

**EXHIBIT A**  
**PRICE AGREEMENT**  
**9968**

This agreement (the “Price Agreement”) is entered into as of the Effective Date by the State of Oregon, acting by and through the Department of Administrative Services, State Procurement Office (“DAS SPO”) and First Data Solutions LLC (“Contractor”). DAS SPO and the Contractor are collectively referred to as the “Parties.”

DAS SPO issued RFP # 102-1471-08 seeking offers from qualified and responsible vendors to provide the Services described in this Price Agreement to Authorized Purchasers.

Contractor submitted an offer in response to the RFP offering to provide the Services described in this Price Agreement in strict accordance with the terms and conditions set forth in this Price Agreement.

DAS SPO has awarded this Price Agreement to Contractor.

**NOW, THEREFORE**, In consideration of the foregoing recitals and subject to the covenants, terms and conditions set forth below the Parties agree as follows:

**1.0 DEFINITIONS**

1.1 “Authorized Agency” means those State Agencies that are subject to the procurement authority of the Director of the Department under ORS 279A.050 and 279A.140 and that have delegated authority under OA R 125-246-0170. This term also includes the Oregon Department of Administrative Services (the “Department”) when the Department is engaged in Public Contracting (as defined by OAR 279A.010(1)(aa)).

1.2 “Authorized Purchaser” means Authorized Agencies, Independent Agencies and ORCPP Participants that have chosen to purchase Services under this Price Agreement and have established accounts with the Contractor for the purchase of Services under this Price Agreement.

1.3 “Contract” means a request to purchase Services under this Price Agreement by an Authorized Purchaser and the delivery of those Services by the Contractor. The terms and conditions of a Contract include the terms and conditions of this Price Agreement to the extent incorporated by reference as provided in Attachment D.

1.4 “DAS SPO” means the State of Oregon acting by and through its Department of Administrative Services – State Procurement Office.

1.5 “Effective Date” means the date that the Price Agreement is fully executed by the Parties and all required State of Oregon approvals have been obtained.

1.6 RESERVED

1.7 “Independent Agencies” means those State Agencies with independent procurement authority under ORS 279A.050, 279A.170 and other provisions of applicable State law.

## 1.8 RESERVED

1.9 “ORCPP” means the Oregon Cooperative Purchasing Program whose participants include but are not limited to: cities, counties, school districts, special districts, Qualified Rehabilitation Facilities (QRF's), residential programs under contract with the Oregon Department of Human Services, United States governmental agencies, and American Indian tribes or agencies. "ORCPP" also includes quasi-State Agencies such as the Oregon University System, Oregon Health Sciences University, and Oregon State Lottery with statutory authority or autonomy to solicit for Services independently.

1.10 “ORCPP Participants” means authorized members of ORCPP.

1.11 “Price Agreement” means this agreement between the Contractor and DAS SPO under which the Contractor agrees to hold prices, terms and conditions firm for a specified period of time for the benefit of Authorized Purchasers.

1.12 “Price Agreement Administrator” means the person specified in section 9 of this Contract. This term is synonymous with the terms “Contract Administrator” and “Contracting Officer” and “Point of Contact.”

1.13 “Product” means the specific search method or database used by Contractor to provide the service requested relating to Skip Tracing, Locate Services, and Credit Report Services.

1.14 “Services” means the services performed under this Price Agreement relating to Skip Tracing, Locate Services, and Credit Report Services.

## 1.15 RESERVED

1.16 “State Agency” or “State Agencies” means boards, commissions, departments, or agencies of the State of Oregon whose costs are paid, in whole or in part, from funds held in the State Treasury.

1.17 “UCC” means the Uniform Commercial Code, ORS chapters 71, 72, and 72A as amended from time to time.

**2.0 AGREEMENT TO PROVIDE SERVICES:** During the Term of this Price Agreement, Contractor agrees to provide Services of the kind and quantity requested by an Authorized Purchaser on the terms and conditions set forth in this Price Agreement.

2.1 USE LIMITATIONS: Each Authorized Purchaser will use Contractor’s Services only in the performance of, or in the furtherance of, lawful government activities.

2.2 PERMISSIBLE USES: Each Authorized Purchaser will agree, using the form attached as Attachment F to this Price Agreement, to use Contractor’s Services for certain purposes and in accordance with applicable law, including but not limited to the Fair Credit Reporting Act, 15 USC § 1681, et seq. (FCRA), the Gramm-Leach-Bliley Act, 15 USC § 6801, et seq. (GLBA), and the federal and Oregon Driver’s Privacy Protection Acts (18 USC § 2721, et seq. and ORS 802.175 to 802.195 (DPPAs), to the extent they may apply to a particular Authorized Purchaser. The Authorized Purchaser will restrict its use of Contractor’s Services to the permissible use or uses the Authorized Purchasers represents, on Attachment F, that it will employ under this Price Agreement. Contractor

may require Authorized Purchasers to update their representations of the permissible uses on Attachment F on the each anniversary date of the effective date of this Price Agreement.

### **3.0 TERM OF THE PRICE AGREEMENT:**

3.1 The Initial Term of this Price Agreement shall be two (2) years beginning on the Effective Date and expiring two years from the Effective Date unless terminated sooner in accordance with the termination provisions of this Price Agreement. The Price Agreement may be extended for additional periods (“Extension Terms”) by agreement of the parties as set forth below. The Term of the Price Agreement shall not exceed five (5) years as identified in section 1.1 of the RFP.

3.2 DAS SPO shall notify Contractor in writing if DAS SPO intends to extend the Price Agreement (“Renewal Notice”) at least thirty (30) days prior to the expiration of the then current term. If Contractor consents to the extension, it shall sign and return the Renewal Notice to DAS SPO within the time period specified therein. If the Contractor does not consent, the Price Agreement shall expire according to its terms, unless earlier terminated.

3.3 Notwithstanding the foregoing, DAS SPO reserves the right in its sole discretion to extend the Price Agreement for a maximum of one (1) calendar month beyond any term. DAS SPO shall notify Contractor in writing of the one-month extension prior to the expiration of the then current term. Consecutive one-month extensions under this Section are not allowed.

3.4 This Price Agreement consists of the following documents, which are listed in descending order of precedence: (i) this Price Agreement less all Attachments; (ii) Attachment A (the Statement of Work); (iii) Attachment B (Pricing and Price for Skip Tracing, Locate Services, and Credit Report Services); (iv) Attachment C (Insurance); (v) Attachment D (Price Agreement Terms and Conditions Incorporated into resulting Contracts); (vi) Attachment F (vii) the Request for Proposals (RFP #102-1297-07); and (viii) Contractor’s Proposal.

### **4. PRICING, INVOICING AND PAYMENT:**

4.1 Authorized Purchaser shall pay the Price Per Hit or Access Fee as specified in Attachment B for Services purchased under this Price Agreement.

4.2 Contractor shall invoice each Authorized Purchaser monthly.

Each Authorized Purchaser shall identify in its Purchaser Order the preferred method of receiving invoices (electronic or paper).

Invoices shall include (at minimum) the following data elements:

- A. Product by name,
- B. Total number of hits or file returned for each product, or number of users billed as an Access Fee,
- C. Reserved
- D. Price per hit or search as identified in Part 5 of the Contractor’s Proposal (if applicable for that Authorized Purchaser),

- E. Total charge for each product,
- F. Total invoice amount for that month.

Each Authorized Purchaser reserves the right to request additional information on the invoices as needed.

#### 4.3 USAGE REPORT

At no additional cost to the Authorized Purchaser, Contractor shall provide the Authorized Purchaser with a usage report. Usage reports either must accompany the invoice rendered under section 4.2 and shall be in the same format as the invoice or must be made available to the Authorized Purchaser electronically upon request.

The usage report shall contain (at minimum) the following data elements:

- A. User ID of each Authorized Purchaser staff who performs a search,
- B. The last four (4) numbers of the SSN or Inquiry information used to perform the search,
- C. Date and time each report was requested,
- D. Type of report (product) requested.

The Authorized Purchaser retains the right to request additional information as needed. This information will be used for statistical purposes and as an aid in detecting inappropriate use of the products (i.e. accessing information for personal reasons).

4.4 Authorized Purchaser shall pay Contractor within thirty (30) days after the Authorized Purchaser receives the invoice. Authorized Purchaser shall send payment to Contractor at the address specified in the invoice.

4.5 At Contractor's option, it may assess overdue account charges to an Authorized Purchaser at a percentage which is the same as the usual overdue account charges to the general clientele of the Contractor but, in accordance with the provisions of ORS 293.462(3), in no event shall such overdue account charges exceed two-thirds of one percent per month (8% per annum).

4.6 The Authorized Purchaser obtaining Services under this Price Agreement is solely responsible for the payment of all amounts due to the Contractor. Contractor agrees to look only to the Authorized Purchaser for payment.

4.7 The calculation of the Price Per Hit may be adjusted as described in Attachment B.

### **5.0 CONTRACTORS' REPRESENTATIONS AND WARRANTIES:**

5.1 The warranties set forth in this Section and in the UCC, which is incorporated into this Price Agreement and resulting Contracts by reference, are in addition to, and not in lieu of, any other warranties provided in the Price Agreement and any resulting Contract. All warranties provided shall be cumulative, and shall be interpreted expansively so as to afford the Authorized Purchasers and DAS SPO with the broadest warranty protection available.

5.2 The Contractor represents and warrants as follows:

5. 2.1 Contractor has the power and authority to enter into and perform this Price Agreement and the resulting Contracts. The Price Agreement, when executed and

delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms.

5.2.2 All Services meet or exceed the specifications set forth in Attachment A.

5.2.3 All Services Contractor performs under this Price Agreement shall be performed in a professional manner, and in accordance with prevailing industry standards.

5.2.4 Contractor has full legal title to the Services, and no other person has any right, title or interest in the Services which shall be superior to or infringe upon the rights granted to the Authorized Purchasers hereunder.

5.2.5 All Services provided under this Price Agreement comply with all applicable federal health and safety standards, including but not limited to, Occupational Safety and Health Administration (OSHA), and all applicable Oregon safety and health requirements, including, but not limited to, those of the State Workers' Compensation Division.

5.2.6 ACCURACY OF DATA. Recognizing that information is secured by and through fallible human sources and that for the fee charged, Contractor cannot be the insurer of accuracy of the information and data accessed via the Services. Authorized Purchaser understands that the accuracy of any information and data furnished is not guaranteed by Contractor, and Authorized Purchaser releases Contractor and its agents, employees, affiliates and data suppliers, from liability for any negligence in connection with the information and data and from any loss or expense suffered by Authorized Purchaser resulting directly or indirectly from the information and data. Therefore, Authorized Purchaser accepts all information and data obtained pursuant to the Services "AS IS" and CONTRACTOR, ITS DATA SUPPLIERS AND ITS AFFILIATES DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, RELATING TO THE SERVICES OR INFORMATION AND DATA PROVIDED TO AUTHORIZED PURCHASER, INCLUDING WITHOUT LIMITATION, THE ACCURACY, TIMELINESS, COMPLETENESS, CURRENTNESS, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND OF NON-INFRINGEMENT OF THE SERVICES OR INFORMATION AND DATA PROVIDED TO AUTHORIZED PURCHASER, AND NONE OF THEM SHALL BE LIABLE TO AUTHORIZED PURCHASER FOR DAMAGES OF ANY KIND ARISING OUT OF AUTHORIZED PURCHASER'S USE OF OR RELIANCE UPON SAID INFORMATION AND DATA, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SAID DAMAGES.

**6.0 TERMINATION OF THE PRICE AGREEMENT:** The Parties may terminate this Price Agreement as follows:

6.1 The Price Agreement may be terminated at any time by mutual written agreement of the Parties.

6.2 The Price Agreement may be terminated by DAS SPO at its sole discretion, for its convenience, upon 30 days written notice to the Contractor.

6.3. DAS SPO may, at its sole discretion, terminate the Price Agreement upon 30 days written notice to Contractor for any reason set forth in ORS 279B.140(2).

6.4 DAS SPO may terminate the Price Agreement if Contractor is in default of the Price Agreement or any resulting Contract as detailed in Section 7.0 of this Price Agreement.

6.5 Except as set forth in Section 27.1(iii) and as otherwise expressly set forth in the Price Agreement, the Contractor has no unilateral right to terminate the Price Agreement prior to the expiration or termination of the Term of the Price Agreement. However, the Contractor may terminate the right of an Authorized Purchaser to purchase under this Price Agreement if the Authorized Purchaser: (i) violates any law or regulation issued under any law identified in Section 2.2 of this Price Agreement; (ii) violates any of the uses or restrictions set forth in Attachment F; or (iii) violates any obligation of this Price Agreement that materially impairs the Contractor's license rights or the security of the Contractor's systems or data, and the Authorized Purchaser fails to remedy the violation within thirty (30) days after the Authorized Purchaser's receipt of notice of the violation from the Contractor. The Contractor also may terminate the right of an Authorized Purchaser to purchase under this Price Agreement if the Authorized Purchaser fails to pay invoiced charges in accordance with Section 4 above, and such invoices remain unpaid for sixty (60) days after the Authorized Purchaser's receipt of an invoice for the charges. However, the Contractor may not terminate the right of an Authorized Purchaser to purchase under this Price Agreement if a good faith dispute exists between the Contractor and the Authorized Purchaser with respect to the amount the Authorized Purchaser owes to the Contractor.

6.6 Contractor may terminate the Price Agreement if DAS SPO is in default of the Price Agreement as detailed in Section 7.2 of this Price Agreement.

## **7.0 DEFAULT:**

7.1 Contractor shall be in default of this Price Agreement under the following circumstances:

7.1.1 Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis; or

7.1.2 Contractor no longer holds a license or certificate that is required for Contractor to perform its obligations under this Price Agreement or any resultant Contract and Contractor has not obtained such license or certificate within ten (10) business days after delivery of a notice by DAS SPO or such longer period as DAS SPO may specify in such notice; or

7.1.3 Contractor commits any material breach or default of any covenant, warranty, obligation or certification under this Price Agreement or any resultant Contract and such breach, default or failure is not cured within ten (10) business days after delivery of a notice of default by DAS SPO or such longer period as DAS SPO may specify in such notice.

7.1.4 Contractor fails to update the databases that support its Products and Services, by adding information or making changes added by its information

sources, at least at the rate promised in the schedule or frequency of updates that Contractor offered in its Proposal.

7.2 DAS SPO is in default of this Price Agreement if DAS SPO commits any material breach or default of any covenant, warranty, obligation or certification under this Price Agreement and such breach, default or failure is not cured within thirty (30) Business Days after Contractor's delivery of a notice of default to DAS SPO or such longer period as the Contractor may specify in such notice.

## **8.0 REMEDIES AND LIMITATION OF LIABILITY.**

8.1 If Contractor is in default under Section 7, DAS SPO is entitled to the following remedies:

8.1.1 Pursuant to Section 8.2, recovery of direct damages suffered as the result of Contractor's default.

8.1.2 Termination of this Price Agreement under Section 6.

8.1.3 Initiation of an action or proceeding for specific performance or declaratory, injunctive or equitable relief.

8.1.4 Exercise of its right of setoff, and withholding of monies otherwise due and owing.

These remedies are cumulative to the extent the remedies are not inconsistent, and DAS SPO may pursue any remedy or remedies either singularly, collectively, successively or in any order whatsoever.

8.2 In no event will Contractor, any affiliate of Contractor or any data supplier be responsible for any indirect, special, incidental, punitive or consequential damages, including lost profits. Except when related to Contractor's gross negligence and willful misconduct, the cumulative liability of Contractor and its affiliates pursuant to this Price Agreement or otherwise shall be limited to the lesser of (a) the fees paid by Authorized Purchaser for the Services under this Price Agreement in the six (6) months immediately preceding the event giving rise to the liability claim; or (b) the actual damages sustained by Authorized Purchaser.

## **9.0 REPORTS**

9.1 ADMINISTRATIVE FEES AND VOLUME SALES REPORTS:

9.1.1 VOLUME SALES REPORTS; ACCOUNTING AND REQUIRED REPORTS:

9.1.2 Contractor shall submit to DAS SPO a Volume Sales Report (VSR) no later than THIRTY (30) calendar days after the end of each calendar quarter, which contains:

- a) Complete and accurate details of the net receipts for the relevant quarterly period;
- b) Contractor's corresponding calculation of the VCAF due to DAS SPO for that period; and

c) Such other information as DAS SPO may reasonably request (see 2.11.1.3).

9.1.3 Contractor shall submit a VSR each quarter, whether or not there are reportable sales or VCAF due to DAS SPO.

9.1.4 VOLUME SALES REPORT INFORMATION. Contractor shall provide the following information on the VSR:

- a) Contractor name, and
- b) Price Agreement number.

The VSR shall also provide information in the following specific categories:

- a) The RFP number and Price Agreement,
- b) Proposal item number,
- c) Customer name. Separately identify Authorized Agencies, Independent Agencies, ORCPP & WSPC Participants. List each Authorized Purchaser separately,
- d) Purchase Order number,
- e) Product Name
- f) Quantity of each item number ordered (price list Items),
- g) Unit price,
- h) Extended total for each item number ordered,
- i) Total dollar amount for ending quarter.

9.1.5 VOLUME SALES REPORT FORMAT: Contractor shall provide VSRs in Excel (.xls ) format. The first VSR submitted by the Contractor must be submitted to the Price Agreement Administrator for review and approval. VSRs must be submitted by e-mail to [ycafreporting@state.or.us](mailto:ycafreporting@state.or.us) and [swarm@das.state.or.us](mailto:swarm@das.state.or.us). All other report formats must be approved and agreed upon by DAS SPO and Contractor before submission of the first report. Hard copy reports are NOT acceptable.

9.1.6 REPORT RECEIPT/ACCEPTANCE: The Price Agreement Administrator's receipt or acceptance of any of the reports furnished according to this Price Agreement, or any sums paid hereunder, shall not preclude DAS SPO from challenging the validity thereof at any time.

9.1.7 DAS SPO RESERVES THE RIGHT TO TERMINATE THIS PRICE AGREEMENT IF VOLUME SALES REPORTS ARE NOT RECEIVED AS SCHEDULED.

9.1.8 Either SPO and or DAS Controllers Division may request more detailed reports for any quarter. These reports may be required to include detailed information such as individual invoices.

## 9.2 VENDOR COLLECTED ADMINISTRATIVE FEES:

9.2.1 The charge assessed to a state or public agency purchasing from a state Price Agreement which is collected by the Contractor. The charge is set as a percentage of

reported sales that the Contractor collects with their costs to reimburse DAS SPO to cover the cost to solicit, award, and administer this Price Agreement.

#### 9.2.2 VCAF PERCENTAGE:

9.2.2.1 OREGON PURCHASES: The Vendor Collected Administrative Fee (VCAF), is an amount equal to One Percent (1.0 %) of Contractor's total sales for agreement number 9968 made to Authorized Agencies, Independent Agencies and ORCPP Participants using this Price Agreement during the calendar quarter.

9.2.2.2 VCAF AMOUNT / PAYMENT DUE DATE: During the term of this Price Agreement, Contractor shall remit VCAF amount due as identified in section 9.2.2.4 in the format prescribed in section 9.2.2.6 at the same time the VSR is due according to section 9.1.2.

9.2.2.3 Reserved

9.2.2.4 REQUIREMENT TO REMIT VCAF PAYMENT: Within thirty (30) days after the end of each calendar quarter, Contractor shall remit the VCAF amount due as identified in section 9.2.2.1.

9.2.2.5 CONTRACTORS MAY NOT REFLECT THE VCAF FEE AS A SEPARATE LINE ITEM CHARGE TO AUTHORIZED PURCHASERS. CONTRACTOR'S BID PRICES SHALL REFLECT ALL CONTRACTOR'S CHARGES TO AUTHORIZED PURCHASERS. For the purposes of this Price Agreement, quarters end March 31, June 30, September 30, and December 31. DAS SPO will invoice Contractor for the VCAF a State generated invoice from the Volume Sales Report (VSR) generated by the Contractor. Contractor is responsible for timely reporting and payment, regardless of entity that actually reports or makes VCAF payment to DAS SPO.

9.2.2.6 PAYMENT FORMAT: The fee shall be in the form of either (a) a check remitted to:

**FOR AUTHORIZED AGENCIES, INDEPENDENT AGENCIES AND ORCPP PARTICIPANTS PURCHASES**

State of Oregon  
Department of Administrative Services/PFSS  
Attn: State Procurement Office  
1225 Ferry Street SE, U140  
Salem, Oregon 97301-4285

or (b) a direct deposit via electronic transfer (ACH-auto cash handling) made to the account provided by DAS-SPO to Contractor.

9.2.2.7 INTEREST: Any payments Contractor makes or causes to be made to DAS SPO after the due date as indicated in section 9.2.2.2, shall accrue interest at a rate of 18% per annum or the maximum rate permitted by law, whichever is less, until such overdue amount shall have been paid in full. DAS SPO's right to interest on late payments shall not preclude DAS SPO from exercising any of its

other rights or remedies pursuant to this Price Agreement or otherwise with regards to Contractor's failure to make timely remittances.

9.3 **AUDIT:** DAS SPO, as its own expense (except as provided herein), shall have the right during regular business hours, at Contractor's premises, and upon reasonable notice, by itself or by a person authorized by it, to audit Contractor's Records, as defined herein, and other pertinent data, to determine and verify the figures reported in any VSRs furnished by Contractor. In the event that any such audit reveals underpayment of administrative fees, Contractor shall IMMEDIATELY pay the amount of deficiency, together with interest thereon at the rate provided in Section 9.2.2.7. At DAS SPO'S request, Contractor shall pay the reasonable cost of an audit, but only if such audit reveals that an underpayment may exist as determined by DAS SPO.

9.4 For the purposes of this section 9, calendar quarters end March 31, June 30, September 30 and December 31.

## **10.0 PASS THROUGH TERMS FOR RESULTING CONTRACTS**

**10.1 TERMINATION.** The Contract may be terminated (a) by either party in the event of a material breach by the other party subsequent to thirty (30) days prior written notice to the breaching party and a failure to cure such breach by the breaching party during such thirty (30) day period; (b) immediately by Contractor in the event that Contractor suspects that a breach of security has occurred or is occurring resulting from Authorized Purchaser's or any Authorized Purchaser user's access to the Services or any violation by Authorized Purchaser or Authorized Purchaser's users of the information security obligations hereunder; provided, however, that Contractor may choose to suspend Authorized Purchaser's or any Authorized Purchaser user's access to the Services until such time as the breach of security or violation is resolved to Contractor's sole satisfaction; and (c) as otherwise provided in the Price Agreement. In addition, Authorized Purchaser's access to specific information or data may be immediately terminated, without prior notice, in the event Contractor's data supplier discontinues providing access to such information and data, for any reason, and Contractor, using commercially reasonable efforts, is unable to obtain the data from an alternative source.

**10.2 RESERVED**

**10.3 RESERVED**

**10.4 RESERVED**

**10.5 RESERVED**

**10.6 CONFIDENTIALITY.** Authorized Purchaser agrees that the Services including the information and data included therein is the proprietary and confidential information of Contractor, its affiliates and its data suppliers, as applicable, and only for use in connection with this Contract and Authorized Purchaser will treat the foregoing as such and not disclose such proprietary and confidential information to any other individual or entity. Authorized Purchaser shall safeguard all such confidential information using a reasonable degree of care, but not less than that degree of care used by it in safeguarding its own similar information or material. This Contract does not confer to Authorized Purchaser any right, license, interest or title in, to or under the proprietary and confidential information of Contractor and its data suppliers, and no license is granted to Authorized Purchaser under any patent, trademark, copyright, trade secret or

other confidential or proprietary rights of Contractor, its affiliates or its data suppliers under this Contract.

**10.7 TECHNICAL SPECIFICATION MATERIALS.** Authorized Purchaser may use the technical programming interface materials (“Technical Specification Materials”) provided by Contractor solely for the purpose of creating a customer specific interface to the Services for Authorized Purchaser's internal use only (the “Purpose”). Technical Specification Materials may include, but shall not be limited to, API or XML materials, and shall be used by Authorized Purchaser based upon the following terms and conditions: (a) Authorized Purchaser acknowledges and agrees that the Technical Specification Materials are the proprietary confidential information of Contractor and Authorized Purchaser agrees that it shall not disclose the same to any third party (including any consultant or contractor) or use the same for any purpose other than the Purpose without the prior written consent of Contractor; (b) Authorized Purchaser shall ensure that all proprietary, copyright and trade secret notices contained in or placed upon the Technical Specification Materials and the Services are not removed or deleted therefrom; (c) Authorized Purchaser acknowledges and agrees that Contractor may change, modify, revise or enhance the Technical Specification Materials at any time without notice to Authorized Purchaser and without any obligation to provide such changes, modifications, revisions or enhancements to Authorized Purchaser; and (d) Authorized Purchaser is solely responsible for the creation and use of the interface and Contractor shall have no liability whatsoever to Authorized Purchaser or any other person or entity as a result of Authorized Purchaser's use of the Technical Specification Materials or in connection with Authorized Purchaser's creation or use of a customer specific interface to the Services.

**10.8 INFORMATION SECURITY OBLIGATIONS.** Authorized Purchaser will comply with reasonable information security requirements of Contractor and its data suppliers as updated from time to time to protect information and data obtained pursuant to the Services against unauthorized access, destruction, disclosure, transfer, or other use prohibited by this Price Agreement. Contractor will use its best, good faith efforts to provide DAS SPO and each Authorized Purchaser no fewer than thirty (30) days advance written notice of all updates or changes to those information security requirements. If DAS SPO or an Authorized Purchaser determines that compliance with the information security requirements is impracticable or is not possible, DAS SPO or the Authorized Purchaser may cease using the Services, without incurring liability to Contractor. Authorized Purchaser will certify on a quarterly basis, or sooner upon Contractor's request, that all users designated by Authorized Purchaser are current users of the Services and have a continued need for access to the Services. In addition, Authorized Purchaser shall implement at a minimum the following security measures:

- (i) Information and data obtained pursuant to the Services is loaded and accessed by authorized Authorized Purchaser personnel in a locked and secure environment;
- (ii) Logical security of the information and data obtained pursuant to the Services is protected by multiple layers and techniques that conform to security industry standards and guidelines, including but not limited to the combination of unique terminal identifiers and passwords. Authorized Purchaser personnel are required to access the Services from Authorized Purchaser desktops or laptops and home computer access is prohibited;
- (iii) Authorized Purchaser personnel are instructed to ensure that their working areas are left clear with all working information locked away at the end of each business day and when away from their normal place of work for any significant period during the working day;

(iv) All Authorized Purchaser buildings have adequate security which may include the Authorized Purchaser's imposition of access checkpoints, the provision of access only to Authorized Purchaser personnel displaying a valid security badge, and visitors identifying themselves and signing in before being escorted into a Authorized Purchaser facility; and

(v) Authorized Purchaser shall designate a member of staff as the responsible contact for the security obligations hereunder. Such security contact shall ensure that all Authorized Purchaser personnel are aware of security responsibilities and that procedures are being followed and carries out periodic audits and spot checks on adherence to security procedures.

If Authorized Purchaser transmits information or data obtained pursuant to the Services over a network, Authorized Purchaser shall implement appropriate supplementary measures aimed at protecting such information and data against interception and/or manipulation during and after transit. In the event that Authorized Purchaser becomes aware of (or reasonably suspects) that any information and data obtained pursuant to the Services has been compromised in any manner, Authorized Purchaser shall immediately notify Contractor in writing and provide all requested information about the event. For purposes of this obligation, "compromise" includes without limitation: (i) any unauthorized access to information and data obtained pursuant to the Services (ii) any inadvertent disclosure of information and data obtained pursuant to the Services to any unauthorized third party (iii) any known or suspected misuse of information and data obtained pursuant to the Services by any person (even if such person was authorized to access such information or data) (iv) any suspected use of information and data obtained pursuant to the Services by any person outside of the scope of that person's authority and (v) any known or suspected alteration of information and data obtained pursuant to the Services other than as required or permitted by this Price Agreement.

## **11.0 ACCESS TO RECORDS AND AUDIT RIGHTS**

11.1 Contractor shall maintain, retain, and keep accessible all records relevant to the Price Agreement and Contracts (the "Records") for a minimum of six (6) years, or such longer period as may be required by applicable law following expiration or termination of the Price Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to the Price Agreement, whichever date is later. ("Record Retention Period") Financial Records shall also be kept in accordance with generally-accepted accounting principles. During the Record-Retention Period established in this Section 11, the Contractor shall permit DAS SPO, its duly authorized representatives, and the federal government access to the Records at reasonable times and places for purposes of examination and copying.

11.2 During the Term of the Price Agreement and the Record Retention Period, DAS SPO, at its own expense (except as provided herein), shall have the right to audit Contractor's Records and other pertinent data, to determine and verify the figures reported in any Volume Sales Reports furnished by Contractor. Such audits shall take place during regular business hours, at Contractor's premises, and upon reasonable notice, and shall be conducted by an authorized representative of DAS SPO. The access to these Volume Sales Reports is for accounting only.

11.3 Contractor Audit. Contractor may, at its own expense, in order to determine compliance with Applicable Law and Attachment F conduct periodic reviews of

Authorized Purchasers' use of the Services by conducting, upon no fewer than ten(\_10\_) days' advance written notice to the Authorized Purchaser, an examination of those records of the Authorized Purchaser that pertain to its use of the Services and which are not exempt from disclosure under the Oregon Public Records Law, ORS 192.410 to 192.505. Contractor shall be responsible for the payment of any fees under ORS 192.440(4) that are associated with Contractor's examination. The results of such review will be kept confidential; provided, however, with respect to motor vehicle related Services, Contractor may submit a report of each compliance check to its applicable data suppliers and such report may contain: (a) the identity of Authorized Purchaser; (b) Authorized Purchaser's employee's job function associated with the transaction for which the inquiry was made; (c) a description of the transaction for which the inquiry was made; and (d) any supporting documentation that may have been given to Contractor by Authorized Purchaser to verify Authorized Purchaser's compliance with the Use Number(s) designated by Authorized Purchaser on Schedules F-1.1 and/or F-1.2 hereto.

## **12.0 ACCOUNTS FOR AUTHORIZED PURCHASERS**

12.1 Contractor may establish a procedure by which Authorized Agencies, Independent Agencies and ORCPP Participants may open an account for the purpose of purchasing Services under this Price Agreement. Accounts of Authorized Purchasers purchasing Services under this Price Agreement shall be separate from any other account maintained by another Authorized Purchaser with the Contractor.

12.2 Contractor shall verify the authority of an Authorized Purchaser to make purchases of Services under this Price Agreement. If Contractor is found to have entered into two or more Contracts under this Price Agreement with an entity other than an Authorized Purchaser, Contractor may be deemed to be in material breach of the Price Agreement.

12.3 The identity of ORCPP Participants can be verified on the SPO website (<http://procurement.oregon.gov>) or at Procurement Centers located throughout Oregon. (Call (503) 378-4649 for information or to view list of centers identified on SPO Web page).

12.4 No language in any Contract used by the Contractor shall vary, amend, modify, or add terms or conditions to the Price Agreement. Operative provisions in any Contract shall be limited to: designation of Authorized Purchaser and its authorized representative; the identification of the Services offered under the terms of the Price Agreement; and invoicing address.

## **13.0 COMPLIANCE WITH APPLICABLE LAWS AND STANDARDS:**

13.1 DAS SPO's agreement to maintain this Price Agreement in effect is conditioned upon Contractor's compliance with the obligations of contractors under ORS 279B.220, 279B.230 and 279B.235, which are incorporated by reference herein. In addition, Contractor shall comply with all federal, state and local laws, rules, regulations, executive orders and ordinances applicable to the Price Agreement and any resulting Contract, all of which are incorporated herein by reference to the extent applicable. Contractor shall, to the maximum extent economically feasible in the performance of this Price Agreement, use recycled paper as defined in ORS 279A.010(1)(ee), recycled PETE

products as defined in ORS 279A.010(1)(ff), and other recycled plastic resin products and recycled products as “recycled product” is defined in ORS 279A.010(1)(gg).

13.2 Contractor shall conduct all of its activities in the performance of this Price Agreement in compliance with applicable fair credit reporting and information gathering statutes and regulations, including but not limited to the federal Fair Credit Reporting Act (15 USC §1681, *et seq.*) as it has been amended from time to time, and shall ensure that credit reports and other consumer information are obtained only for purposes that are permissible under such laws.

**14.0 CONFLICT BETWEEN PRICE AGREEMENT AND STATE AND FEDERAL**

**LAW:** Federal law applicable to this Price Agreement or any resultant Contracts takes precedence over any conflict between that federal law and the Price Agreement or Contracts, and over any conflict between that federal law and the State law applicable to the Price Agreement or Contracts. If federal law does not apply to this Price Agreement or Contract, or applies to the Price Agreement or Contract, and does not conflict with the State law applicable to the Price Agreement or Contract, the State law applicable to the Price Agreement or Contract takes precedence over any conflict between that State law and the Price Agreement or Contract. Notwithstanding the foregoing order of precedence, if the conflict is between minimum standards for quality, safety or similar attributes of the Services or Products, the higher standards shall apply if not in violation of the applicable federal or State law.

**15.0 FOREIGN CONTRACTOR:** If the amounts paid to Contractor under this Price Agreement exceed ten thousand dollars (\$10,000), and if Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue all information required by that Department relative to the Contract. Oregon Authorized Purchasers shall be entitled to withhold final payment under the Contract until Contractor has met this requirement.

**16.0 TIME IS OF THE ESSENCE:** Contractor agrees that time is of the essence in Contractor's performance of its obligations under this Price Agreement and any Contract.

**17.0 FORCE MAJEURE:** Neither DAS SPO nor Contractor shall be held responsible for delay or default caused by fire, riot, acts of God, war, or any other cause which is beyond the Party's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under the Price Agreement. DAS SPO may terminate the Price Agreement upon written notice after reasonably determining that such delay or default will likely prevent successful performance of the Price Agreement.

**18.0 INSURANCE:** Contractor shall obtain prior to the Effective Date of the Price Agreement, and maintain during the Term of the Price Agreement, the insurance required in Attachment C. With regard to workers' compensation insurance, all employers, including Contractor, that employ subject workers who work under the Price Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required workers' compensation coverage, unless such employers are exempt under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors, if any, complies with these requirements.

**19.0 FUNDS AVAILABLE AND AUTHORIZED; PAYMENTS:** Contractor understands and agrees that any Authorized Purchaser's payment of amounts under this Price Agreement is contingent on the Authorized Purchaser receiving funding, appropriations, limitations, allotments

or other expenditure authority at levels sufficient to allow the Authorized Purchaser, in the exercise of its reasonable administrative discretion, to make payments under this Price Agreement.

## **20.0 INDEPENDENT CONTRACTOR STATUS; RESPONSIBILITY FOR TAXES AND WITHHOLDING:**

20.1 Contractor shall perform all required Services as an independent Contractor. Although DAS SPO reserves the right (i) to determine (and modify) the delivery schedule for the Services to be performed and (ii) to evaluate the quality of the completed performance, Authorized Purchaser cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing any Services required by this Price Agreement and any Contract formed under it.

20.2 If Contractor is currently performing work for the State of Oregon or the federal government, Contractor by signature to this Price Agreement declares and certifies that: Contractor's Work to be performed under this Price Agreement creates no potential or actual conflict of interest as defined by ORS 244 and no State or federal rules or regulations would prohibit Contractor's performance under this Price Agreement. Contractor is not an "officer", "employee", or "agent" of the State or any Authorized Agency or Independent Agency, as those terms are used in ORS 30.265.

20.3 Contractor shall be responsible for all federal and state taxes applicable to compensation or payments paid to Contractor under this Price Agreement and, unless Contractor is subject to backup withholding, Authorized Purchaser will not withhold from such compensation or payments any amounts to cover Contractor's federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Contractor under this Price Agreement, except as a self-employed individual.

## **21.0 INDEMNIFICATION:**

21.1 CONTRACTOR SHALL DEFEND, SAVE, HOLD HARMLESS, AND INDEMNIFY THE STATE OF OREGON, AUTHORIZED PURCHASERS AND THEIR OFFICERS, EMPLOYEES AND AGENTS FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, PROCEEDINGS, LOSSES, DAMAGES, LIABILITIES, AWARDS AND COSTS OF EVERY KIND AND DESCRIPTION (INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES AT TRIAL, ON APPEAL AND IN CONNECTION WITH ANY PETITION FOR REVIEW) (COLLECTIVELY, "CLAIM") WHICH MAY BE BROUGHT OR MADE AGAINST THE STATE, ANY AUTHORIZED PURCHASER, OR THEIR AGENTS, OFFICIALS, EMPLOYEES AND ARISING OUT OF OR RELATED TO (I) ANY PERSONAL INJURY, DEATH OR PROPERTY DAMAGE CAUSED BY ANY ALLEGED ACT, OMISSION, ERROR, FAULT, MISTAKE OR NEGLIGENCE OF CONTRACTOR, ITS EMPLOYEES, AGENTS, RELATED TO THIS PRICE AGREEMENT, (II) ANY ACT OR OMISSION BY CONTRACTOR THAT CONSTITUTES A MATERIAL BREACH OF THIS CONTRACT, INCLUDING WITHOUT LIMITATION ANY BREACH OF WARRANTY, OR (III) THE INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADE SECRET OR OTHER PROPRIETARY RIGHT OF ANY THIRD PARTY BY DELIVERY OR USE OF THE SERVICES. AN AUTHORIZED PURCHASER SHALL PROMPTLY NOTIFY CONTRACTOR IN WRITING OF ANY CLAIM THAT

OF WHICH IT BECOMES AWARE. CONTRACTOR'S OBLIGATION UNDER THIS SECTION SHALL NOT EXTEND TO ANY CLAIM PRIMARILY CAUSED BY (I) THE NEGLIGENT OR WILLFUL MISCONDUCT OF THE STATE, AN AUTHORIZED PURCHASER, OR THEIR AGENCIES, OFFICIALS, EMPLOYEES OR AGENTS, OR (II) THE STATE'S MODIFICATION OF SERVICES WITHOUT CONTRACTOR'S APPROVAL AND IN A MANNER INCONSISTENT WITH THE PURPOSE AND PROPER USAGE OF SUCH SERVICES.

21.2 PROVIDED, HOWEVER, THE OREGON ATTORNEY GENERAL MUST GIVE WRITTEN AUTHORIZATION TO ANY LEGAL COUNSEL PURPORTING TO ACT IN THE NAME OF, OR REPRESENT THE INTERESTS OF, THE STATE OR ITS OFFICERS, EMPLOYEES AND AGENTS PRIOR TO SUCH ACTION OR REPRESENTATION. FURTHER, THE STATE, ACTING BY AND THROUGH ITS DEPARTMENT OF JUSTICE, MAY ASSUME ITS OWN DEFENSE, INCLUDING THAT OF ITS OFFICERS, EMPLOYEES AND AGENTS, AT ANY TIME WHEN IN THE STATE'S SOLE DISCRETION IT DETERMINES THAT (I) PROPOSED COUNSEL IS PROHIBITED FROM THE PARTICULAR REPRESENTATION CONTEMPLATED; (II) COUNSEL IS NOT ADEQUATELY DEFENDING OR ABLE TO DEFEND THE INTERESTS OF THE STATE, ITS OFFICERS, EMPLOYEES OR AGENTS; (III) IMPORTANT GOVERNMENTAL INTERESTS ARE AT STAKE; OR (IV) THE BEST INTERESTS OF THE STATE ARE SERVED THEREBY. CONTRACTOR'S OBLIGATION TO PAY FOR REASONABLE COSTS AND EXPENSES SHALL INCLUDE THOSE INCURRED BY THE STATE IN ASSUMING ITS OWN DEFENSE AND THAT OF ITS OFFICERS, EMPLOYEES, OR AGENTS UNDER (I) AND (II) ABOVE.

**21.3 INDEMNIFICATION.** THE AUTHORIZED PURCHASER SHALL INDEMNIFY AND HOLD HARMLESS CONTRACTOR, ITS AFFILIATES AND EMPLOYEES FROM AND AGAINST ANY AND ALL LOSSES, DAMAGES, PENALTIES, FINES AND CLAIMS (INCLUDING ATTORNEY'S FEES AND COSTS OF SETTLEMENT), WHETHER PRIVATE, STATE OR FEDERAL, RELATED TO OR ARISING OUT OF AUTHORIZED PURCHASER'S MIS-USE OF THE SERVICES AND THE INFORMATION OR DATA OBTAINED THEREFROM. THE AUTHORIZED PURCHASER SHALL NOT HAVE ANY OBLIGATION TO INDEMNIFY CONTRACTOR AGAINST ANY SUCH LOSS, DAMAGE, PENALTY, FINE AND CLAIM THAT DIRECTLY ARISES OUT OF CONTRACTOR'S NEGLIGENCE IN PERFORMING THE SERVICES (PROVIDED SUCH DENIAL OF OBLIGATION BY THE AUTHORIZED PURCHASER IS NOT RELATED TO THE ACCURACY OF THE INFORMATION OR DATA, WHICH IS DISCLAIMED IN SECTION 5.2.6).

**22.0 NOTICES:** All notices required under the Price Agreement shall be in writing and addressed to the Party's authorized representative. For Authorized Purchasers, the authorized representative shall be identified in the application to open an account with the Contractor. Contractor's authorized representative shall be the individual identified in a notice to DAS SPO prior to the Effective Date. Mailed notices shall be deemed received five (5) days after post marked, when deposited, properly addressed and prepaid, into the U.S. postal service. Faxed notices shall be deemed received upon electronic confirmation of successful transmission to the designated fax number. Personal delivery shall be effective upon delivery.

**23.0 GOVERNING LAW, VENUE AND CONSENT TO JURISDICTION:**

23.1 This Price Agreement and any Contract formed under it shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to principles of conflicts of laws.

23.2 Any claim, action, suit or proceeding (collectively, "Claim") between DAS SPO and Contractor that arises from or relates to the Price Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then unless otherwise prohibited by law it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. CONTRACTOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS AND WAIVES ANY OBJECTION TO VENUE IN SUCH COURTS, AND WAIVES ANY CLAIM THAT SUCH FORUM IS AN INCONVENIENT FORUM. Nothing herein shall be construed as a waiver of the State's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or jurisdiction based thereon.

23.3 Any Claims between Contractor and an ORCPP Participant that arise from or relate to the Price Agreement shall be brought and conducted solely and exclusively within the Circuit Court of the county in which such ORCPP Participant has its principal office, or at the ORCPP Participant's option, within such other county as the ORCPP Participant shall be entitled under the laws of the relevant jurisdiction to bring or defend Claims. If any such Claim must be brought in a federal forum, then unless otherwise prohibited by law it shall be brought and conducted solely and exclusively within the United States District Court for the District in which such ORCPP Participant resides. CONTRACTOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS AND WAIVES ANY OBJECTION TO VENUE IN SUCH COURTS, AND WAIVES ANY CLAIM THAT SUCH FORUM IS AN INCONVENIENT FORUM. Nothing herein shall be construed as a waiver of ORCPP Participant's sovereign or governmental immunity, if any, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or jurisdiction based thereon.

**24.0 SURVIVAL:** Any terms of this Price Agreement which by their context or nature are intended to survive termination or expiration, including but not limited to warranty, indemnification, access to records, governing law, venue, and consent to jurisdiction, Oregon Consumer Identity Theft Protection Act, termination and remedies provisions, shall survive the termination or expiration of this Price Agreement.

**25.0 SEVERABILITY:** If any provision of the Price Agreement is declared by a court of competent jurisdiction to be illegal or otherwise invalid, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Price Agreement did not contain the particular provision held to be invalid.

**26.0 ASSIGNMENT/SUBCONTRACT/SUCCESSORS:** Contractor shall not assign, sell, transfer, or subcontract rights, or delegate responsibilities under this Price Agreement, in whole or in part, without the prior written approval of DAS SPO, which shall not unreasonably be withheld. However, no such written approval shall relieve Contractor of any obligations under the Price Agreement, and any assignee, transferee, or delegate shall be considered the agent of Contractor. The provisions of the Price Agreement shall be binding upon, and shall inure to the benefit the Parties to the Price Agreement and their respective successors and permitted assigns.

26.1 DAS SPO shall not assign any license granted by Contractor under this Price Agreement, in whole or in part, without the prior written consent of Contractor, which shall not unreasonably be withheld.

**27.0 MERGER CLAUSE; AMENDMENT; WAIVER:** The Price Agreement constitutes the entire agreement between the Parties on the subject matter thereof. There are no understandings, agreements, or representations, oral or written, not specified therein regarding the Price Agreement. No waiver, consent, or amendment of terms of the Price Agreement shall bind either party unless in writing and signed by both parties, and all necessary approvals have been obtained. Waivers and consents shall be effective only in the specific instance and for the specific purpose given. The failure of DAS SPO to enforce any provision of the Price Agreement shall not constitute a waiver by the Authorized Purchaser of that or any other provision.

**27.1 ANTICIPATED AMENDMENTS:** The Parties may amend this Price Agreement by mutual agreement.

Parties may need to modify selected terms, conditions, price(s) and types of work under circumstances related to the following illustrative, although not exhaustive, categories of anticipated amendments:

- i. Amendments to extend the term of the Price Agreement for additional periods;
- ii. Amendments to add new Services within the scope of the Solicitation, if any, and to establish pricing for the new Services;
- iii. Amendments to increase or decrease compensation payable to Contractor when such increase or decrease is the result of changes in Contractor's operations or services or changes mandated by Contractor's third party vendors. Or changes mandated by changes in applicable federal or state laws or regulations. To request an Amendment to increase in price, Contractor must verify, in writing submitted to DAS SPO that such increase in price is being applied to Contractor's other state and local government clients receiving services and purchase volumes that are comparable to those obtained under this Contract ("Client(s)") ("Verification"). If the documentation includes Client pricing, the names and addresses of such Clients will be redacted prior to providing that documentation to DAS SPO. This Verification shall only be for the purpose of verifying that Clients have received a price increase. This Verification will not result in a decrease in DAS SPO's fees unless **to rectify an improper increase or unless otherwise negotiated by the parties**. DAS SPO will review Contractor's Verification with reasonable promptness. However, notwithstanding any determination that the Verification is true and accurate, if DAS SPO determines that the price increase is unreasonably high or that a substantial number of Authorized Purchasers cannot afford to obtain the Services under the proposed price increase, DAS SPO may terminate this Price Agreement without incurring liability to Contractor. In addition, if an Authorized Purchaser determines that any price increase permitted by an Amendment under this subsection is unreasonably high or that the Authorized Purchaser cannot afford to obtain the Services under the price increase, the Authorized Purchaser may cease using the Services, without incurring liability to Contractor. After Contractor has provided Verification and if DAS SPO does not sign the requested amendment, Contractor may terminate this Price Agreement.
- iv. Amendments to delete Services;
- v. Amendments to address changes to federal or state laws or regulations.

All amendments must be in writing and signed by both Parties and bear all approvals required by Oregon law before becoming effective. Only DAS SPO has the final authority to execute changes, notices or amendments to the Price Agreement pursuant to OAR 125-246-0560.

**28.0 NO THIRD PARTY BENEFICIARIES:** DAS SPO and Contractor are the only parties to this Price Agreement and are the only parties entitled to enforce the terms of this Price Agreement. Nothing in this Price Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Price Agreement.

**29.0 ORDER OF PRECEDENCE.** This Price Agreement consists of the following documents that are listed in descending order of precedence: (a) the terms and conditions of this Price Agreement as Exhibit A, less its Attachments and Exhibits; (b) the Statement of Work Attachment A, less its Exhibits; (c) the Pricing and Price for Skip Tracing, Locate Services, and Credit Report Services List Attachment B, Exhibit B and Exhibit C; (d) the Insurance Attachment C; (e) Price Agreement Terms and Conditions Incorporated into resulting Contract Attachment D; (f) Information and Data Uses/Restrictions in Attachment F; The aforementioned Attachments are by this reference incorporated in the Price Agreement.

#### CERTIFICATION OF COMPLIANCE WITH TAX LAWS

By my signature on this Price Agreement, I hereby attest or affirm under penalty of perjury: That I am authorized to act on behalf of the Contractor in this matter, that I have authority and knowledge regarding the payment of taxes, and that Contractor is, to the best of my knowledge, not in violation of any Oregon Tax Laws." For purposes of this certification, "Oregon tax laws" are those tax laws listed in ORS 305.380(4), namely ORS Chapters 118, 314, 316, 317, 318, 320, 321 and 323 and Sections 10 to 20, Chapter 533, Oregon Laws 1981, as amended by Chapter 16, Oregon Laws 1982 (first special session); the elderly rental assistance program under ORS 310.630 to 310.706; and any local tax laws administered by the Oregon Department of Revenue under ORS 305.620.

#### CERTIFICATION OF COMPLIANCE WITH NON-DISCRIMINATION LAWS

By my signature on this Price Agreement, I hereby attest or affirm under penalty of perjury: that I am authorized to act on behalf of Contractor in this matter and to the best of my knowledge the Contractor has not discriminated against any minority, women or emerging small business enterprises in obtaining any required subcontracts, and that the Contractor is not in violation of any Discrimination Laws."

#### SIGNATURE OF CONTRACTOR'S DULY AUTHORIZED REPRESENTATIVE

**THIS CONTRACT MUST BE SIGNED IN INK BY AN AUTHORIZED REPRESENTATIVE OF THE CONTRACTOR.** The undersigned acknowledges, attests, and certifies individually and on behalf of the Contractor that:

(1) He/she is a duly authorized representative of the Contractor, has been authorized by Contractor to make all representations, attestations, and certifications contained in this Contract, if any, issued, and to execute this Price Agreement on behalf of Contractor. (2) Contractor is bound by and will comply with all requirements, Specifications, and terms and conditions contained in this Price Agreement (including all listed attachments and Addenda, if

any, issued (3) Contractor will furnish the designated Services in accordance with the Price Agreement Specifications and requirements, and will comply in all respects with the terms of the resulting Contract upon award; and (4) CONTRACTOR MUST PROVIDE ITS FEDERAL EMPLOYEE IDENTIFICATION NUMBER OR SOCIAL SECURITY NUMBER TO DAS SPO BEFORE THIS PRICE AGREEMENT CAN BECOME EFFECTIVE.

\_\_\_\_\_  
Contractor's Name

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

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

FEIN ID# or SSN# (required)  
\_\_\_\_\_

Contact Person (Type or Print):  
\_\_\_\_\_

Telephone Number:

(\_\_\_\_\_) \_\_\_\_\_

Fax Number:

(\_\_\_\_\_) \_\_\_\_\_

STATE SIGNATURE (to be completed by the State of Oregon)

The State of Oregon, acting by and through DAS SPO hereby accepts Contractor's offer and awards a Price Agreement to the above Contractor for the item(s) or service(s) designated as Item No. **[Insert item #s]**.

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

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

Term of Contract:  
\_\_\_\_\_

Purchase Order No.:  
\_\_\_\_\_

SPO Contact

Contact Person (Type or Print):

\_\_\_\_\_

Telephone Number:

(\_\_\_\_\_)\_\_\_\_\_

Fax Number:

(\_\_\_\_\_)\_\_\_\_\_

## **ATTACHMENT A STATEMENT OF WORK**

### **1.0 Confidentiality**

Contractor and all of its full-time or part-time employees, consultants and business associates, in the performance of this Price Agreement, shall be held to the same standards of confidentiality, service and courtesy imposed on the Authorized Purchaser. Contractor may be held liable under state and federal statutes for unauthorized disclosure.

### **2.0 Security/Data Encryption**

Contractor acknowledges that DAS SPO selected Contractor based on Contractor's representations that Contractor is capable of maintaining appropriate safeguards for the security of Personal Information (as defined in ORS 646A.602(11), as required by the Oregon Consumer Identity Theft Protection Act, ORS 646A.600 to 646A.628, and will do so in the performance of this Price Agreement. Accordingly, Contractor agrees and warrants that it will maintain, operate and enforce, throughout the term of this Price Agreement, an active and effective information security program to preserve the security and confidentiality of all Personal Information that is contained in any document, record, compilation of information or other item to which Contractor receives access, possession, custody or control, in full compliance with the information security program that Contractor described in its Proposal.

### **2.1 Prohibition Against Contractor Breach of Security**

Contractor shall not breach or permit the breach of the security of any Personal Information that is contained in any document, record, compilation of information or other item to which Contractor receives access, possession, custody or control under this Price Agreement. The Contractor shall not disclose, or otherwise permit access of any nature, to any unauthorized person, of any Personal Information that is contained in any document, record, compilation of information or other item to which Contractor receives access, possession, custody or control under this Price Agreement. Contractor shall not use, distribute or dispose of any Personal Information in any manner other than expressly permitted by this Price Agreement, required by applicable law, or required by an order of a tribunal having competent jurisdiction.

### **2.2 Requirement that Contractor Report Security Breaches**

Contractor must report to the DAS SPO Procurement Analyst assigned to administer this Price Agreement, as promptly as possible, any breach of security, use, disclosure, theft, loss, or other unauthorized access of any document, record, compilation of information or other item that contains Personal Information to which Contractor receives access, possession, custody or control in the performance of this Price Agreement.

### **2.3 Requirement that Contractor Make its Employees Agree to Comply**

Contractor must ensure that any of its employees, officers or agents, including any permitted subcontractor, to whom Contractor gives access, possession, custody or control of Personal Information that relates to this Price Agreement agree to the same restrictions and conditions as those set forth in Exhibit A, Attachment A, Sections 2.0 to 2.3 of this Price Agreement.

### **2.4 Termination for Breach of Security Requirements**

The violation of any provision of this Exhibit A, Attachment A, Sections 2.0 to 2.3 of this Price Agreement shall constitute a material breach of this Price Agreement, in response to which DAS SPO may:

- a. Notify Contractor of the breach and specify a reasonable opportunity in the notice for Contractor to cure the breach or end the violation, reserving DAS SPO's right to terminate this Price Agreement if Contractor fails or refuses to cure the breach within the time specified by DAS SPO; or

b. Terminate this Price Agreement immediately, or as of a time specified by DAS SPO if cure by Contractor is not possible, as determined in DAS SPO's reasonable judgment.

The rights and remedies provided in this Section 2.4 are in addition to the rights and remedies provided elsewhere in this Price Agreement.

## **2.5 Contractor's Duty to Return or Destroy Personal Information on Termination or Expiration**

a. On termination of this Price Agreement for any reason, or at the expiration of this Price Agreement, Contractor must, as directed by DAS SPO, return or destroy all Personal Information received from any Authorized Purchaser, or created or received by Contractor under this Price Agreement or on behalf of an Authorized Purchaser. This requirement shall apply to all Personal Information in the possession of subcontractors or agents of Contractor. On termination or expiration of this Price Agreement, whichever applies, Contractor shall retain no copies of any of the Personal Information.

b. Notwithstanding subsection a of this Section, Contractor may retain copies of those records received from Authorized Purchasers or created or received by Contractor under this Price Agreement where the retention of those records is required for regulatory purposes or accounting reasons. On DAS SPO's request, however, Contractor must provide DAS SPO, within ten business days or such longer time as DAS SPO may specify in its request, written identification, with the degree of particularity requested by DAS SPO, of the records Contractor retains under this subsection. Contractor may retain these records only for so long as required for regulatory or legitimate accounting reasons.

2.6 Contractor shall be capable of sending and receiving any files with debtor information in an encrypted format, and shall do so when and as directed by the respective Authorized Purchasers.

2.7 Contractor shall ensure that Contractor's website is provided in a secure environment and applies appropriate login security protocols to prevent unauthorized access.

2.8 Contractor shall be responsible for all costs, expenses, and losses associated with the need to comply with the notice requirements of ORS 646A.604 in the event of a breach of security of Personal Information that results from the acts or omissions of Contractor, its officers, employees, agents or permitted subcontractors in the performance of this Price Agreement. Contractor also shall be responsible for all expenses reasonably incurred by the State of Oregon, DAS SPO, and any Authorized Purchaser, and all claims and damages asserted by any third parties, that arise from a breach of security of Personal Information that results from the acts or omissions of Contractor, its officers, employees, agents or permitted subcontractors

2.9 Authorized Purchaser shall provide Contractor with a listing of all authorized users and (if applicable) the user's IP address for security purposes.

## **3.0 Purchase Order Requirements**

3.1 A Purchase Order is required prior to commencement or continuation of work. The Purchase Order must contain all items identified in Section 4.0 of this Statement of Work.

3.2 Contractor must submit, within a reasonable timeframe not to exceed 10 calendar days after Contractor's receipt thereof, a copy of the Purchase Order from each Authorized Purchaser to the DAS SWARM Coordinator at the following address:

Department of Administrative Services  
SWARM Coordinator  
155 Cottage St. NE U50  
Salem, OR 97301-3969

**4.0 MANDATORY PURCHASE ORDER LANGUAGE:**

**THIS PURCHASE IS PLACED AGAINST STATE OF OREGON SOLICITATION #102-1471-08 AND PRICE AGREEMENT # (ORDERING ORGANIZATION WILL INSERT PRICE AGREEMENT #). THE TERMS AND CONDITIONS (T'S & C'S) CONTAINED IN THE PRICE AGREEMENT APPLY TO THIS PURCHASE ORDER AND TAKE PRECEDENCE OVER ALL OTHER CONFLICTING T'S AND C'S, EXPRESS OR IMPLIED.**

Specific Items that Purchase Order must at minimum contain:

- \* Service renewal date
- \* Invoicing format requirements (electronic or paper). If electronic, the invoicing format also must include the preferred application (Excel, Access, Word, etc.)
- \* Usage report format requirement (electronic or paper). If electronic, the usage report format also must include the preferred application (Excel, Access, Word, etc.)
- \* Contractor's product name and price per hit or user fee that Authorized Purchaser is authorizing access to purchase.
- \* Preferred method of accessing Contractor's product, website search or batch processing.

## ATTACHMENT B

### PRICING AND PRICE FOR SKIP TRACING, LOCATE SERVICES, AND CREDIT REPORT SERVICES

#### 1. DEFINITIONS RELATING TO PRICING

“Price per Hit” means the cost to an Authorized Purchaser for a match or report search that results in new or unique information for each service purchased by an Authorized Purchaser.

“Price per search” or “Price per transaction” means the cost to the Authorized Purchaser for each unique input search using Contractor’s product and is not dependent on the search resulting in new or unique information.

“Access Fee” means a rate charged for access to the Contractor’s product by a single user over a specified period of time.

“User Rate” means the same as “Access Fee” as defined above.

“Contract Price” means the pricing as proposed in Part 5 of the Contractor’s proposal for a specific product and agreed to by DAS/SPO.

**2. PRICING:** The Contractor is entitled to receive either the Price per Hit, Price per Search or Access Fee for Services purchased by an Authorized Purchaser as identified on the Purchase Order (Attachment A, Section 4.0). The Price per Hit or Access Fee shall be the sum of the Contract Price and the Tax Component. No other costs, fees or other charges shall be added by the Contractor in determining the Price per Hit.

**3. PRICING ADJUSTMENT:** Prices shall remain firm for the duration of the Price Agreement period, including extensions.

## ATTACHMENT C

### INSURANCE

During the Term of this Price Agreement, including warranty periods, if any, Contractor shall maintain in full force and at its own expense each insurance coverage or policy noted below, from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and are acceptable to SPO.

1. **COMMERCIAL GENERAL LIABILITY.** Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Price Agreement, Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that is satisfactory to the SPO. This insurance shall include personal injury liability, products and completed operations, and contractual liability coverage for the indemnity provided under this Price Agreement, and is made on an occurrence basis. Combined single limit per occurrence shall not be less than \$1,000,000.00. Each annual aggregate limit shall not be less than \$3,000,000.00.

2. **AUTOMOBILE LIABILITY INSURANCE: AUTOMOBILE LIABILITY.** Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Price Agreement, Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance. Combined single limit per occurrence shall not be less than \$1,000,000.00.

3. **EMPLOYERS' LIABILITY.** If Contractor is a subject employer, as defined in ORS 656.023, with regard to work under this Price Agreement, Contractor shall obtain employers' liability insurance coverage with combined single limit per occurrence of not less than \$500,000, and annual aggregate limits of not less than \$1 million.

4. **WORKERS' COMPENSATION:** All employers, including Contractor, that employ subject workers who work under this Price Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors complies with these requirements.

**ADDITIONAL INSURED:** The liability insurance coverage, except Professional Liability, Errors and Omissions, or Workers' Compensation, if included, required for performance of this Price Agreement shall include the State of Oregon, and its departments, divisions, commissions, branches, officers and employees as Additional Insured but only with respect to the Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

**"TAIL" COVERAGE:** If any of the required liability insurance is on a "claims made" basis,, "tail" coverage will be required at the completion of this Price Agreement for a duration of 24 months, or the maximum time period reasonably available in the marketplace. Contractor shall furnish certification of "tail" coverage as described or continuous "claims made" liability coverage for 24 months following Price Agreement completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage provided its retroactive date is on or before the effective date of this Price Agreement. If Continuous "claims made" coverage is used, Contractor shall be required to keep the coverage in effect for a duration of not less than twenty-

four (24) months from the end of this Price Agreement. This will be a condition of the final acceptance of work or services.

**NOTICE OF CANCELLATION OR CHANGE.** There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without sixty (60) days' written notice from the Contractor or its insurer(s) to SPO. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of contract and shall be grounds for immediate termination of this Price Agreement by SPO.

**CERTIFICATE(S) OF INSURANCE:** As evidence of the insurance coverage required by this Price Agreement, the Contractor shall furnish Certificate(s) of Insurance for all required insurance to the SPO prior to the award of the Price Agreement if required by the RFP, but in all events prior to Contractor's commencement of work under this Price Agreement. The Certificate(s) will specify all of the parties who are endorsed on the policy as Additional Insured (or Loss Payees). Insurance coverage required under this Price Agreement shall be obtained from insurance companies acceptable to SPO. The Contractor shall pay for all deductibles, self-insured retention and self-insurance included hereunder.

## ATTACHMENT D

### Price Agreement Terms and Conditions Incorporated into Resulting Contracts

1. The following Sections are incorporated by reference into any resulting Contract under this Price Agreement. In incorporating these provisions, “Price Agreement” is deemed to mean “Contract”, and “State” or “SPO”, is deemed to mean “Authorized Purchaser” in all instances unless the context requires otherwise.

Exhibit A, Sections 1, 5, 9, 12, 13, 14, 15, 16, 17, 18, 19, 22, 23, 24, 25 and Attachments A, B, C, D, and F. [~~Editor’s Note: We feel 9 doesn’t apply to resulting Contracts.~~]

2. The following Sections are incorporated by reference into any resulting Contract under this Price Agreement only to the extent described below. In incorporating these provisions, “Price Agreement” is deemed to mean “Contract”, and “State” or “SPO”, is deemed to mean “Authorized Purchaser” in all instances unless the context requires otherwise.

2.1 Exhibit A, Section 2 shall be incorporated by reference as written.

2.2 Exhibit A, Section 4 shall be incorporated by reference as written.

2.3 Exhibit A, Section 11.1 shall be incorporated by reference but shall be limited to allow Authorized Purchasers access only to records for transactions to which they were a party.

## **ATTACHMENT F**

### **INFORMATION AND DATA USES/RESTRICTIONS**

#### **ATTACHMENT F-1**

##### **FASTDATA® SYSTEM**

##### **PERMITTED USES.**

(a) Information and data obtained through the FastData system are provided for Authorized Purchaser's own internal use consistent with the terms and conditions of this Services Schedule and not for resale or redistribution. Authorized Purchaser's use of the FastData system and access to information or data obtained through the FastData system is limited to the following applications: (i) locating individuals and business entities that Authorized Purchaser has independently identified for such needs as servicing customers, product and service ordering and admission processing; and (ii) verifying address and other information for individuals and business that Authorized Purchaser has independently identified. The information and data available through the FastData system shall be subject to periodic revision by Contractor to reflect modifications or enhancements to the FastData system.

(b) As a condition of its receiving permission to use such information and data for the specified applications, Authorized Purchaser will (i) comply with all use restrictions stated in this Services Schedule and with any additional restrictions and/or requirements on the use of the information or data that may be imposed, subject to section 10.8 of this Price Agreement, by Contractor or its data suppliers as updated from time to time; (ii) implement appropriate policies and guidelines to ensure that the FastData system is used in accordance with the terms of this Services Schedule; (iii) employ commercially reasonable procedures to track and audit employee access to and use of the information and data and investigate any allegations of misuse of the information and data in full cooperation with Contractor and its data suppliers; and (iv) upon expiration or early termination of this Services Schedule, return to Contractor all components of the FastData system then in Authorized Purchaser's possession and immediately terminate all use of the FastData system, to the extent authorized by the Oregon Public Records Archiving statutes and rules, ORS 192.005 to 192.170, and by the Oregon Public Records Law, ORS 192.410 to 192.505, and, upon Contractor's written request, immediately certify in writing to Contractor that all information and material relating to the operation of the FastData system has been returned or destroyed.

##### **USE RESTRICTIONS.**

(a) Authorized Purchaser will not (i) sublicense, sell, redistribute, knowingly permit access to, or otherwise provide information or data obtained through the FastData system to any reseller, remarketer, broker, or other entity that is not an end user, or to any other individual or entity, except as expressly permitted by this Services Schedule, without the prior express written consent of Contractor; (ii) disassemble, decompile, reverse engineer, modify, or otherwise alter the information or data obtained through the FastData system; (iii) use the information or data obtained through the FastData system for any marketing

application; (iv) use the FastData system or the information or data obtained through the FastData system to determine an individual's eligibility for credit or insurance for personal, family or household purposes or for employment; (v) use information or data obtained through the FastData system to create, compile, replace, verify, supplement, or enhance any database, mailing list, directory, or other compilation of information which is sold, rented, or published in bulk or is furnished or in any manner provided to a third party, except for uses expressly permitted under this Services Schedule; (vi) use information or data obtained through the FastData system to create, replace, supplement, or enhance any real estate title, legal, vesting, ownership or encumbrance report; (vii) append the information or data included in the FastData system to any other data or file except in the context of a report prepared for and consistent with this Services Schedule; (viii) provide the information or data obtained through the FastData system to an entity located or operating outside of the United States, without the prior express written consent of Contractor; or (ix) access the FastData system from Internet Protocol addresses outside of the United States, without the prior express written consent of Contractor.

(b) Specific additional use restrictions apply to Authorized Purchaser's use of, respectively, (i) motor vehicle registration and title information and (ii) driver's license data, obtained from state departments of motor vehicles. In order to receive access to such information, Authorized Purchaser must complete Schedules F-1.1 and/or F-1.2 at execution of this Services Schedule by placing an "x" next to the appropriate use number ("Use Number"). Authorized Purchaser agrees that its access to the motor vehicle registration, title and driver's license data and information pursuant to the FastData system will be limited to the uses set forth on Schedules F-1.1 and F-1.2. Each such use must be authorized separately, and motor vehicle registration and title information may be accessed only through a separate password-protected subscription for each separate use.

(c) Specific additional use restrictions apply to Authorized Purchaser's use of mailing information provided pursuant to the NCOA<sup>Link</sup> Product. The information contained in the NCOA<sup>Link</sup> Product is regulated by the Privacy Act of 1974, and may only be used to provide a mailing list correction service for lists that will be used for preparation of mailings. If Authorized Purchaser receives all or a portion of the NCOA<sup>Link</sup> Product through the FastData system, Authorized Purchaser agrees that it will not use the information contained in the NCOA<sup>Link</sup> Product for any other purpose. Authorized Purchaser shall also be responsible for complying with all United States Postal Service requirements with respect to such use. In order to receive access to such information, Authorized Purchaser must complete the Processing Acknowledgement Form ("PAF"), an example of which is attached hereto as Schedule F-1.3. Authorized Purchaser shall submit an updated PAF annually to Contractor on each anniversary of the Effective Date (or sooner as required in order for Authorized Purchaser's PAF to remain true, correct and complete). Authorized Purchaser agrees that its access to such information through the FastData system is subject to these additional use restrictions.

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Signature

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Printed Name

**SCHEDULE F-1.1**  
**USE OF DMV TITLE AND REGISTRATION INFORMATION**

(a) Access to Motor Vehicle Data: The Driver’s Privacy Protection Act (“DPPA”) as well as state law (the Oregon Driver’s Privacy Protection Act, ORS 802.175 to 802.195) restrict the use of motor vehicle data to certain “permissible uses.” If Authorized Purchaser accesses motor vehicle title or registration information (“Motor Vehicle Data”), it shall require its employees to acknowledge compliance with these laws and only permit them to access Motor Vehicle Data for the specific DPPA permissible purpose(s) which are selected below. Authorized Purchaser represents and warrants that Motor Vehicle Data will not be accessed without a Contractor approved DPPA permissible purpose for each access and that Motor Vehicle Data shall be used only for such permissible purpose.

(b) For Authorized Purchaser’s business unit(s) described below, Authorized Purchaser may access Motor Vehicle Data through the FastData system only for the Contractor approved DPPA permissible purpose(s) designated with an “x” below.

Authorized Purchaser’s Business Unit: \_\_\_\_\_

\_\_\_\_\_ Use Number 1:

For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only

- (a) To verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and
- (b) If such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against the individual.

Authorized Purchaser’s Business Unit: \_\_\_\_\_

\_\_\_\_\_ Use Number 2:

For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency, or before any self regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments or orders, or pursuant to an order of a Federal, State, or local court, but not for use in connection with any class action lawsuit against any vehicle manufacturer(s).

Authorized Purchaser’s Business Unit: \_\_\_\_\_

\_\_\_\_\_ Use Number 3:

For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, anti-fraud activities, rating or underwriting.

(c) Authorized Purchaser further agrees that Motor Vehicle Data shall not be disclosed for any other purposes, including without limitation, the following purposes:

- (a) Notifying vehicle owners of any voluntary or government mandated vehicle recalls and/or product advisories.

- (b) Notifying vehicle owners of parking violations
- (c) Notifying owners of towed or impounded vehicles.
- (d) For use in connection with the operation of private toll transportation facilities.
- (e) Survey research.
- (f) Marketing purposes.

**SCHEDULE F-1.2**  
**USE OF DMV DRIVERS LICENSE INFORMATION**

(a) Authorized Purchaser's use of the driver's license data obtained through the FastData system is subject to the Driver's Privacy Protection Act (18 USC § 2721, et seq.) and the Oregon Driver's Privacy Protection Act (ORS 802.175 to 802.195) ("DPPAs") and Authorized Purchaser warrants that any use of such data by Authorized Purchaser will be in compliance with the permissible uses set forth therein, with this Services Schedule, and with all Applicable Law regarding driver's license information. Authorized Purchaser acknowledges that it is Authorized Purchaser's sole responsibility to ensure that its use of the driver's license data is in compliance with all Applicable Law.

(b) For Authorized Purchaser's business unit(s) described below, Authorized Purchaser may access driver's license data through the FastData system only for the purpose(s) designated with an "x" below.

Authorized Purchaser's Business Unit: \_\_\_\_\_

\_\_\_\_\_ Use Number 1:

For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only

- (a) To verify the accuracy of personal information submitted by the subject individual to Authorized Purchaser; and
- (b) If such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the subject individual.

Authorized Purchaser's Business Unit: \_\_\_\_\_

\_\_\_\_\_ Use Number 2:

For use in research activities and producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact the individuals.

Authorized Purchaser's Business Unit: \_\_\_\_\_

\_\_\_\_\_ Use Number 3:

For use by any insurer or insurance support organization, or by a self-insured entity or its agents, employees, or contractors, in connection with claims investigation activities or anti-fraud activities.

# SCHEDULE F-1.3 NCOA<sup>LINK</sup>® PROCESSING ACKNOWLEDGEMENT FORM



## NCOA<sup>LINK</sup>® PROCESSING ACKNOWLEDGEMENT FORM

The collection of information on this Processing Acknowledgement Form (PAF) is required by the Privacy Act of 1974. The United States Postal Service<sup>®</sup> (USPS<sup>®</sup>) requires that each NCOA<sup>LINK</sup> Licensee have a completed NCOA<sup>LINK</sup> PAF for each of their NCOA<sup>LINK</sup> customers prior to providing the NCOA<sup>LINK</sup> service. The Licensee is also required by the USPS to retain a copy of the completed form for each of its customers and to obtain an updated PAF from each of its customers at minimum once per year. Any signature upon this PAF shall be considered valid for all purposes and have the same effect whether it is an ink-signed hardcopy document or equivalent alternative.

### LIST OWNER

I, the undersigned, an authorized representative of:

Company Name			
Address			
City		State	ZIP+4
Telephone Number	NAICS	USPS Mailer ID	E-mail Address
Parent Company Name			
Marketing or "DBA" Company Name or Primary Affiliate Company Name			
Name (Please print)		Title	
Signature		Date	

do hereby acknowledge that I have received and reviewed the NCOA<sup>LINK</sup> Information Package supplied to me by \_\_\_\_\_, an NCOA<sup>LINK</sup> Service Provider. I also understand that the sole purpose of the NCOA<sup>LINK</sup> service is to provide a mailing list correction service for lists that will be used for preparation of mailings. Furthermore, I understand that NCOA<sup>LINK</sup> may not be used to create or maintain new movers' lists.

### LICENSEE

First Data Solutions LLC	
Business Name (Please print)	
Julie Wajda	VP, Product
Name (Please print)	Title
Signature	Date
402.337.1222	402.222.8460
Telephone Number	Fax Number

**BROKER/AGENT**     **LIST ADMINISTRATOR** (Check applicable box)

Business Name (Please print)	
Address	City/State/ZIP+4
Name (Please print)	Title
Signature	Date
Telephone Number	E-mail Address
	NAICS

### For Licensee Use Only

PAF ID: \_\_\_\_\_ Broker/Agent ID: \_\_\_\_\_ List Administrator ID: \_\_\_\_\_

## ATTACHMENT F-2

### FIRSTPURSUIT® SYSTEM

#### PERMITTED USES.

(a) EQUIFAX and TRANS UNION “CREDIT” TRANSACTIONS. Authorized Purchaser’s use of the Equifax and Trans Union “credit” transactions via the FirstPursuit system shall be limited to one or more of the following purposes: (i) assisting in the collection of accounts and activities related to the collection of accounts such as skip tracing and recovery; and (ii) processing applications for credit and insurance, including the determination of eligibility.

(b) EQUIFAX SCHEDULE “NON-CREDIT” TRANSACTIONS. Authorized Purchaser’s use of the Equifax “non-credit” transactions via the FirstPursuit system shall be limited to one or more of the following purposes: (i) to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability; (ii) for required institutional risk control or for resolving consumer disputes or inquiries; (iii) to administer or service benefits or claims relating to a financial product or service (but only for current customer of said product or service); (iv) in connection with the proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal information concerns solely consumers of such business or unit; (v) as necessary to effect, administer, or enforce a transaction requested or authorized by a consumer, including recording, servicing or maintaining the consumer’s account in the ordinary course of providing a financial service or product, and skiptracing in connection with the collection of amounts charged on the account; or (vi) for the following purposes related to the consumer’s insurance; account administration, reporting, investigating, fraud prevention, premium payment processing, claim processing, benefit administration or research projects. Authorized Purchaser understands that use of “non-credit” transactions other than as prescribed in this subsection may constitute a violation of the Gramm-Leach-Bliley Financial Modernization Act of 1999 (“GLB”). Authorized Purchaser will verify the information obtained via Equifax “non-credit” transactions with another source and use it as lead information prior to taking action that is adverse to a consumer.

(c) TRANS UNION SCHEDULE “NON-CREDIT” TRANSACTIONS. Authorized Purchaser’s use of the Trans Union “non-credit” transactions via the FirstPursuit system shall not be subject to any of the purpose limitations set forth in this Services Schedule.

#### USE RESTRICTIONS.

Authorized Purchaser will: (i) not sublicense, sell, redistribute or otherwise provide information or data obtained through the FirstPursuit system to any other individual or entity, except as expressly permitted by this Services Schedule, without the prior express written consent of Contractor (ii) treat information and data included in the FirstPursuit system as proprietary and confidential business information of Contractor and its data supplier and will not disclose such information or data to any other individual or entity (iii) comply with all use restrictions stated in this Services Schedule and with any additional restrictions and/or requirements on the use of the information or data that may be imposed, subject to section 10.8 of the Price Agreement, by Contractor or its data suppliers as updated from time to time and (iv) upon request of Contractor, provide

further information or certification to Contractor to ensure compliance with Applicable Law and this Services Schedule.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Agency Name

\_\_\_\_\_  
Date

## ATTACHMENT F-3

### SAFEID AUTHENTICATION SERVICES

#### SafeID Address Score<sup>SM</sup>

(a) Contractor will provide Authorized Purchaser the SafeID Address Score Service which will consist of Contractor providing a SafeID Address Score (“Score”) for accounts using identifying information Authorized Purchaser provides to enable Authorized Purchaser to verify the validity of change-of-address requests in existing accounts and resolve address discrepancies in the opening of new accounts. Authorized Purchaser agrees to submit to Contractor via XML, batch file or appropriate Web interface, the name and associated addresses in question (“Identifying Information”) for each account Authorized Purchaser wants scored. Contractor’s SafeID Address Score engine will (i) examine address-focused data points looking for fraud patterns (ii) will determine the likelihood of fraud in an address change request or address discrepancy based upon the Identifying Information submitted and (iii) generate a Score that indicates the likelihood of such fraud for each account scored.

#### SafeID Verification Score<sup>SM</sup>

(a) Contractor will provide Authorized Purchaser the SafeID Verification Solution which will consist of Contractor providing a Verification Score (“Score”) for accounts using identifying information Authorized Purchaser provides to assist Authorized Purchaser in the verification of the validity of application information in the opening of new accounts. Authorized Purchaser agrees to submit to Contractor via XML, batch file or appropriate Web interface, the name and associated address, phone, SSN and DOB (“Identifying Information”) for each account Authorized Purchaser wants scored. Contractor’s SafeID engine will (i) examine address-focused data points looking for fraud patterns (ii) will determine the likelihood of fraud based upon the Identifying Information submitted and (iii) generate a Score that indicates the likelihood of such fraud for each account scored.

(b) In order for Authorized Purchaser to obtain the SafeID Authentication Services, Contractor will provide Authorized Purchaser with the following information and related documentation which Contractor has prepared or has obtained the right to use from certain third party vendor(s) (the “Contractor Proprietary Information”):

- (i) Documentation – the instructions, users’ guides, manuals, and other written material (not including any marketing materials), in printed or electronic form, describing the functions and operation of the SafeID Authentication Services.
- (ii) Interface Guide - technical specifications, documentation, testing and support relevant to development of an interface to allow for the real-time transmission of information and data between Authorized Purchaser and Contractor.

#### Permitted Uses and Use Restrictions

(a) Authorized Purchaser represents and warrants to Contractor that, to the extent authorized by the Oregon Public Records Law, ORS 192.410 to 192.505, it will keep the Contractor Proprietary Information strictly confidential and Authorized Purchaser will not: (i) sublicense, sell, redistribute, knowingly permit access to, or otherwise provide information or data obtained through the SafeID Authentication Services to any reseller, remarketer, broker, or to any other individual or entity, except as expressly permitted by this Statement of Work, without the prior express written consent of Contractor; (ii) disassemble, decompile, reverse engineer, modify, or otherwise alter the information or data obtained through the SafeID Authentication Services; (iii) use the information or data obtained through the SafeID Authentication Services for any marketing application; (iv) use the SafeID Authentication Services or the information or data obtained through the SafeID Authentication Services to determine an individual's eligibility for credit or insurance for personal, family or household purposes or for employment; or (v) use the SafeID Authentication Services in contravention of any applicable law, rule or regulation.

(b) Authorized Purchaser may not use, access, copy, redistribute, private label, license, sublicense, or transfer any rights to use or access SafeID Authentication Services or Scores other than expressly set forth herein.

(c) SafeID Authentication Services or Scores do not provide a "consumer report" as that term is defined in the Fair Credit Reporting Act (FCRA), 15 U.S.C. 1681 et seq. and the information derived is not to be used for the purposes of a "consumer report" as defined in 15 U.S.C. 1681(b).

(d) SafeID Authentication Services are based upon publicly available information and are not an "investigative consumer report" under FCRA. SafeID Authentication Services cannot be used to make consumer credit determinations and is merely a tool to determine the desirability of further investigation of address changes or user identity.

(e) Authorized Purchaser represents and warrants that disclosure of all data and information provided to Contractor hereunder is permissible under all applicable federal, state, and local laws and regulations and that Authorized Purchaser has provided and will continue to provide all required notices or other rights to consumers with respect to the use of such data and information in connection with the provision of the SafeID Authentication Services.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Agency Name

\_\_\_\_\_  
Date