

Attachment A – Sample Contract Terms and Conditions

CONTRACT FOR SERVICES

This Contract (“Contract”), entered into by and between the Alabama 911 Board (the “Board”) and _____ (the “Contractor”), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

1. Duties of Contractor. The Contractor shall provide the following services relative to this Contract:

[Scope of services to be inserted here and as Appendices/Exhibits upon award of Contract]

2. Consideration. The Contractor shall be compensated for services performed under this Contract as follows:

[Fee information to be inserted upon award of Contract]

3. Term. This Contract shall be effective for a period of [__TBD__]. It shall commence on [__TBD__] and shall remain in effect through [__TBD__].

4. Access to Records. The Contractor and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred and payments made under this Contract. They shall make such materials available at their respective offices at all reasonable times during this Contract, and for three (3) years from the date of final payment under this Contract, for inspection by the Board or its authorized designees. Copies shall be furnished at no cost to the Board if requested.

5. Assignment; Successors. The Contractor binds its successors and assignees to all the terms and conditions of this Contract. The Contractor shall not assign or subcontract the whole or any part of this Contract without the Board’s prior written consent. The Contractor may assign its right to receive payments to such third parties as the Contractor may desire without the prior written consent of the Board, provided that the Contractor gives written notice (including evidence of such assignment) to the Board thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.

6. Assignment of Antitrust Claims. As part of the consideration for the award of this Contract, the Contractor assigns to the Board all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

7. Audits. The Contractor acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with Chapter 2A, Title 40 Ala. Code, 1975, and audit guidelines specified by the Board.

The Board considers the Contractor to be a “vendor” for purposes of this Contract. However, if required by applicable provisions of the Office of Management and Budget Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations), following the expiration of this Contract the Contractor shall arrange for a financial and compliance audit of funds provided by the Board pursuant to this Contract. Such audit is to be conducted by an independent public or certified public accountant and performed in accordance with industry best practice and applicable provisions of the Office of Management and Budget Circulars A-133 (Audits of States, Local Governments, and Non-Profit Organizations). The Contractor is responsible for ensuring that the audit and any management letters are completed and forwarded to the Board in accordance with the terms of this Contract. Audits conducted pursuant to this paragraph must be submitted no later than nine (9) months following the close of the Contractor’s fiscal year. The Contractor agrees to provide the Board an original of all financial and compliance audits. The audit shall be an audit of the actual entity, or distinct portion thereof that is the Contractor, and not of a parent, member, or Subsidiary Corporation of the Contractor, except to the extent such an expanded audit may be determined by the Board to be in the best interests of the Board. The audit shall include a statement from the Auditor that the Auditor has reviewed this Contract and that the Contractor is not out of compliance with the financial aspects of this Contract.

8. Authority to Bind Contractor. The signatory for the Contractor represents that he/she has been duly authorized to execute this Contract on behalf of the Contractor and has obtained all necessary or applicable approvals to make this Contract fully binding upon the Contractor when his/her signature is affixed, and accepted by the Board.

9. Changes in Work. The Contractor shall not commence any additional work or change the scope of the work until authorized in writing by the Board. The Contractor shall make no claim for additional compensation in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may only be amended, supplemented or modified by a written document executed in the same manner as this Contract.

10. Compliance with Laws.

A. The Contractor shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by the Board and the Contractor to determine whether the provisions of this Contract require formal modification.

B. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the Board as set forth in The Alabama Ethics Law Sections 36-25-1 et seq. Ala. Code, 1975, as amended and the regulations promulgated thereunder. If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Alabama State Ethics Commission. If the Contractor or its agents violate any applicable ethical standards, the Board may, in its sole discretion, terminate this Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties

under The Alabama Ethics Law at Section 36-25-27 Ala. Code, 1975, as amended and under any other applicable laws.

C. The Contractor certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the Board or the State of Alabama. The Contractor agrees that any payments currently due to the Board or the State of Alabama may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the Contractor is current in its payments and has submitted proof of such payment to the Board.

D. The Contractor warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the Board or the State of Alabama and agrees that it will immediately notify the Board of any such actions. During the term of such actions, the Contractor agrees that the Board may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract.

E. If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the Board or the State of Alabama or any affiliated agencies, and the Board decides to delay, withhold, or deny work to the Contractor, the Contractor may request that it be allowed to continue, or receive work, without delay. The Contractor must submit, in writing, a request for review to the Board. A determination by the Board shall be binding on the parties. Any payments that the Board may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest.

F. The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the Board. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the Board.

G. The Contractor affirms that, Contractor is properly registered and owes no outstanding reports to the Alabama Secretary of State.

11. Condition of Payment. All services provided by the Contractor under this Contract must be performed to the Board's reasonable satisfaction and in accordance with all applicable federal, state, local laws, ordinances, rules and regulations. The Board shall not be required to pay for work found to be unsatisfactory, inconsistent with this Contract, or performed in violation of and federal, state or local statute, ordinance, rule or regulation.

12. Confidentiality of Board Information. The Contractor understands and agrees that data, materials, and information disclosed to the Contractor may contain confidential and protected information. The Contractor covenants that data, material, and information gathered, based upon or disclosed to the Contractor for the purpose of this Contract will not be disclosed to or discussed with third parties without the prior written consent of the Board.

The parties acknowledge that the services to be performed by Contractor for the Board under this Contract may require or allow access to data, materials, and information containing Personally Identifiable Information (defined as any information that identifies or can be used to identify, contact or locate the person to whom such information pertains or from which identification or contact information on an individual can be derived). If any Social Security number(s) is/are disclosed by Contractor, Contractor agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this contract.

13. Continuity of Services.

A. The Contractor recognizes that the service(s) to be performed under this Contract are vital to the Board and the State of Alabama and must be continued without interruption and that, upon Contract expiration or termination, a successor, either the Board or another contractor, may continue them. The Contractor agrees to:

1. Furnish phase-in training; and
2. Exercise its best efforts and cooperation to affect an orderly and efficient transition to a successor.

B. The Contractor shall, upon the Board's written notice:

1. Continue to provide services during the transition of services period for up to six (6) months after this Contract is terminated or expires; and
2. Negotiate in good faith a plan with the Board and any successor to determine the nature and extent of phase-in, phase-out services necessary to transition operation. The plan shall specify a training program and a date for transferring responsibilities for each of the service areas provided, and shall be subject to the Board's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this Contract are maintained at the required level of proficiency.

C. The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this Contract. The Contractor shall also disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

D. The Contractor shall be reimbursed for reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations). Any costs eligible for reimbursement shall not exceed the monthly recurring cost being paid for the services provided under this contract at the time of contract expiration and as approved by the Board.

14. Debarment and Suspension.

A. The Contractor certifies by entering into this Contract that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State of Alabama. The term “principal” for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor.

B. The Contractor certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The Contractor shall immediately notify the Board if any subcontractor becomes debarred or suspended, and shall, at the Board’s request, take all steps required by the Board to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

15. Default by Board. If the Board, ninety (90) days after receipt of written notice, fails to correct or cure any material breach of this Contract, the Contractor may cancel and terminate this Contract and institute measures to collect monies due up to and including the date of termination.

16. Disputes.

A. Should any disputes arise with respect to this Contract, the Contractor and the Board agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.

B. The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the Board or the Contractor as a result of such failure to proceed shall be borne by the Contractor, and the Contractor shall make no claim against the Board for such costs.

C. If a party to the Contract is not satisfied with the progress toward resolving a dispute, the party must notify in writing the other party of this dissatisfaction. Upon written notice, the parties have ten (10) working days, unless the parties mutually agree to extend this period, following the notification to resolve the dispute. If the dispute is not resolved within ten (10) working days, the parties shall submit the dispute, in compliance with the recommendations to the Attorney General, when considering settlement of such disputes, to utilize appropriate forms of alternate dispute resolution, including, but not limited to, mediation by or through the Attorney General’s Office of Administrative Hearing or where appropriate, private mediators. If a party is not satisfied with the results of mediation, the dissatisfied party may submit the dispute to the Circuit Court of Montgomery County, Alabama.

D. The Board may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the Board to the Contractor of one or more invoices not in dispute

in accordance with the terms of this Contract will not be cause for the Contractor to terminate this Contract.

E. It is agreed that the terms and commitments contained herein shall not be constituted a debt of the State of Alabama in violation of Article XI, Section 213, of the Constitution of Alabama, 1901, as amended by Amendment No. 26. It is further agreed that if any provision of this contract shall contravene any statute or constitutional provision or amendment, either now in effect or which may, during the course of this contract, be enacted, then that conflicting provision of the contract shall be null and void.

17. Drug-Free Workplace Certification. The Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the Board within ten (10) days after receiving actual notice that the Contractor, or an employee of the Contractor in the State of Alabama, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the Board for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Contract is in excess of \$25,000.00, the Contractor certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- B. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying the Board in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;
- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action

against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

18. Employment Eligibility Verification. As required by Alabama state law, the Contractor swears or affirms under the penalties of perjury that the Contractor does not knowingly employ an unauthorized alien. The Contractor further agrees that:

A. The Contractor shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC §22-5-1.7-3. The Contractor is not required to participate should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees.

B. The Contractor shall not knowingly employ or contract with an unauthorized alien. The Contractor shall not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.

C. The Contractor shall require his/her/its subcontractors, who perform work under this Contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

The Board may terminate for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the Board.

19. Employment Option. If the Board determines that it would be in the Board's best interest to hire an employee of the Contractor, the Contractor will release the selected employee from any non-competition agreements that may be in effect. This release will be at no cost to the Board or the employee.

20. Force Majeure. In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

21. Funding Cancellation. When the Board makes a written determination that funds are not authorized by statute or otherwise available to support continuation of performance of this

Contract, this Contract shall be canceled. A determination by the Board that funds are not authorized or otherwise available to support continuation of performance shall be final and conclusive.

22. Governing Law. This Contract shall be governed, construed, and enforced in accordance with the laws of the State of Alabama, without regard to its conflict of laws rules. Suit, if any, must be brought in the Circuit Court of Montgomery County, Alabama.

23. Indemnification. The Contractor agrees to indemnify, defend, and hold harmless the Board, its agents, officials, and employees from all claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Contractor and/or its subcontractors, if any, in the performance of this Contract. The Board shall not provide such indemnification to the Contractor.

24. Independent Contractor; Workers' Compensation Insurance. The Contractor is performing as an independent entity under this Contract. No part of this Contract shall be construed to represent the creation of an employment, agency, partnership or joint venture agreement between the parties. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party. The Contractor shall provide all necessary unemployment and workers' compensation insurance for the Contractor's employees, and shall provide the Board with a Certificate of Insurance evidencing such coverage prior to starting work under this Contract.

25. Insurance. The Contractor shall secure and keep in force during the term of this Contract the following insurance coverage, covering the Contractor for any and all claims of any nature which may in any manner arise out of or result from Contractor's performance under this Contract:

A. The Contractor and their subcontractors (if any) shall secure and keep in force during the term of this Contract the following insurance coverages (if applicable) covering the Contractor for any and all claims of any nature which may in any manner arise out of or result from Contractor's performance under this Contract:

1. Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits not less than \$700,000 per person and \$5,000,000 per occurrence unless additional coverage is required. The Board is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this Contract.
2. Automobile liability for owned, non-owned and hired autos with minimum liability limits of \$700,000 per person and \$5,000,000 per occurrence. The Board is to be named as an additional insured on a primary, non-contributory basis.
3. Professional Liability, also known as Errors and Omissions Insurance, for those Contractors required to hold a professional license in Alabama with limits not less than

\$700,000 per cause of action and \$5,000,000 per occurrence. This is coverage available to pay for liability arising out of the performance of professional or business-related duties, with coverage tailored to the needs of the specific profession. Coverage for the benefit of the Board shall continue for a period of two (2) years after the date of service provided under this Contract.

4. Fiduciary Liability would be required if the Contractor is responsible for the management and oversight of various employee benefit plans and programs such as pensions, profit-sharing and savings, among others. These contractors face potential claims for mismanagement brought by plan members. Limits should be no less than \$700,000 per cause of action and \$5,000,000 per occurrence.
5. Valuable Papers coverage, available under an Inland Marine policy, is recommended when any plans, drawings, media, data, records, reports, billings and other documents are produced or used under this agreement. Insurance must have limits sufficient to pay for the re-creation and reconstruction of such records.
6. The Contractor shall secure the appropriate Surety or Fidelity Bond(s) as required by applicable statutes.
7. The Contractor shall provide proof of such insurance coverage by tendering to the Board a certificate of insurance prior to the commencement of this Contract and proof of workers' compensation coverage meeting all statutory requirements. In addition, proof of an "all states endorsement" covering claims occurring outside Alabama is required if any of the services provided under this Contract involve work outside of Alabama.

B. The Contractor's insurance coverage must meet the following additional requirements:

1. The insurer must have a certificate of authority or other appropriate authorization to operate in the state in which the policy was issued.
2. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.
3. The Board will be defended, indemnified and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the Board under this Contract shall not be limited by the insurance required in this Contract.
4. The insurance required in this Contract, through a policy or endorsement(s), shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the Board.
5. The Contractor waives and agrees to require their insurer to waive their rights of subrogation against the Board.

C. Failure to provide insurance as required in this Contract may be deemed a material breach of contract entitling the Board to immediately terminate this Contract. The Contractor shall furnish a certificate of insurance and all endorsements to the Board before the commencement of this Contract.

26. Key Person(s).

A. If both parties have designated that certain individual(s) are essential to the services offered, the parties agree that should such individual(s) leave their employment during the term of this Contract for whatever reason, the Board shall have the right to terminate this Contract upon thirty (30) days' prior written notice.

B. In the event that the Contractor is an individual, that individual shall be considered a key person and, as such, essential to this Contract. Substitution of another for the Contractor shall not be permitted without express written consent of the Board.

Nothing in sections A and B, above shall be construed to prevent the Contractor from using the services of others to perform tasks ancillary to those tasks which directly require the expertise of the key person. Examples of such ancillary tasks include secretarial, clerical, and common labor duties. The Contractor shall, at all times, remain responsible for the performance of all necessary tasks, whether performed by a key person or others.

Key person(s) to this Contract is/are _____

27. Minority, Women, and Veteran Business Enterprise Participation. Substantially all of the work under this Contract will be performed directly by the Contractor's employees or by its certified technicians. Prior to the time the Contractor employs any third-party subcontractors, the Contractor will work with the Board to identify opportunities and select qualified participants.

28. Licensing Standards. The Contractor, its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules, or regulations governing services to be provided by the Contractor pursuant to this Contract. The Board will not pay the Contractor for any services performed when the Contractor, its employees or subcontractors are not in compliance with such applicable standards, laws, rules, or regulations. If any license, certification or accreditation expires or is revoked, or any disciplinary action is taken against an applicable license, certification, or accreditation, the Contractor shall notify the Board immediately and the Board, at its option, may immediately terminate this Contract.

29. Merger & Modification. This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented, or amended, except by written agreement signed by all necessary parties.

30. Nondiscrimination.

Pursuant to the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this paragraph may be regarded as a material breach of this Contract, but nothing in this paragraph shall be construed to imply or establish an employment relationship between the Board and any applicant or employee of the Contractor or any subcontractor.

The Board is periodically a recipient of federal funds, and therefore, where applicable, Contractor and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246.

31. Notice to Parties. Whenever any notice, statement or other communication is required under this Contract, it shall be sent by first class mail or via an established courier or delivery service to the following addresses, unless otherwise specifically advised.

A. Notices to the Board shall be sent to:

Alabama 911 Board
Attn: _____
[ADDRESS]

B. Notices to the Contractor shall be sent to: **(Include contact name and/or title, name of vendor & address)**

Payments to the Contractor shall be made via electronic funds transfer in accordance with instructions filed by the Contractor with the Board.

32. Order of Precedence; Incorporation by Reference. Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) this Contract, (2) attachments prepared by the Board, (3) RFP# _____, (4) Contractor's response to RFP# _____, and (5) attachments prepared by the Contractor. All attachments, and all documents referred to in this paragraph, are hereby incorporated fully by reference.

33. Ownership of Documents and Materials. All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by the Contractor prior

to execution of this Contract, but specifically developed under this Contract shall be considered “work for hire” and the Contractor transfers any ownership claim to the Board and all such materials will be the property of the Board. Use of these materials, other than related to contract performance by the Contractor, without the prior written consent of the Board, is prohibited. During the performance of this Contract, the Contractor shall be responsible for any loss of or damage to these materials developed for or supplied by the Board and used to develop or assist in the services provided while the materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor’s expense. The Contractor shall provide the Board full, immediate, and unrestricted access to the work product during the term of this Contract.

34. Payments. All payments shall be made 30 days in arrears by electronic funds transfer to the financial institution designated by the Contractor in writing. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract.

35. Penalties/Interest/Attorney’s Fees. The Board will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney’s fees, except as permitted by Alabama law.

Any liability resulting from the Board’s failure to make prompt payment shall be based solely on the amount of funding originating from the Board and shall not be based on funding from federal or other sources.

36. Progress Reports. The Contractor shall submit progress reports to the Board upon request. The progress reports shall serve the purpose of assuring the Board that work is progressing in line with the schedule, and that completion can be reasonably assured on the scheduled date.

37. Public Record. The Contractor acknowledges that the Board will not treat this Contract as containing confidential information. Use by the public of the information contained in this Contract shall not be considered an act of the Board.

38. Renewal Option. This Contract may be renewed under the same terms and conditions, subject to the approval of the Board. The term of the renewed contract may not be longer than the term of the original contract.

39. Severability. The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

40. Substantial Performance. This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

41. Taxes. The Board is exempt from most state and local taxes and many federal taxes. The Board will not be responsible for any taxes levied on the Contractor as a result of this Contract.

42. Termination for Convenience. This Contract may be terminated, in whole or in part, by the Board whenever, for any reason, the Board determines that such termination is in its best interest. Termination of services shall be affected by delivery to the Contractor of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The Contractor shall be compensated for services properly rendered prior to the effective date of termination. The Board will not be liable for services performed after the effective date of termination. The Contractor shall be compensated for services herein provided but in no case shall total payment made to the Contractor exceed the original contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date.

43. Termination for Default.

A. With the provision of thirty (30) days' notice to the Contractor, the Board may terminate this Contract in whole or in part if the Contractor fails to:

1. Correct or cure any breach of this Contract; the time to correct or cure the breach may be extended beyond thirty (30) days if the Board determines progress is being made and the extension is agreed to by the parties;
2. Deliver the supplies or perform the services within the time specified in this Contract or any extension;
3. Make progress so as to endanger performance of this Contract; or
4. Perform any of the other provisions of this Contract.

B. If the Board terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the Board considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the Board for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

C. The Board shall pay the contract price for completed supplies delivered and services accepted. The Contractor and the Board shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The Board may withhold from these amounts any sum the Board determines to be necessary to protect the Board against loss because of outstanding liens or claims of former lien holders.

D. The rights and remedies of the Board in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.

44. Travel. No expenses for travel will be reimbursed unless specifically permitted under the scope of services or consideration provisions. If approved by the Board, expenditures made by the Contractor for travel will be reimbursed at the current rate paid by the Board and in accordance with the State Travel Policies and Procedures as specified in the current Financial Management Circular. Out-of-state travel requests must be reviewed by the Board for availability of funds and for appropriateness per Circular guidelines.

45. Waiver of Rights. No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the Board's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the Board in accordance with applicable law for all damages to the Board caused by the Contractor's negligent performance of any of the services furnished under this Contract.

46. Work Standards. The Contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the Board becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the Board may request in writing the replacement of any or all such individuals, and the Contractor shall grant such request.

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that the undersigned is the Contractor, or that the undersigned is the properly authorized representative, agent, member or officer of the Contractor. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Contract other than that which appears upon the face hereof.

In Witness Whereof, Contractor and the Board have, through their duly authorized representatives, entered into this Contract. The parties, having read and understood the foregoing terms of this Contract, do by their respective signatures dated below agree to the terms thereof.

[Contractor]

Alabama Statewide 911 Board

By: _____

By:

Printed Name: _____

Printed

Name:

Title: _____

Title:

Date: _____

Date: