



**Solicitation Information  
June 7, 2016**

RFP# 7550676

TITLE: Special Use Identification Tags (Temporary Plates) for Rhode Island licensed Dealerships.

Submission Deadline: July 6, 2016 at 2:30 PM (ET)

Pre-bid Meeting: No

Questions concerning this solicitation must be received by the Division of Purchases at [gail.walsh@purchasing.ri.gov](mailto:gail.walsh@purchasing.ri.gov) no later than **Friday, June 17, 2016 at 5:00 PM (ET)**. Questions should be submitted in a *Microsoft Word attachment*. Please reference the RFP# on all correspondence. Questions received, if any, will be posted on the Internet as an addendum to this solicitation. It is the responsibility of all interested parties to download this information.

**SURETY REQUIRED: No**

**BOND REQUIRED: No**

**Gail Walsh  
Chief Buyer**

**Applicants must register on-line at the State Purchasing Website at [www.purchasing.ri.gov](http://www.purchasing.ri.gov)**

Note to Applicants:

**Offers received without the entire completed three-page RIVIP Generated Bidder Certification Form attached may result in disqualification.**

**THIS PAGE IS NOT A BIDDER CERTIFICATION FORM**

## **SECTION 1 - INTRODUCTION**

The Rhode Island Department of Administration, Division of Purchases, on behalf of the Division of Motor Vehicles is soliciting bids from qualified organizations to provide services described elsewhere herein, and in accordance with the terms of this Request and the State's General Conditions of Purchase which may be obtained at the Rhode Island Division of Purchases Home page by internet at <http://www.purchasing.ri.gov>.

This is a Request for Proposals; responses will be evaluated on the basis of the relative merits of the bid and in addition to price; there will be no public opening and reading of responses received by the Division of Purchases pursuant to this request, other than to name those offeror's who have submitted bids.

### **Project Overview:**

- The Division of Motor Vehicles currently issues special use identification tags (twenty (20) day temporary plates) to Rhode Island licensed new and used motor vehicle dealers through an on demand electronic system. The Division of Motor Vehicles seeks to continue issuing special use identification tags through an on demand electronic system. Printing of on demand special use identification tags will happen at the point of sale, which will be a Rhode Island licensed car dealership. To produce an on demand plate, pertinent vehicle and buyer information must be entered into a vendor developed, secure, browser based application. The vendor will supply a list of supported printers from which temporary plates will be printed. Because law enforcement and the Division of Motor Vehicles require browser based access to this system for management and enforcement, appropriate security and availability is required. It will be the responsibility of the vendor to collect per-plate fees from dealers, and to remit State revenue electronically. The solution is intended to be turn-key with technology procurement, maintenance and support the responsibility of the vendor. Utilization of the state data center may be acceptable for hosting the solution.

### **Contract Information:**

If no applicants within a category receive passing scores in the Technical Review, The Division of Motor Vehicles may select from a single category, based on the Technical Review score.

The project is anticipated to begin approximately on August 1, 2016 and will run for two (2) years, from date of issue, with two separate options to renew for one (1) additional year per option. The maximum duration of the proposed contract will be for a four (4) year term. Details on the project schedule can be found in Section 3 of this RFP. This project will be funded by the selected vendor. A vendor proposed service fee will be included in the price of the temporary plate.

Proposals will be evaluated based on the relative merits of the proposal, with secondary consideration given to the inclusion of an appropriate service fee that will be passed on to the customer. More information on the selection criteria can be found in Section 6 of this RFP.

This solicitation, and any subsequent award, is governed by the State's General Conditions of Purchase, which is available at [www.purchasing.ri.gov](http://www.purchasing.ri.gov).

## **INSTRUCTIONS AND NOTIFICATIONS TO OFFERORS:**

- Potential offerors are advised to review all sections of this Request carefully and to follow instructions completely, as failure to make a complete submission as described elsewhere herein may result in rejection of the proposal.
- Alternative approaches and/or methodologies to accomplish the desired or intended results of this procurement are solicited. However, proposals which depart from or materially alter the terms, requirements, or scope of work defined by this Request will be rejected as being non-responsive.
- All costs associated with developing or submitting a proposal in response to this Request, or to provide oral or written clarification of its content, shall be borne by the offeror. The State assumes no responsibility for these costs.
- Proposals are considered to be irrevocable for a period of not less than 60 days following the opening date, and may not be withdrawn, except with the express written permission of the State Purchasing Agent.
- All pricing submitted will be considered to be firm and fixed unless otherwise indicated herein.
- Proposals misdirected to other state locations, or which are otherwise not present in the Division at the time of opening for any cause will be determined to be late and will not be considered. For the purposes of this requirement, the official time and date shall be that of the time clock in the reception area of the Division.
- It is intended that an award pursuant to this RFP will be made to a prime vendor, or prime vendors in the various categories, who will assume responsibility for all aspects of the work. Joint venture and cooperative proposals will not be considered. Subcontracts are permitted, provided that their use is clearly indicated in the vendor's proposal and the subcontractor(s) to be used is identified in the proposal.
- All proposals should include the vendor's FEIN or Social Security number as evidenced by a W9, downloadable from the Division's website at [www.purchasing.ri.gov](http://www.purchasing.ri.gov).
- The purchase of services under an award made pursuant to this RFP will be contingent on the availability of funds.
- Vendors are advised that all materials submitted to the State for consideration in response to this RFP will be considered to be Public Records as defined in Title 38, Chapter 2 of the General Laws of Rhode Island, without exception, and will be released for inspection immediately upon request once an award has been made.
- Submitters should be aware of the State's MBE requirements, which address the State's goal of ten per cent (10%) participation by MBE's in all State procurements. For further information, contact the State MBE Administrator at (401) 574-8670 or [dorinda.keene@doa.ri.gov](mailto:dorinda.keene@doa.ri.gov). Visit the website <http://www.mbe.ri.gov>.
- Interested parties are instructed to peruse the Division of Purchases web site on a regular basis, as additional information relating to this solicitation may be released in the form of an addendum to this RFP.

- Equal Employment Opportunity (G.L. 1956 § 28-5.1-1, et seq.) - § 28-5.1-1 Declaration of policy. - (a) Equal opportunity and affirmative action toward its achievement is the policy of all units of Rhode Island state government, including all public and quasi-public agencies, commissions, boards and authorities, and in the classified, unclassified, and non-classified services of state employment. This policy applies in all areas where the state dollar is spent, in employment, public service, grants and financial assistance, and in state licensing and regulation. For further information, contact the Rhode Island Equal Employment Opportunity Office, at 222-3090 or via email [Raymond.lambert@doa.ri.gov](mailto:Raymond.lambert@doa.ri.gov).
- In accordance with Title 7, Chapter 1.2 of the General Laws of Rhode Island, no foreign corporation, a corporation without a Rhode Island business address, shall have the right to transact business in the State until it shall have procured a Certificate of Authority to do so from the Rhode Island Secretary of State (401) 222-3040). *This is a requirement only of the successful vendor(s).*

- **SECTION 2 - BACKGROUND AND PURPOSE**

**Background:**

In 2013, the Division of Motor Vehicles switched its process of issuing special use identification tags (twenty (20) day temporary plates) from a system of pre-printed temporary plates to an on demand electronic system. The new process increases DMV oversight, tracking, and management of the issuance of temporary plates by Rhode Island licensed new and used motor vehicle dealers which has led to an increased ability to detect and prosecute fraud and misuse.

**Purpose:**

The Division of Motor Vehicles seeks to continue issuing special use identification tags (twenty (20) day temporary plates) through an on demand electronic system with capabilities equal to, or greater than, the capabilities of the current on demand electronic system. In the envisioned turn key system, information about the vehicle and buyer would be captured and made available to DMV and law enforcement personnel by secure browser connections, and reports and ad-hoc queries would allow for review and oversight of the issuance process.

The DMV seeks to have this system utilize Web browser technology without the need to deploy additional client software to system users. Existing internet connections would be used without the need for additional security devices.

The DMV seeks to have this system supported and maintained by the vendor, including data backup and protection, disaster recovery, and the application of software maintenance releases and patches in a timely manner.

### **SECTION 3 - SCOPE OF WORK**

The State of Rhode Island Division of Motor Vehicles requests proposals from qualified vendors to submit a request for proposal to provide a plate on demand system. The proposed bid must meet all the general requirements stated in the RFP. However, if the vendor knows of any functionality that is not listed that would benefit the state, it can be listed and included in the proposed solution. The vendor must provide a separate cost proposal. The vendor must comply with, but not be limited to, the following scope of work:

Conduct an assessment to gather and define the requirements for issuance of 20 day Temporary Tags.

Delivery of a project plan outlining a development and deployment timeline of the solution, communications strategy, and risk register.

Delivery of a technical functional specification detailing the solution's overall workings, hardware and software components, transaction workflow, report specifications, auditing functionality, and security safeguards.

Delivery of a system security plan.

Delivery of a system disaster recovery plan with expected recovery objectives.

Conduct meetings and obtain stakeholder approvals for project design documents.

Procure, install and test necessary hardware and software including dealer printers.

Recommendation and testing of temporary tag paper stock.

Develop file transfer mechanism to interface with the state financial system for revenue reconciliation.

Develop a system able to securely post transactions to a state-offered web-service for regulatory and law-enforcement purposes with low latency.

Conduct unit testing on the solution with DMV project personnel.

Conduct pilot testing with selected dealer test sites.

Implement solution with remainder of dealer stakeholders.

Provide training to dealers, DMV staff and law enforcement personnel on the use of the solution.

Provide documentation on the solution.

Provide help desk function to system users.

Provide maintenance and support for the system including financial penalties for unplanned system downtime.

Facilitate the secure migration of data in the current system to any new platform, as required.

**Pre-Proposal Submission Questions:**

Questions concerning this solicitation must be received by the Division of purchasing at [gail.walsh@purchasing.ri.gov](mailto:gail.walsh@purchasing.ri.gov) no later than **Monday, June 13, 2016 at 5:00 PM (ET)**. Questions should be submitted in a *Microsoft Word attachment*. Please reference the RFP # on all correspondence. Questions received, if any, will be posted on the internet as an addendum to this solicitation. It is the responsibility of all interested parties to download this information. If technical assistance is required to download, call the Help Desk at (401) 222-3766 or [lynda.moore@doit.ri.gov](mailto:lynda.moore@doit.ri.gov).

Offerors are encouraged to submit written questions to the Division of Purchases. **No other contact with State parties will be permitted.** Interested offerors may submit proposals to provide the services covered by this Request on or before the date and time listed on the cover page of this solicitation. Responses received after this date and time, as registered by the official time clock in the reception area of the Division of Purchases will not be considered.

**Vendor Qualifications/Requirements:**

- A brief history of the vendors firm.
- The vendor should have a minimum three (3) years experience developing browser based applications; experience desired with technologies to produce a plate on demand.
- Vendors must include at least two (2) most recent customer references. Please include name, address, and the contact person's title, organization/agency and phone number. Give a brief project summary and the start and end dates of the project.
- All costs associated with the preparation, development or submission of bids or other offers will be responsibility of the vendor. The state will not reimburse any such costs.
- All documents, correspondence and other submissions to the Division of Purchases are considered public records, pursuant to Title 38, Chapter 2 of the General Laws of the State of Rhode Island.
- The vendor must submit a high level description of the project approach and proposed time lines.
- Vendor must deliver the technology to provide an on-demand plate system which prints on an 8½" by 11" sheet of paper, and provide secure system access to law enforcement, the Division of Motor Vehicles and designated automobile dealerships via the Internet.
- The system must also have the capability to invoice customers directly and electronically remit the state portion to the general fund.
- The vendor must provide project management functions, coordinate communications with stakeholders, and provide accurate status information to DMV and project personnel.
- Vendor must include in their cost proposal a two (2) year and a four (4) year cost proposal per plate and any associated costs.
- Upon successful implementation, vendor must obtain DMV approval for any increase in fees.

#### **SECTION 4 - PROPOSAL SUBMISSION REQUIREMENTS**

Responses: **An original plus four (4) copies** should be mailed or hand-delivered in a sealed envelope marked "**RFP# 7550676 Temporary Plates for RI Licensed Dealerships**" to:

RI Dept. of Administration  
Division of Purchases, 2<sup>nd</sup> floor  
One Capitol Hill  
Providence, RI 02908-5855

*NOTE: Proposals received after the above-referenced due date and time will not be considered. Proposals misdirected to other State locations or those not presented to the Division of Purchases by the scheduled due date and time will be determined to be late and will not be considered. Proposals faxed, or emailed, to the Division of Purchases will not be considered. The official time clock is in the reception area of the Division of Purchases.*

#### **RESPONSE CONTENTS**

Responses should include the following:

1. A completed and signed three (3) page R.I.V.I.P generated bidder certification cover sheet downloaded from the RI Division of Purchases Internet home page at [www.purchasing.ri.gov](http://www.purchasing.ri.gov).
2. A completed and signed W-9 downloaded from the RI Division of Purchases Internet home page at [www.purchasing.ri.gov](http://www.purchasing.ri.gov).
3. **A separate Technical Proposal describing the qualifications and background of the applicant and experience with and for similar projects, and all information described earlier in this solicitation. The Technical Proposal is limited to ten (10) pages (this excludes any attachments). As appropriate, resumes of key staff that will provide services covered by this request.** Please include two (2) references and corporation biography.
4. A **separate, signed and sealed Cost Proposal** reflecting the hourly rate, or other fee structure, proposed to complete all of the requirements of this project. The Cost Proposal form is attached and should consist of a 12-month budget and budget narrative.
5. In addition to the multiple hard copies of proposals required, Respondents are requested to provide their proposal in electronic format (CDRom, diskette, or flash drive). Microsoft Word / Excel OR PDF format is preferable. Only one (1) electronic copy is requested and it should be placed in the proposal marked "original".

## **SECTION 5 - EVALUATION AND SELECTION**

Proposals will be reviewed by a Technical Review Committee comprised of staff from state agencies. The maximum possible score is 100 points and applications scoring below 45 points in the technical review will not be considered. Applicants may be required to submit additional written information or be asked to make an oral presentation before the Technical Review Committee to clarify statements made in their proposal. Proposals will be reviewed and scored based upon the following criteria:

### **Technical Proposal: (70 total points)**

- Vendor Qualifications - Technical & Business Expertise - 40%.
- Project Approach - 20%
- References - 10%.

### **Cost Proposal: (30 total points)**

- Cost - 30%

Technical proposals must receive a minimum of 50 (out of 70) points to warrant further consideration. Proposals not receiving the minimum technical score will not have the accompanying cost proposal opened or evaluated.

The State reserves the right to reject any or all proposals submitted as a result of this bid process. The State also reserves the right to award on the basis of cost alone and to act in its best interest. Proposals found to be technically or substantially non-responsive at any point in the evaluation process will be rejected and not considered further.

The technical review Sub-Committee will present written findings, including the results of all evaluations, to the Division of Purchases. The State Purchasing Agent, or her designee, will make the final award decision.

A successful vendor will be required to enter into the Application Development and Hosting Agreement attached as Addendum 1, or a similar agreement containing substantially similar terms and conditions.

## **CONCLUDING STATEMENTS**

The State may, at its sole option, elect to require presentation(s) by offerors clearly in consideration for this award.

This solicitation, and any subsequent award, is governed by the State's General Conditions of Purchase (available at [www.purchasing.ri.gov](http://www.purchasing.ri.gov)).

When a vendor has been selected, the Division of Purchases website will be updated to reflect the contract award (s).

## APPLICATION DEVELOPMENT AND HOSTING AGREEMENT

**THIS APPLICATION DEVELOPMENT AND HOSTING AGREEMENT** (“Agreement”) effective this \_\_\_\_ day of \_\_\_\_\_ 2016 (“Effective Date”), is made by and between \_\_\_\_\_ and the State of Rhode Island, by and through the Department of Administration, Division of Purchases on behalf of the Department of Revenue – Division of Motor Vehicles (together the “State”), and \_\_\_\_ and State (together the “Parties”, or a “Party” individually).

### RECITALS

**WHEREAS**, the State issued a RFP # \_\_\_\_\_ titled “Special Use Identification Tags (Temporary Plates) for Rhode Island Dealerships” with Addenda \_\_\_\_\_ (together the “RFP”), incorporated herein by reference and made a part hereof, for an on-demand electronically printed temporary plate service for the sellers of motor vehicles to be developed, supported, maintained, and hosted by a vendor (“Service”); and

**WHEREAS**, \_\_\_\_ submitted a response to the RFP, including a cost proposal (together the “Proposal”), incorporated herein by reference and made a part hereof; and

**WHEREAS**, A Scope of Work (“SOW”) outlining the technical details and business rules for this service has been drafted by \_\_\_\_ and approved by State, which SOW is attached hereto and made a part hereof as Exhibit 1; and

**WHEREAS**, the Parties desire to enter into an agreement for the Service.

**NOW THEREFORE**, in consideration of the mutual conditions, covenants, and promises contained in this Agreement, and for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

#### 1. PRECATORY CLAUSES

- 1.1 The precatory “Whereas” clauses are incorporated herein and made a part of this agreement.

#### 2. TERM OF AGREEMENT

- 2.1 This Agreement shall be for a term of two (2) years, commencing on the effective date after issuance of a Purchase Order from the Division of Purchases, unless earlier terminated pursuant to the provisions herein regarding termination.
- 2.2 The State may renew, or amend, this Agreement for up to two (2) additional one (1) year periods upon notice to \_\_\_\_ not less than three (3) months prior to the expiration date of this Agreement or any renewal period, or as otherwise agreed by the parties in writing.

2.3 “Term” as used in this Agreement shall mean the initial term together with any renewal period(s) which are approved as provided in Section 2.2.

### **3 TERMINATION OF AGREEMENT**

3.1 This Agreement may be terminated for cause upon the material breach of any term, provision, or condition of this Agreement subject to cure, by providing written notice of termination to the breaching Party with a copy of notice to the other Party. Such notice shall specify the time, the specific provision of this Agreement or “for cause” reason that gives rise to the termination, and if susceptible to cure, shall specify reasonable appropriate action that can be taken by the breaching Party to avoid termination of the Agreement. Such notice shall provide a specified period of time of up to sixty (60) calendar days, unless otherwise specified, for the breaching Party to cure breaches and deficiencies of its performance.

3.2 Upon agreement of all the Parties, which agreement shall not be unreasonably withheld, if there is insufficient interest in the Service demonstrated by users or subscribers.

3.3 It is understood and agreed by the Parties that if any part, term, provision, or subject matter of this Agreement is held by the courts to be illegal or in conflict with any law of the State of Rhode Island, in a ruling that is pursued to finality including appeal, then this Agreement shall be reformed by the Parties in order to conform to such ruling if at all possible without violating the intent of the Agreement and provided that the economics of the Agreement are still viable. If it is not possible to so conform the Agreement or if the economics are no longer viable, then the State may terminate this Agreement immediately and \_\_\_ shall not have any right or action due to this termination.

### **4 RELATIONS OF THE PARTIES**

4.1 Except as otherwise expressly provided herein, the Parties hereto, in the performance of this Agreement, will be acting in an individual capacity and not as agents, employees, partners, joint venturers, or associates of one another. The employees or agents of one Party shall not be deemed or construed to be the employees or agents of the other Party for any purpose whatsoever. Except as expressly agreed, no Party will assume any liability for any injury (including death) to any persons, or any damage to any property arising out of the acts or omissions of the agents, employees, or subcontractors of any other Party.

4.2 \_\_\_ may become an agent of the State of Rhode Island only by the express written consent of the State.

- 4.3 To the extent permitted by law, if \_\_\_ is designated an agent of the State, it shall enjoy the protection of the doctrine of sovereign immunity in performing its functions under this Agreement on behalf of the State.

## 5 **STATE'S RESPONSIBILITIES**

- 5.1 Oversee the timely and effective performance of this Agreement and assist \_\_\_ in resolving constructively any problems hereunder and any new issues that may arise in connection herewith.
- 5.2 When requested, help in interpreting data for users or subscribers to Service and provide a point of contact for such interpretation; and provide advice on display screen designs when consulted.
- 5.3 Provide reasonable levels of problem determination to support and help isolate problems when requested; and if the problem resides on the State's end of the system, the State shall provide reasonable fixes or repairs consistent with the State's operational priorities.
- 5.4 Keep the related information updated and available to \_\_\_ in accordance with the SOW.

## 6 \_\_\_\_\_ **RESPONSIBILITIES**

- 6.1 Recognize that authorized on-line access provides no right to possession or ownership of records or data at any time, nor any right to use records or the information contained in records for any purpose other than purposes expressly set forth or contemplated by this Agreement. Ninety (90) days prior to expiration and immediately before expiration and immediately after termination all data shall be turned over to the State in accordance with industry standards or as designated by the State using best practices. At a minimum, such turnover shall include data mapping, data structures and data dictionaries and other descriptive information.
- 6.2 Provide access to records only to authorized Users or categories of users, if applicable, approved by State and be responsible for Users' Statutory Fees consistent with the SOW and this Agreement.
- 6.3 Provide security safeguards for the Service as required by the RFP, Proposal, SOW and this Agreement. The Service shall be secured by three tiered architecture with web facing logon not having access to the database. Maintain the confidentiality of records as required by state law, federal law and this Agreement.
- 6.4 Recognize there is no express or implied ownership of the State's equipment by the payment of any fee or charge to the State.

- 6.5 Abide by the State's administrative regulations, which may now be in force or effect or which may in the future become effective, and cooperate with the State in the provision of records in a manner consistent with applicable state and federal laws, including the Federal Driver Privacy Protection Act, and any state implementation of that Act, as from time to time amended, as well as the provisions of this Agreement. Throughout the Term, \_\_\_ warrants that all transactions from beginning to end including, but not limited to, data at rest shall comply with the State's Division of Information Technology's (DoIT's) then current policies, procedures, and regulations in effect as of the effective date of this Agreement including, but not limited to, the Acceptable Use Policy and to the extent applicable (each, a "DoIT Policy"). Such policies, procedures, and regulations, as well as all DoIT's Policies, may be located at the DoIT website at [www.DoIT.ri.gov](http://www.DoIT.ri.gov). In the event that any new DoIT Policy is implemented after execution of the Agreement, or in the event that any existing DoIT Policy is modified during the term of the Agreement, \_\_\_ shall endeavor in good faith to comply with any such new or modified DoIT Policy. If \_\_\_ reasonably believes that it cannot reasonably comply with any such new or modified DoIT Policy, it shall promptly notify the State and the parties shall work together in good faith to modify the services provided under this Agreement in a manner that is in compliance with all then applicable DoIT Policies. If the Parties cannot agree on any such modification to the Agreement after ninety (90) days, either Party may terminate this Agreement upon written notice to the other Party.
- 6.6 Prepare and submit to the State a weekly statement accurately reflecting usage, including any Enhanced Access Fees, associated with providing the Service.
- 6.7 Keep such records as are required by this Agreement to document usage associated with providing access to records and to provide the State access to these usage records at reasonable times for auditing purposes as requested by the State.
- 6.8 Cooperate with the State in providing data records as permitted by the State, or as required to meet Public Reporting requirements as determined by the State, including securing proper access from the appropriate authority for, and providing agreed to security to each type of record.
- 6.9 Back-up data shall occur daily and provide a recovery point not to exceed twenty-four (24) hours.
- 6.10 Develop, maintain, train, host, provide reports, file transfer, respond to ad hoc queries and helpdesk function for the Service in accordance with the RFP, Proposal, SOW, and this Agreement.
- 6.11 \_\_\_ shall develop the Service in accordance with the Project Plan attached hereto and made a part hereof as Exhibit 2, the RFP, Proposal, SOW, and this Agreement.
- 6.12 Provide up-time for the Service in accordance with the Uptime Service Level Agreement, attached hereto and made a part hereof as Exhibit 3.

## **7 APPLICATION REVENUE AND RENUMERATION**

7.1 The following provisions shall apply to the recognition and disbursement in order of priority of all funds received by \_\_\_ as a result of the operation of this Agreement, unless otherwise mutually agreed to by the Parties hereto in writing:

7.1.1 \_\_\_ shall collect the Statutory and Enhanced Access Fees charged in accordance with the fee schedule in the Proposal submitted in response to the RFP and detailed in the SOW.

7.1.2 \_\_\_ shall pay the State, as applicable, all Statutory Fees (including any Technology Fee) collected as provided in the SOW. \_\_\_ shall not use the Statutory Fees for any purpose except to remit said Statutory Fees to the State as applicable.

7.1.3 \_\_\_ shall pay all operating and administrative expenses for development, hosting, and continued maintenance as outlined in the SOW and such costs are not the responsibility of the State.

7.1.4 \_\_\_ will be entitled to retain any sums remaining after payment of any other fees as outlined in the SOW.

7.1.5 The State shall not be responsible for any convenience or enhanced access fees charged to a constituent; nor will it be responsible for a processing cost fee imposed on a payment remitter if the transaction should occur in a chargeback or refund.

## **8 DOCUMENTS INCLUDED BY REFERENCE AND ORDER OF PRECEDENCE**

8.1 The State's Purchasing Act, R.I. Gen. Laws Title 37, Chapter 2, its Purchasing Regulations and General Conditions of Purchase (together the "Purchasing law") are incorporated into this Agreement by reference and made a part thereof.

8.1.1 In the event of any conflict between the terms of the RFP, the Purchasing law, or \_\_\_ Proposal and the provisions of this Agreement, the terms of the Purchasing law shall control.

8.1.2 In the event of any conflict between the terms of the RFP or \_\_\_ Proposal and the provisions of this Agreement, the provisions of this Agreement shall control.

8.1.3 In the event of any conflict between the RFP and \_\_\_ Proposal, the two shall be of equal weight.

8.1.4 It is the intention of the Parties that any dispute be resolved pursuant to Section 13 below.

## 9 REPRESENTATIONS AND WARRANTIES

- 9.1 State warrants that it either owns or has the right to license all materials provided to \_\_\_\_\_. The State further warrants (a) that it will use the \_\_\_\_\_ Service only for lawful purposes and (b) that it will not transmit, re-transmit, or store material in violation of any federal or State laws and/or regulations, including but not limited to, infringement of trademark or copyright.
- 9.2 \_\_\_\_\_ warrants, represents, and assures that during the entire Term of the Agreement, that the Service provided under this Agreement, shall comply with the requirements set forth in the RFP as well as the responses provided in \_\_\_\_\_ Proposal and the requirements and performance standards outlined in the SOW plus any amendments thereto and this Agreement.
- 9.3 \_\_\_\_\_ warrants that it will perform its Services and provide its product to the State at all times in a diligent, competent and workmanlike manner, in accordance with applicable laws and regulations and in a timely fashion consistent with its reasonable schedules and work plans.
- 9.4 The representations and warranties of \_\_\_\_\_ set forth in its Proposal are incorporated herein by reference as if set forth herein and are deemed to be made as of the date hereof and throughout the Term.
- 9.5 \_\_\_\_\_ warrants that it is a [state of entity] in good standing and admitted to do business in the State of Rhode Island and by its representative's signature it has the legal authority to enter into this Agreement with State.
- 9.6 State warrants through its representative's signature hereto that it has legal authority to enter into this Agreement with \_\_\_\_\_.

## 10 INSURANCE

10.1 Throughout the Term of the Agreement \_\_\_\_\_ shall procure and maintain at its own cost and expense and provide to the State Certificates of Insurance evidencing the following:

- 10.1.1 Commercial General liability insurance policy based on Insurance Service Office ("ISO") policy forms or comparable forms with the following minimum coverage with respect to the Service in this Agreement by \_\_\_\_\_, its employees, representative and agents for:  
Bodily Injury and Property Damage \$1,000,000 each occurrence and \$1,000,000 annual aggregate;

Products and Completed Operations \$1,000,000 each occurrence and \$1,000,000 annual aggregate;  
Contractual Liability \$1,000,000 each occurrence and \$1,000,000 annual aggregate;  
Independent Contractors \$1,000,000 each occurrence and \$1,000,000 annual aggregate;  
Personal and Advertising Injury \$1,000,000 each occurrence and \$1,000,000 annual aggregate; and  
Combined annual aggregate for Commercial General liability coverage: \$1,000,000.

10.1.2 Automobile liability insurance using ISO or comparable forms with the following minimum coverage with respect to the operation by anyone with the permission of \_\_\_\_ for any owned, leased, non-owned, or hired vehicles:

10.1.2.1 Combined Single Limit \$1,000,000 per occurrence.

10.1.3 Workers Compensation insurance for \_\_\_\_ as required by applicable federal and state law, including: Employers liability \$100,000 each accident/\$100,000 Bodily Injury By Accident –Each disease each employee/\$100,000 Bodily Injury By Disease Policy Limit.

10.1.4 Technology Errors and Omissions Insurance to include:

10.1.4.1 Errors and Omissions, product failure, security failure, Professions Liability with a limit of \$1,000,000 per claim and \$1,000,000 annual aggregate.

10.1.4.2 If the Technology Errors and Omissions Insurance is on a claims made basis, the loss retroactive date must precede the date of inception of the Agreement, and coverage must be maintained in full force for three years upon termination of the work. Insured will include any individual who is an agent or independent contractor while acting within the scope of his or her contract with the named insured under this Agreement.

10.1.5 A Commercial Crime Policy covering all \_\_\_\_ employees and officers with a limit of \$1,000,000 for Employee Theft, \$1,000,000 for Computer Fraud, and \$1,000,000 for Funds Transfer Fraud all per loss and annual aggregate. \_\_\_\_ shall make State a joint loss payee under the Commercial Crime Policy, for their respective interests, during the Term.

10.2 Any duty to indemnify the State under this Agreement shall not be limited by the insurance required in this Agreements.

10.3 The State, its departments, agencies, and offices and its and their officers, directors, employees or successors shall be listed as additional insured on the required Commercial General Liability and Automobile Liability policies in this Section 10. Such additional insured status shall be evidenced on the Certificates of Insurance \_\_\_\_ provides to the State. \_\_\_\_ shall submit to the State a copy of each policy's endorsement or copy of the blanket endorsement (except for Workers' Compensation and Crime) evidencing such additional insured status as required herein.

10.4 A provision that \_\_\_\_ Commercial General Liability and Automobile Liability insurance shall contain a waiver of subrogation provision and shall be primary with respect to any insurance, self-insurance, or self-retention maintained by the State and any such State insurance, self-insurance, or self-retention shall be in excess of \_\_\_\_ insurance and shall not contribute. \_\_\_\_ shall have delivered to State a copy of the policy endorsements or copies of the blanket endorsements waiving subrogation.

10.5 There shall be no cancellation or non-renewal without thirty (30) days written notice from \_\_\_\_ or its insurer(s)/broker(s) to the State, except in the case of cancellation for non-payment of premium, for which ten (10) days notice will be given. Any failure to comply with the reporting provisions shall be grounds for termination of the Agreement. If State is damaged by \_\_\_\_ failure to maintain such insurance, then \_\_\_\_ shall be responsible for all costs and damages attributed thereto.

10.6 Certificates of Insurance acceptable to State shall be submitted to State prior to issuance of a Purchase Order and thereafter shall be submitted annually, or earlier upon expiration or renewal of any of the policies. Certificates shall indicate that the coverage required by this Section 10 is in effect. Insurance coverage required under this Agreement shall be obtained from insurance companies acceptable to the State and authorized to write this type of insurance in the State. \_\_\_\_ shall pay all deductibles, self-insured retentions, and/or self-insurance. The Certificates shall note any deductibles, self-insured retention, and/or self-insurance.

## 11 OWNERSHIP

11.1 **Upon Termination.** In accordance with this Agreement, upon termination or expiration of this Agreement, \_\_\_\_ shall deliver, transfer, and grant to State, without additional charge and free and clear of any third party liens, restrictions, or encumbrances, a complete copy of the Application for Temporary Plates for Rhode Island Dealerships, documentation and source code related thereto, but not (a) software or documentation created by third parties and purchased by \_\_\_\_, unless such software can be transferred to the State (hereinafter collectively named "Third Party Software") and also not (b) software developed by \_\_\_\_ and provided on a "software as a service" basis, and including any software updates or upgrades made to the software code used in the Application by the State, under a non-exclusive, paid-up, royalty free license to use the Software only in connection with operation of the Application, in perpetuity, with rights to modify the source code and to create derivative works therefrom (the "License").

11.2 In the event this Agreement is not renewed as provided in Section 2 or otherwise expires or is terminated pursuant to this Agreement, \_\_\_\_ will provide such copy and License to the State prior to sixty (60) days from the termination/expiration date of the Agreement or as otherwise agreed to by the Parties.

11.3 After the transfer of the Software under License as identified in Section 11 and pursuant to this Agreement, the State shall have the right to make additional modifications, upgrades, and enhancements to the Service, or to purchase or otherwise acquire such modifications, upgrades, and enhancements, as the State may see fit for the purpose of maintaining and operating the Application, in accordance with the License.

## 12 INDEMNIFICATION

12.1 \_\_\_\_ agrees for itself, its agents, employees, and assigns to indemnify, defend and hold harmless the State, its agents and employees from any and all claims, suits, loss, cost, damage, or liability (including attorney's fees) caused in whole or in part by \_\_\_\_ intentional acts, negligent acts or omissions, material failure to perform under the terms of this Agreement, or violation of applicable laws, rules, regulations, or ordinances, unless the same was wholly caused or induced by the State.

12.2 \_\_\_\_ shall indemnify and hold harmless the State, its agents and employees against any and all liability, damage, claims, suits, losses, costs, and legal fees related to the charging of enhanced access fees collected by Service, including, but not limited to, any claims brought against the State by constituents in which the charges were imposed.

12.3 \_\_\_\_ agrees that it has no right of subrogation or contribution from the State of Rhode Island for any judgement rendered against \_\_\_\_ or any claim settled by \_\_\_\_.

## 13 DISPUTE RESOLUTION

13.1 It is the intent of the Parties that any disputes that may arise between them may be resolved as quickly as possible. Quick resolution may, in certain circumstances, involve immediate decisions made by the Parties' duly authorized representatives. When such resolution is not possible, and depending upon the nature of the dispute, the Parties hereto agree to resolve such disputes in accordance with the provisions of this Section 13.

13.2 Any disputed issues concerning this Agreement shall in all instances be initially referred to the Parties' designated representatives identified in Paragraph 17.5 hereof. The Parties' designated representatives shall use reasonable best efforts to render a mutually agreeable resolution of the disputed issue, in writing, within seventy-two (72) hours of such referral.

13.3 \_\_\_ shall continue to perform pursuant to this Agreement during any dispute resolution proceedings, subject to the provisions of this Agreement.

#### **14 DISASTER RECOVERY PLAN**

14.1 \_\_\_ has established and shall maintain a written Disaster Recovery Plan (“DRP”) reasonably acceptable to the State. \_\_\_ shall provide the State with copies of all proposed substantial modifications to its DRP at least thirty (30) days in advance of implementation of such substantial modification for the State’s review. Upon reasonable notice, the State may inspect \_\_\_ DRP at \_\_\_\_\_place of business.

#### **15 CONFIDENTIAL INFORMATION, NON-DISCLOSURE, AND BREACH**

15.1 “Confidential Information” means all confidential and proprietary information of the State including without limitation all social security numbers, financial information, personal information, and information protected by state and federal laws, including the Federal Driver Privacy Protection Act, and any State implementation of that Act, as from time to time amended, as well as the provisions of this Agreement. The term Confidential Information also includes any third party information or data for which the State has obligations of confidentiality, including but not limited to social security numbers, personal information, or data protected under state and federal law, including the Federal Driver Privacy Protection Act, and any State implementation of that Act, as from time to time, amended, as well as the provisions of this Agreement. Notwithstanding the foregoing, \_\_\_ may disclose Confidential Information pursuant to a valid order of the court or authorized government agency or pursuant to the provisions of R.I. Gen. Laws Title 42, Chapter 35 (“APRA”) provided that \_\_\_ has given the State prompt notice so that the State will have an opportunity to object to such disclosure, defend, limit, or protect against such disclosure.

15.2 \_\_\_ and its employees, agents, and subcontractors shall not access, use, or disclose Confidential Information except as necessary in the performance of the Service and access to Confidential Information shall be limited to that purpose. \_\_\_ shall cause its employees, agents, and subcontractors who have access to the Confidential Information to execute non-disclosure agreements in form substantially similar to this Paragraph.

15.3 \_\_\_ shall notify the State and Chief Information Officer of the State of any successfully unauthorized access, use, or disclosure of Confidential Information which results in compromise, use, or disclosure of Confidential Information as defined in Paragraph 15.1, within two (2) hours of verification of the same. The notice shall contain information available to \_\_\_ at the time of the notification to aid the State in examining the matter. More complete and detailed information will be provided to the State immediately upon it becoming available to \_\_\_. The Parties shall cooperate with each other in any public disclosures related to any such successful unauthorized access. In the event of a successful unauthorized access, use, or disclosure \_\_\_ agrees it shall pay for an independent third party security firm acceptable to the State to analyze the incident and determine the cause and extent of the compromise in accordance with

cyber security industry best practices, which report shall be provided to the State. \_\_\_\_ at its cost shall provide notification to applicable entities and persons, local office of the Secret Service, and affected parties or individuals, plus offer and pay for the following assistance: Notify affected persons and/or entities; Establish a call center; and Purchase monitoring services.

15.4 \_\_\_\_ shall indemnify and hold harmless the State, its agents and employees, and persons or parties whose Confidential Information was disclosed from any and all damages, liability, claims, suits, costs, and expenses (including reasonable attorney's fees), from such successful unauthorized access, use, or disclosure of Confidential Information. \_\_\_\_ liability will not be limited to the insurance required in Section 10.

## 16 CONTINUITY OF SERVICES

16.1 On the Agreement's termination or expiration (whether for cause or otherwise), a successor to \_\_\_\_ may continue the Service. \_\_\_\_ covenants in good faith for a period of one hundred and eighty days (180) days thereafter to make an orderly transition of the Service and to perform any and all reasonable tasks in good faith that are reasonably necessary for State to administer and manage the Service. \_\_\_\_ shall make every reasonable effort to ensure the transition will be performed in a professional and businesslike manner, and shall comply with the reasonable requests and requirements of the State to accomplish a successful transfer, including hosting, until such transition can occur. \_\_\_\_ shall be entitled to receive its pro rata compensation for such continuity of services during the transition period.

## 17 GENERAL PROVISIONS

17.1 **Governing Law.** This Agreement shall be construed and enforced according to the laws of the State of Rhode Island without regard to its conflicts of law rules. The Parties hereto agree that any and all claims arising from or related to this Agreement will be adjudicated exclusively in the state or federal courts of the State of Rhode Island and the Parties consent to the personal jurisdiction of such courts. The Parties waive any and all objections to an action arising from or related to this Agreement being adjudicated in the state or federal courts of the State of Rhode Island and agree not to bring suit in any other jurisdiction.

17.2 **Severability; Waiver.** If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. The Parties agree to replace any invalid provision with a valid provision, which most closely approximates the intent and economic effect of the invalid provision. The waiver by either Party of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach.



- 17.8 **Survival.** Any obligations and provisions of this Agreement which by their nature, extend beyond the expiration or termination of this Agreement, including but not limited to safeguarding Confidential Information, Indemnification, Ownership of Data, Governing Law and venue and Continuity of Services shall survive the expiration or termination of this Agreement.
- 17.9 **Force Majeure.** In the event that any Party is unable to perform any of its obligations under this Agreement (except for such Party's contractor or supplier of any tier default) or to enjoy any of its benefits because of a natural disaster, actions, or decrees of governmental bodies, or other event or failure not the fault or within control of the affected Party (hereinafter referred to as a "Force Majeure Event"), the Party who has been so affected shall immediately give notice to the other Party and shall use reasonable efforts to resume performance. Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended. If the period of nonperformance exceeds thirty (30) calendar days from the receipt of notice of the Force Majeure Event, the Party whose ability to perform has not been so affected may, by giving written notice, terminate this Agreement without incurring any liability, liquidated damages, or termination charges whatsoever. The foregoing notwithstanding, any amounts due and owing to either Party prior to the Force Majeure Event, shall be paid.
- 17.10 **Entire Agreement.** This Agreement, including the Exhibits attached hereto, sets forth the entire understanding and agreement of the Parties and supersedes any and all oral or written agreements or understandings between the Parties as to the subject matter of this Agreement. It may be changed only by a writing signed by both Parties. Neither Party is relying upon any warranties, representations, assurances, or inducements not expressly set forth herein.