

**PROJECT NUMBER 43766
MASTER SOFTWARE AS A SERVICE AGREEMENT
BETWEEN
ESOLUTIONSGROUP LIMITED
AND
MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES
AS CONTRACTING AGENT FOR THE
LOCAL GOVERNMENTAL ENTITIES OF THE STATE OF MISSISSIPPI**

This Master Software as a Service Agreement (hereinafter referred to as "Master Agreement") is entered into by and between eSolutionsGroup Limited, an Ontario corporation having its principal offices at 651 Colby Drive, Waterloo, Ontario N2V 1C2 (hereinafter referred to as "Contractor") and the Mississippi Department of Information Technology Services, having its principal place of business at 3771 Eastwood Drive, Jackson, Mississippi 39211 (hereinafter referred to as "ITS"), as contracting agent for the local governmental entities of the State of Mississippi (hereinafter referred to as "Customer"). ITS and Customer are sometimes collectively referred to herein as "State".

WHEREAS, ITS, pursuant to Request for Proposals ("RFP") Number 4029 requested proposals in order to assemble a list of approved contractors who may provide a Software as a Service ("SaaS") solution for reverse auctions and/or electronic bidding services; and

WHEREAS, the Contractor was one of the successful respondents in an open, fair and competitive procurement process to provide electronic bidding services; and

WHEREAS, ITS and Contractor desire to enter into this Master Agreement which contains the terms and conditions which will govern any orders placed by the local governmental entities within the state of Mississippi for electronic bidding services;

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

ARTICLE 1 TERM OF AGREEMENT

Unless terminated as prescribed elsewhere herein, this Master Agreement will become effective on the date it is signed by all parties (the "Effective Date") and will continue in effect for two (2) years thereafter, or until all warranties provided by Contractor to Customer have expired, whichever occurs last ("Initial Term"). At the end of the Initial Term, the Master Agreement may, upon the written agreement of ITS and Contractor, be renewed for three (3) additional one (1) year terms. Contractor will notify ITS sixty (60) days in advance prior to the expiration of the initial or any renewal term and ITS shall have thirty (30) days in which to notify Contractor of its intention to either renew or cancel this Master Agreement.

ARTICLE 2 DEFINITIONS

The following terms as used herein shall have the following meanings:

2.1 "Active User" means vendors submitting proposals for a particular RFP, Customer employees and any third party consultants or outsourcers engaged by Customer who are actively participating on the system in any given month of operation and who shall be bound to the terms and conditions of this Master Agreement.



2.2 "Application(s)" or "SaaS Application(s)" means those Contractor software application programs which are made accessible for Active Users to use under the terms of this Master Agreement.

2.3 "Available Date" means the date upon which Contractor notifies Customer that the Applications may be accessed on the Contractor's SaaS server and Customer may begin acceptance testing.

2.4 "Cloud Services" or "SaaS Services" means those services related to Contractor's private cloud environment provided to Customer, including but not limited to, infrastructure, equipment, bandwidth, server monitoring, backup services, disaster recovery services, storage area network (SAN) services, security services, system administration, connectivity services, performance tuning, update installation and maintenance services related thereto.

2.5 "Content" means any data provided by or through Active Users into the Services.

2.6 "Contractor" means eSolutionsGroup Limited, and its successors and assigns.

2.7 "Customer" means, in each instance, the local governmental entity of the state of Mississippi who engages Contractor to perform reverse auctions and/or electronic bidding services pursuant to this Master Agreement.

2.8 "Documentation" means the user and technical manuals and documentation published by Contractor relating to the use of the Services or Applications; the help files included within the Applications, and any files containing presentation materials or manuals or other related materials to train and educate Customer and the Active Users on the use of the Applications.

2.9 "Initial Term" means the two (2) year term of Services as indicated in Article 1.

2.10 "Order Form" means the document pursuant to which, among other things, Customer orders the Services from Contractor.

2.11 "Services" means any Cloud Services, on-line user access, customizations, interface development, consulting, education, SaaS installation, system administration, training, maintenance, support, and Help Desk services provided by Contractor to Customer.

ARTICLE 3 MODIFICATION OR RENEGOTIATION

This Master Agreement may be modified only by written agreement signed by the parties hereto. The parties agree to renegotiate the Master Agreement and pertinent Order Forms in the event that federal and/or state revisions of any applicable laws or regulations make changes in this Master Agreement necessary.

ARTICLE 4 INCLUDED PARTIES AND PRICING

Contractor will accept orders from and furnish the Services under this Master Agreement to any local governmental entity within Mississippi. Pricing will be based on Contractor's pricing submitted in its proposal in response to RFP No. 4029 and attached hereto as Exhibit A. Contractor guarantees the pricing in the attached Exhibit A for the Initial Term.



ARTICLE 5 ADDITIONAL TERMS AND CONDITIONS

All provisions in this Master Agreement are in addition to the requirements of RFP No. 4029 and Contractor's Proposal in response thereto, which are both incorporated into and made a part of this Master Agreement.

ARTICLE 6 ORDERS

6.1 The State does not make any guarantee as to volume of Services procured or dollars to be spent under this Master Agreement.

6.2 When a Customer decides to procure any Services from Contractor, the Customer shall follow ITS' then-current, published instructions for use memorandum and applicable laws and shall submit an Order Form to Contractor to request the particular Services to be procured. All Order Forms shall be governed by, and incorporate by reference, the terms and conditions of this Master Agreement. The terms and conditions of this Master Agreement shall supersede any conflicting terms and conditions set forth in any subsequent documents provided by Contractor or its subcontractors to Customer. The parties agree that the Customer has the right to adjust the quantities of Services procured based upon the availability of funding or as determined necessary by the Customer.

6.3 Contractor acknowledges and agrees that state agencies within Mississippi can NOT use this Master Agreement. Additionally, Contractor further acknowledges and agrees that this Master Agreement can only be used for reverse auction and/or electronic bidding services and not for any other purpose.

ARTICLE 7 METHOD AND TIME OF PAYMENT

The parties agree that the Bidding Vendors/Suppliers who elect to use Contractor's electronic bidding services shall remit payment for same to Contractor as specified in the attached Exhibit A.

ARTICLE 8 DELIVERY AND ACCEPTANCE

8.1 Contractor shall make available the Software and Documentation to the Contractor's hosting environment pursuant to the delivery schedule mutually agreed to by the parties.

8.2 Unless a different acceptance period is agreed upon by Contractor and Customer, the Customer shall have ten (10) business days after the Available Date to evaluate and test the Services to confirm that they perform without any defects and perform in accordance with RFP No. 4029, Contractor's Proposal in response thereto, and Contractor's user Documentation. Customer shall immediately thereafter notify Contractor in writing of any defects in the Software or Services which must be corrected prior to payment being made. Thereafter, Contractor shall have ten (10) business days or such other time period as may be agreed upon by the parties, in which to either repair or replace the defective Software or re-perform the Services, all at Contractor's expense. In the event Contractor is unable to repair the defect within this ten (10) day period, Customer may terminate its Order Form pursuant to the Termination Article herein.

ARTICLE 9 SCOPE OF SERVICES

9.1 The Contractor agrees to provide Customer a SaaS based reverse auction and/or electronic bidding system as described in this Master Agreement. While the scope of work for this project is defined by the contract documents set forth herein in the article titled "Entire Agreement", a summary of such work is outlined in Article 9.2 below.



9.2 Contractor shall be responsible for the following:

- A. Ensuring that all deliverables are complete and accepted by Customer pursuant to a mutually agreed upon project work plan;**
- B. Tracking date sensitive items to ensure timely updates;**
- C. Acknowledging that the Content is and shall remain the sole and exclusive property of Customer. Upon the termination or expiration of Customer's Order Form or this Master Agreement, Contractor shall provide such Content in its possession to Customer pursuant to a mutually agreed upon release schedule and in a format acceptable to Customer;**
- D. Working with Customer to achieve access rates that meet Customer's needs;**
- E. Providing security for the site that is agreeable to Customer with Contractor responsible for all necessary equipment and software related to security;**
- F. Maintaining the accessibility of the site twenty-four (24) hours a day, seven (7) days a week at an uptime rate of 99% or greater, subject to the limitations set forth in this Master Agreement, including but not limited to, those in Article 10.4;**
- G. Completing daily backups of the site;**
- H. Notifying Customer at least three (3) business days prior to any anticipated service interruption, with said notice containing a general description of the reason for the service interruption;**
- I. Proposing and adhering to a disaster recovery plan and providing access to such plan to the State, all at Contractor's expense;**
- J. Participating with Customer in disaster recovery planning and testing based on a mutually agreed upon schedule;**
- K. Maintaining the confidentiality of the information entered;**
- L. Providing access to all of the technical information concerning operation of the system, including but not limited to, server specifications, Internet connection information, personnel requirements and software implementations;**
- M. Identifying any commercially available software, by vendor and version number, integrated into the Applications and describing the particular functionality of any software that is proprietary to the Contractor;**
- N. Maintaining the host site, with the cost for such support, maintenance, and hosting for years following the Initial Term not increasing annually beyond three percent (3%) or the percent increase in the consumer price index for all Urban Consumers, US City Average (C.P.I.-U) for the preceding year, whichever is less;**
- O. Providing 24x7x365 support of the site;**
- P. Providing redundant internet connections;**
- Q. Providing Transport Layer Security ("TLS") secure server support;**
- R. Maintaining sufficient bandwidth and server capacity to meet Customer's needs and Active Users' demand as it may fluctuate and increase during the term of this Master Agreement, and;**
- S. Ensuring that all Customer data remains within the continental United States;**
- T. Partitioning Customer's data from other customer data so Customer's access is not impaired due to e-discovery, seizure, or the like, and**
- U. Ensuring that upon termination or expiration of the Order Form or this Master Agreement that transition from the Contractor to Customer or to a successor host will be accomplished at no cost to Customer.**

9.3 In the event Contractor creates any revisions to or upgrades of the system, Contractor shall provide thirty (30) days written notification of such revision or upgrade, and shall, upon request of Customer, furnish such revision or upgrade to Customer free of charge as part of the SaaS fees.



ARTICLE 10 SCOPE OF LICENSE AND RIGHT TO USE

10.1 Subject to the terms and conditions of this Master Agreement, Contractor hereby grants to Customer a non-exclusive and non-transferable license to access the Applications over the Internet and to use it for Customer's business operations and use it on the Contractor's host server for the term specified in the Order Form and any subsequent renewal terms in accordance with, and subject to, the terms and conditions set forth in this Master Agreement. Customer and Active Users are granted access to the Applications and Services twenty-four (24) hours a day, seven (7) days a week, three hundred and sixty five (365) days a year, subject to regularly scheduled maintenance and required repairs.

10.2 Contractor will provide Customer storage space on and access to Contractor's Applications via the Internet and provide Internet access to the Applications and Cloud Services to the Active Users through Contractor's site ("SaaS Services").

10.3 In connection with the SaaS Services, Contractor will provide and maintain all Applications and hardware, including, but not limited to, the server hardware and software, telecommunications hardware and software, security hardware and software and other software that is reasonably necessary to operate and maintain the Services.

10.4 The Applications and Services will be accessible at least ninety-nine percent (99%) of the time, twenty-four (24) hours a day, seven (7) days a week, except for scheduled maintenance and required repairs, and except for any loss or interruption of the SaaS Services due to causes beyond the control of Contractor. In the event that Customer or an Active User is unable to achieve the 99% application availability during any given month, excluding scheduled maintenance, required repairs, and unavailability due to causes beyond the control of Contractor, the State reserves the right to terminate the Order Form and/or this Master Agreement. Contractor shall maintain the server at a secured location with restricted access.

10.5 Contractor shall provide the Customer with its standard managed firewall service, which shall enable secure delivery of Contractor's Services using fully redundant hardware-based firewalls. Contractor's managed firewall service will be available twenty-four (24) hours a day, seven (7) days a week.

10.6 The use of the Services by Active Users will be governed solely by the terms and conditions of this Master Agreement.

10.7 Customer acknowledges that Contractor retains ownership of all right, title and interest to the Services, all of which are protected by copyright and other intellectual property rights, and that, other than the express rights granted herein and under any other agreement in writing with Customer, shall not obtain or claim any rights in or ownership interest to the Services or Applications or any associated intellectual property rights in any of the foregoing. Customer agrees to comply with all copyright and other intellectual property rights notices contained on or in any information obtained or accessed by Customer through the Services.

ARTICLE 11 DATA SECURITY

11.1 As part of the Services, Contractor shall provide administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Content. Contractor agrees to comply with all applicable privacy or data protection statutes, rules, or regulations governing the respective activities of the parties under this Master Agreement.



11.2 Prior to initiation of the Services under this Master Agreement and on an ongoing basis thereafter, Customer agrees to provide notice to Contractor of any extraordinary privacy or data protection statutes, rules, or regulations which are or become applicable to Customer's industry and which could be imposed on Contractor as a result of provision of the Services.

11.3 Contractor shall maintain a hosting environment that undergoes examinations from an independent auditor in accordance with the American Institute of Certified Public Accounts SSAE 16 (i.e. SOC 1) and the AICPA Trust Services Principles Section 100a, Trust Services for Security, Availability, Processing Integrity, Confidentiality and Privacy (i.e. SOC 2). Contractor's private cloud shall be evaluated for the principles of Security, Availability and Confidentiality by the independent auditor. The data center in which Contractor's private cloud is located shall undergo pertinent security examinations. Management access to Contractor's private cloud shall be limited to Contractor's authorized support staff and Customer's authorized staff. The Applications shall provide Customer with the ability to configure application security and logical access per Customer's business processes. In the event Customer identifies a security issue, Customer will notify Contractor.

11.4 At a minimum, Contractor's safeguards for the protection of protected health information ("PHI") and personally identifiable information ("PII"), if any, shall include: (i) limiting access of PHI and PII to authorized employees; (ii) securing business facilities, data centers, paper files, servers, back-up systems and computing equipment, including, but not limited to, all mobile devices and other equipment with information storage capability; (iii) implementing network, device application, database and platform security; (iv) securing information transmission, storage and disposal; (v) implementing authentication and access controls within media, applications, operating systems and equipment; (vi) encrypting PII and PHI stored on any mobile media; (vii) encrypting PII and PHI transmitted over public or wireless networks; (viii) strictly segregating PII and PHI from information of Contractor or its other customers so that PII and PHI is not commingled with any other types of information; (ix) implementing appropriate personnel security and integrity procedures and practices, including, but not limited to, conducting background checks consistent with applicable law; and (x) providing appropriate privacy and information security training to Contractor's employees. Any and all subcontractors shall adhere to the aforementioned protection and encryption (in transit and at rest) of PHI and PII, as well as follow the stated breach policy.

11.5 Contractor will comply with all applicable federal and state laws to resolve security breaches, and, to the extent Contractor is responsible for such security breaches, will cover the cost of remedial measures as required by such laws and otherwise consistent with this Master Agreement. Customer may seek equitable relief including a restraining order, injunctive relief, specific performance, and such other relief that may be available from a court in addition to any other remedy to which Customer may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity.

11.6 At any time during the term of the applicable Order Form or this Master Agreement at Customer's request or upon the termination or expiration of the Order Form or this Master Agreement for any reason, Contractor shall promptly return to Customer all copies, whether in written, electronic or other form or media, of PHI and PII in its possession, or securely dispose of all such copies, and certify in writing to Customer that such has been returned to Customer or disposed of securely. Contractor shall comply with all reasonable directions provided by Customer with respect to the return or disposal of PHI and PII.



11.7 Upon Customer's request, to confirm Contractor's compliance with this Master Agreement, as well as any applicable laws, regulations and industry standards, Contractor grants Customer or, upon Customer's election, a third party on Customer's behalf, permission to perform an assessment, audit, examination or review of all controls in Contractor's physical and/or technical environment in relation to all PHI or PII being handled and/or services being provided to Customer pursuant to this Master Agreement. Contractor shall fully cooperate with such assessment by providing access to knowledgeable personnel, physical premises, Documentation, infrastructure and application software that processes, stores or transports PHI or PII for pursuant to this Master Agreement.

11.8 It is understood and agreed that at least once per year, Contractor shall conduct site audits of the information technology and information security controls for all facilities used in complying with its obligations under this Master Agreement, including but not limited to, obtaining a network-level vulnerability assessment performed by a recognized third-party audit firm based on the recognized industry best practices. Contractor shall make the reports available to Customer for review. Any exceptions noted on the Statement on Standards for Attestation Engagements (SSAE) report or other audit reports will be promptly addressed with the development and implementation of a corrective action plan by Contractor's management and resolved, at Contractor's sole expense, within thirty (30) calendar days of the audit.

ARTICLE 12 WARRANTIES

12.1 Contractor represents and warrants that it has the right to license the Applications provided under this Master Agreement.

12.2 Contractor represents and warrants that the Services provided by Contractor shall meet or exceed the minimum specifications set forth in RFP No. 4029 and Contractor's Proposal, as accepted by ITS, in response thereto.

12.3 During the term of this Master Agreement, the Contractor represents and warrants that its Services hereunder shall be performed by competent personnel and shall be of professional quality consistent with generally accepted industry standards for the performance of such Services and shall comply in all respects with the requirements of this Master Agreement. For any breach of this warranty, Contractor shall perform the Services again, at no cost to the State, or if Contractor is unable to perform the Services as warranted, the State reserves the right to terminate the Order Form and/or this Master Agreement.

12.4 Contractor represents and warrants that the Application shall not contain a disabling code, lockup program or device. Contractor further agrees that it will not, under any circumstances including enforcement of a valid contract right, (a) install or trigger a lockup program or device, or (b) take any step which would in any manner interfere with Customer's or Active User's licensed use of the Applications and/or which would restrict Customer from accessing its data files or in any way interfere with the transaction of Customer's business. For any breach of this warranty, Contractor at its expense shall, within ten (10) business days after receipt of notification of the breach, remove any such disabling code, lockup program or device.

12.5 Contractor represents and warrants that it has tested and will test (not less than on a daily basis) the Applications using commercially reasonable methods to ensure that the Applications provided to Customer do not and will not contain or incorporate any computer code, programs, procedures, mechanisms or programming devices (including but not limited to, viruses, trojan horses, or worms) that are designed to, or would enable Contractor or any third-party to, disrupt,



modify, delete, damage, deactivate, disable, harm or otherwise impede the operation of the Contractor's system, or any other associated software, firmware, hardware, computer system or network, including Customer's applications and Content. For any breach of this warranty, Contractor at its expense shall, within five (5) business days after receipt of notification of the breach, be responsible for repairing, at Contractor's expense, any and all damage done by the virus or such to Customer's applications and Content.

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

ARTICLE 13 INFRINGEMENT INDEMNIFICATION

13.1 Contractor represents and warrants, to the best of its knowledge, that neither the Applications and Services provided to Customer under this Master Agreement nor their use by Customer will violate or infringe on any copyright, patent, trade secret or other proprietary right of any person or entity. Contractor, at its own expense, shall defend or settle any and all infringement actions filed against Contractor or Customer which involve the Applications, Services or other items provided under this Master Agreement and shall pay all costs, attorney fees, damages and judgment finally awarded against Customer provided that: (a) Customer notifies Contractor in writing of any such claim of which it has knowledge; (b) Contractor has, to the extent authorized by Mississippi law, sole control of the defense of any actions or negotiations related to the defense or settlement of any such claim, and (c) Customer cooperates in the defense of the claim by supplying Contractor all relevant information currently available and in its possession, all at Contractor's expense. In no event shall the State compromise, settle or adversely impact the defense of any actions or negotiations without the prior, written consent of Contractor. Further, in no event shall Contractor compromise or settle any such actions or negotiations without the prior written consent of Customer if such compromise or settlement would create an obligation or liability upon Customer or the State. If, in any such suit arising from such claim, the continued use of the items for the purpose intended is enjoined or threatened to be enjoined by any court of competent jurisdiction, Contractor shall, at its expense: (a) first procure for Customer the right to continue using such Applications or Services, or upon failing to procure such right; (b) modify or replace them with non-infringing items with equivalent functionality.



13.2 Contractor shall have no obligation for infringement claims caused by: (a) an unauthorized modification of the Applications or Service by Customer or a third party; (b) use of the Service other than in accordance with the Documentation for the Service or as authorized herein; (c) use of the Services in conjunction with any data, equipment or software not provided by Contractor where the Services would not otherwise be infringing except for such combination; or (d) use of the Services or Application by Customer other than in accordance with this Master Agreement.

ARTICLE 14 EMPLOYMENT STATUS

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

14.2 Contractor represents that it is qualified to perform the duties to be performed under this Master Agreement and that it has, or will secure, if needed, at its own expense, applicable personnel who shall be qualified to perform the duties required under this Master Agreement. Such personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of Customer.

14.3 Any person assigned by Contractor to perform the Services hereunder shall be the employee of Contractor, who shall have the sole right to hire and discharge its employee. Customer may, however, direct Contractor to replace any of its employees under this Master Agreement.

14.4 Contractor shall pay when due, all salaries and wages of its employees and it accepts exclusive responsibility for the payment of federal income tax, state income tax, social security, unemployment compensation and any other withholdings that may be required. Neither Contractor nor employees of Contractor are entitled to state retirement or leave benefits.

ARTICLE 15 BEHAVIOR OF EMPLOYEES/SUBCONTRACTORS

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

ARTICLE 16 AUTHORITY, ASSIGNMENT AND SUBCONTRACTS

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

16.2 Neither Customer nor Contractor may assign or otherwise transfer the Order Form and this Master Agreement or its obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld. Any attempted assignment or transfer of its obligations without such consent shall be null and void. The Order Form and this Master Agreement shall be binding upon the parties' respective successors and assigns.

16.3 Contractor must obtain the written approval of the State before subcontracting any portion of



the Order Form and this Master Agreement. No such approval by the State of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of Customer in addition to the total fixed price, if any, agreed upon in the Order Form. All subcontracts shall incorporate the terms of the applicable Order Form and this Master Agreement and shall be subject to the terms and conditions of same and to any conditions of approval that Customer may deem necessary.

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

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

ARTICLE 17 TERMINATION

17.1 Termination Upon Mutual Agreement An Order Form may be terminated in whole or in part upon the mutual written agreement of Contractor and the Customer.

17.2 Termination Due To Bankruptcy Should Contractor become the subject of bankruptcy or receivership proceedings, whether voluntary or involuntary, or execute an assignment for the benefit of its creditors, the Customer may, upon the giving of thirty (30) days prior written notice to Contractor, terminate its Order Form and this Master Agreement without the assessment of penalties, solely as between those parties.

17.3 Termination Other Than For Cause A Customer may terminate an Order Form and this Master Agreement as to itself only, in whole or in part and without the assessment of penalties, for any reason by giving thirty (30) calendar days written notice specifying the effective date thereof to Contractor.

17.4 Termination For Cause If either party fails to comply with the terms and conditions of the Order Form or this Master Agreement and that breach continues for thirty (30) days after the defaulting party receives written notice from the other party, then the nondefaulting party has the right to terminate the Order Form and this Master Agreement solely as between those two parties. The non-defaulting party may also pursue any remedy available to it in law or in equity.

17.5 Termination of Master Agreement ITS may terminate this Master Agreement without the assessment of penalties for any reason after giving thirty (30) calendar days written notice specifying the effective date thereof to Contractor but any Order Form entered into prior to the termination date of this Master Agreement shall survive the termination of the Master Agreement. The terms of this Master Agreement shall survive its termination/expiration with respect to any un-expired Order Forms.



ARTICLE 18 GOVERNING LAW

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

ARTICLE 19 WAIVER

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

ARTICLE 20 SEVERABILITY

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

ARTICLE 21 CAPTIONS

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

ARTICLE 22 HOLD HARMLESS

To the fullest extent allowed by law, Contractor shall indemnify, defend, save and hold harmless, protect and exonerate Customer, ITS and the State, its Board Members, officers, employees, agents and representatives from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses including without limitation, court costs, investigative fees and expenses, attorney fees and claims for damages arising out of or caused by Contractor and/or its partners, principals, agents, employees or subcontractors in the performance of or failure to perform the Order Form and this Master Agreement.

ARTICLE 23 THIRD PARTY ACTION NOTIFICATION

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

ARTICLE 24 AUTHORITY TO CONTRACT

Contractor warrants that it is a validly organized business with valid authority to enter into this Master



Agreement; that entry into and performance under this Master Agreement is not restricted or prohibited by any loan, security, financing, contractual or other agreement of any kind, and notwithstanding any other provision of this Master Agreement to the contrary, that there are no existing legal proceedings, or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under an Order Form and this Master Agreement.

ARTICLE 25 NOTICE

Any notice required or permitted to be given under this Master Agreement shall be in writing and personally delivered or sent by electronic means provided that the original of such notice is sent by certified United States mail, postage prepaid, return receipt requested, or overnight courier with signed receipt, to the party to whom the notice should be given at their usual business address. ITS' address for notice is: Craig P. Orgeron, Ph.D., Executive Director, Mississippi Department of Information Technology Services, 3771 Eastwood Drive, Jackson, Mississippi 39211. Contractor's address for notice is: Ms. Alison Carden, Principal, eSolutionsGroup Limited, 651 Colby Drive, Waterloo, Ontario N2V 1C2. Customer's address for notice will be set forth in the applicable Order Form. The parties understand and agree that copies of any notices issued hereunder shall also be sent to Mississippi Department of Finance and Administration at the following address: Ms. Aubrey Leigh Goodwin, Deputy Executive Director, Mississippi Department of Finance and Administration, 210 East Capitol Street, Suite 1400, Jackson, Mississippi 39201. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address or points of contact.

ARTICLE 26 RECORD RETENTION AND ACCESS TO RECORDS

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

ARTICLE 27 INSURANCE

Contractor represents that it will maintain workers' compensation insurance as prescribed by law which shall inure to the benefit of Contractor's personnel, as well as comprehensive general liability and employee fidelity bond insurance. Contractor will, upon request, furnish Customer with a certificate of conformity providing the aforesaid coverage.

ARTICLE 28 DISPUTES

28.1 Should disputes arise with respect to an Order Form or this Master Agreement, Contractor and Customer agree to act immediately to resolve such disputes. Time is of the essence in the



resolution of disputes. Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under the Order Form and/or this Master Agreement. Should Contractor fail to continue without delay to perform its responsibilities under the Order Form and/or this Master Agreement in the accomplishment of all work, any additional costs incurred by Contractor or Customer as a result of such failure to proceed shall be borne by Contractor and Contractor shall make no claim against Customer for such costs.

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

ARTICLE 29 COMPLIANCE WITH LAWS

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

29.2 Contractor represents and warrants that it will comply with the state's data breach notification laws codified at Section 75-24-29 of the Mississippi Code Annotated (Supp. 2012). Further, to the extent applicable, Contractor represents and warrants that it will comply with the applicable provisions of the Family Educational Rights & Privacy Act (FERPA) of 1974 (34 CFR Part 99); HIPAA Privacy Rule and Security Regulations (45 CFR Parts 160, 162 and 164) ("Privacy Rule" and "Security Regulations", individually; or "Privacy and Security Regulations", collectively); and the provisions of the Health Information Technology for Economic and Clinical Health Act, Title XIII of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 1115 (the "HITECH Act").

ARTICLE 30 CONFLICT OF INTEREST

Contractor shall notify Customer of any potential conflict of interest resulting from the representation of or service to other clients. If such conflict cannot be resolved to Customer's satisfaction, Customer reserves the right to terminate the Order Form and this Master Agreement as to itself only.

ARTICLE 31 SOVEREIGN IMMUNITY

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

ARTICLE 32 CONFIDENTIAL INFORMATION

32.1 Contractor shall treat all Customer data and information to which it has access by its performance under the Order Form and this Master Agreement as confidential and shall not disclose such data or information to a third party without specific written consent of Customer. In the event that Contractor receives notice that a third party requests divulgence of confidential or otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or



judicial process ordering divulgence of such information, Contractor shall promptly inform Customer and thereafter respond in conformity with such subpoena to the extent mandated by state and/or federal laws, rules and regulations. This Article shall survive the termination or completion of the Order Form or this Master Agreement and shall continue in full force and effect and shall be binding upon the Contractor and its agents, employees, successors, assigns, subcontractors or any party or entity claiming an interest in the Order Form or this Master Agreement on behalf of, or under the rights of the Contractor following any termination or completion of the Order Form or this Master Agreement.

32.2 The parties understand and agree that the Order Form and this Master Agreement do not constitute confidential information, and may be reproduced and distributed by the State without notification to Contractor.

ARTICLE 33 EFFECT OF SIGNATURE

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

ARTICLE 34 STATE PROPERTY

Contractor shall be responsible for the proper custody of any Customer-owned property furnished for Contractor's use in connection with work performed pursuant to any Order Form. Contractor shall reimburse the Customer for any loss or damage, normal wear and tear excepted.

ARTICLE 35 NEWS RELEASES

News releases pertaining to an Order Form or this Master Agreement or the Services to which it relates will not be made without the State's prior written approval, and then only in accordance with the explicit written instructions from the State.

ARTICLE 36 SURVIVAL

Articles 12, 13, 18, 22, 26, 31, 32, and all other articles which, by their express terms so survive or which should so reasonably survive, shall survive any termination or expiration of the Order Form or this Master Agreement.

ARTICLE 37 ENTIRE AGREEMENT

37.1 This Master Agreement constitutes the entire agreement of the parties with respect to the subject matter contained herein and supersedes and replaces any and all prior negotiations, understandings and agreements, written or oral, between the parties relating hereto, including all terms of any unsigned or "shrink-wrap" license included in any package, media or electronic version of Contractor-furnished Software, or any "click-wrap" or "browse-wrap" license presenting in connection with a purchase via the internet, or any Contractor Terms of Use "click through" agreements. The Order Form, RFP No. 4029, and Contractor's Proposal, as accepted by the State, in response thereto are hereby incorporated into and made a part of this Master Agreement as far as the individual Customer is concerned.

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



- A. This Master Agreement signed by Contractor and ITS;
- B. Any Exhibits attached to this Master Agreement;
- C. The Order Form(s), as applicable;
- D. RFP No. 4029 and all written clarifications/addenda;
- E. Clarifications Request Memorandum dated November 9, 2017;
- F. Response to Clarifications Request Memorandum submitted via e-mail on November 13, 2017;
- G. Clarifications Request Memorandum dated December 4, 2017;
- H. BAFO Request Memorandum dated December 4, 2017;
- I. Response to BAFO Request Memorandum submitted via e-mail on December 6, 2017;
- J. Response to Clarifications Request Memorandum submitted via e-mail on December 8, 2017
- K. Contractor's Proposal, as accepted by ITS, in response to RFP No.4029.

37.3 The intent of the above listed documents is to include all items necessary for the proper execution and completion of the services by Contractor. The documents are complementary, and what is required by one shall be binding as if required by all. A higher order document shall supersede a lower order document to the extent necessary to resolve any conflict or inconsistency arising under the various provisions thereof; provided, however, that in the event an issue is addressed in one of the above mentioned documents but is not addressed in another of such documents, no conflict or inconsistency shall be deemed to occur by reason thereof. The documents listed above are shown in descending order of priority, that is, the highest document begins with the first listed document ("A. This Master Agreement") and the lowest document is listed last ("K. Contractor's Proposal").

ARTICLE 38 DEBARMENT AND SUSPENSION CERTIFICATION

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

ARTICLE 39 NON-SOLICITATION OF EMPLOYEES

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

ARTICLE 40 COMPLIANCE WITH ENTERPRISE SECURITY POLICY

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

ARTICLE 41 STATUTORY AUTHORITY

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

ARTICLE 42 TRANSPARENCY

In accordance with the Mississippi Accountability and Transparency Act of 2008, §27-104-151, et seq., of the Mississippi Code of 1972, as Amended, the American Accountability and Transparency Act of 2009 (P.L. 111-5), where applicable, and §31-7-13 of the Mississippi Code of 1972, as amended, where applicable, a fully executed copy of this Master Agreement and any subsequent amendments and change orders shall be posted to the State of Mississippi's accountability website at: <https://www.transparency.mississippi.gov>. Prior to ITS posting the Master Agreement and any subsequent amendments and change orders to the website, any attached exhibits which contain trade secrets or other proprietary information and are labeled as "confidential" will be redacted by ITS. Notwithstanding the preceding, however, it is understood and agreed that pursuant to §25-61-9(7) of the Mississippi Code of 1972, as amended, the contract provisions specifying the commodities purchased or the services provided; the price to be paid; and the term of this Master Agreement shall not be deemed a trade secret or confidential commercial or financial information and shall thus not be redacted.



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

State of Mississippi, Department of
Information Technology Services, on
behalf of the local governmental entities
of the State of Mississippi

By: Craig P. Orgeron
Authorized Signature

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

Title: Executive Director

Date: 12-22-2017

eSolutionsGroup Limited

By: [Signature]
Authorized Signatur

Printed Name: Alison Carden

Title: Principal

Date: December 22, 2017

[Signature]

EXHIBIT A

Activity	Charge
Fee per bid submitted electronically (vs awarded vendor having submitted via paper directly to local governmental entity)	\$45.00
Annual subscription to submit an unlimited number of bids electronically	\$165.00/year

