifth column -- Elements that can be used programmatically (e.g. for any data processing)(x indicates not licensed for this use);							
- Sixth column -- Elements that can be printed (x indicates not licensed for this use)							
- Seventh column -- Elements that can be downloaded (x indicates not licensed for this use)							
- Eighth column -- Elements that can be passed to another system (e.g mapping, web browser, email) or used to crosswalk with other LMI related data (x indicates not licensed for this use).							