

**AMERICAN ASSOCIATION OF STATE HIGHWAY
AND TRANSPORTATION OFFICIALS**

MASTER LICENSE SOFTWARE AGREEMENT

MLA Agreement Number P-10025

This Master Agreement is made this 25 day of June, 2013,
by and between the American Association of State Highway and Transportation Officials, Inc., a
corporation of the District of Columbia, with offices at 444 N. Capitol Street, N.W., Suite 249,
Washington, D. C. 20001, (hereinafter "AASHTO"), and the organization named below, (hereinafter the
LICENSEE), for the license and use of software products described herein.

ORGANIZATION Name:	<u>Minnesota Department of Transportation</u>
Address:	<u>395 John Ireland Boulevard</u>
City/State/Zip Code	<u>St. Paul, MN 55155-1899</u>

1. Supplemental Agreements: The LICENSEE and AASHTO shall have the right to enter into Supplemental Agreements pursuant to this Master Agreement, which shall contain the specific terms and conditions relating to the licensing and use of any of the Software Products covered by this Master Agreement, which Supplemental Agreements shall be considered to be incorporated into this Master Agreement and subject to all the terms and conditions thereof. This Master Agreement in and of itself does not license any specific Software Product, execution of a Supplemental Agreement under this Master Agreement being required to initiate such a license.

2. Software Products: The Software Products covered by this Master Agreement are all owned by AASHTO, and a list and brief description of those Software Products available from AASHTO and/or under development by AASHTO at the time this Master Agreement was executed is attached hereto as The Catalog. This list of The Catalog may be added to from time to time by AASHTO, and AASHTO reserves the right to withdraw Software Products from the list, but in so doing shall honor the terms of any Supplemental Agreements then outstanding covering such withdrawn Software Products. Supplemental Agreements executed pursuant to this Master Agreement shall specifically identify the AASHTO Software Product(s) being licensed, and any such Software Products(s) identified in such Supplemental Agreements shall be deemed to be included within this definition of Software Products and this Master Agreement.

3. Grant of License: AASHTO hereby grants, and the LICENSEE accepts, on the following terms and conditions, a limited, nontransferable and nonexclusive license to use AASHTO's Software Product(s) as identified and described in any Supplemental Agreements executed pursuant to this Master Agreement, which Supplemental Agreements are incorporated by reference herein. The LICENSEE's rights under this Master Agreement are those of a licensed user only, and the Software Product(s) shall at all times remain the property of AASHTO.

4. Term: This Master Agreement is effective from the date hereof and shall remain in force until December 1, 2022 or until terminated. The LICENSEE may terminate this Master Agreement at any time by notifying AASHTO in writing of its intent, which notification shall specify a termination date. All Supplemental Agreements to this Master Agreement would also be considered terminated on the

termination date specified in such notification. The LICENSEE may terminate any Supplemental Agreement by similarly notifying AASHTO of its intent. Termination of Supplemental Agreements does not terminate the Master Agreement. Termination of Supplemental Agreements either through termination of this Master Agreement or through termination of a specific Supplemental Agreement will require destroying the original and all copies, in whole or in part, in any form, including partial copies and modifications of the Software Product(s) received from AASHTO or made in connection with this Master Agreement. AASHTO may require the LICENSEE to terminate this Master Agreement in the manner described above if the LICENSEE fails to comply with any of the terms and conditions of this Master Agreement.

5. Use: This Master Agreement and the Software Products may not be assigned, sublicensed, or otherwise transferred by the LICENSEE without prior written consent from AASHTO.

6. Permission to Copy and Modify: Any Software Product materials provided by AASHTO under this Master Agreement in machine readable form may be copied, in whole or in part, in printed or machine readable form, for use by LICENSEE, for archives or emergency restart purposes, to replace a worn copy, to understand the contents of such machine readable materials, or to modify the material as provided. The original and any partial or complete copies of materials named hereunder shall be the property of AASHTO.

7. Protection and Security: The LICENSEE agrees not to provide or otherwise make available the Software Product(s) provided under this Master Agreement in any form to any person other than the LICENSEE's designated personnel. The LICENSEE agrees to notify AASHTO immediately of the unauthorized possession, use, or knowledge of the Software Products(s) supplied under this Master Agreement, by any person or organization not authorized by this Master Agreement to have such possession, use, or knowledge. The LICENSEE will promptly furnish full details of such possession, use, or knowledge to AASHTO, will assist in preventing the recurrence of such possession, use or knowledge, and will cooperate with AASHTO in any litigation against third parties deemed necessary by AASHTO to protect its proprietary rights. The LICENSEE's compliance with this paragraph shall not be construed in any way as a waiver of AASHTO's rights to recover damages or obtain other relief against the LICENSEE for its negligent or intentional harm to AASHTO's proprietary rights, or for breach of contractual rights.

8. Responsibilities of the LICENSEE: The LICENSEE shall be exclusively responsible for the supervision, management, and control of its use of the Software Product(s) provided under this Master Agreement, including but not limited to: (1) assuring proper machine configuration, (2) establishing adequate backup plans for the software, and (3) implementing sufficient procedures to satisfy its requirements for security and accuracy of input, security of the output, proper execution of software, and accurate reproduction of output as well as restart, and recovery in the event of a malfunction.

Any LICENSEE modifications to the Software Product(s) are the responsibility of the LICENSEE to maintain.

9. Warranty: AASHTO makes no warranty regarding the performance or results that may be obtained by using the Software Product(s) provided under this Master Agreement, or that it is appropriate for the LICENSEE's purposes, or that it is error free.

The sole obligation of AASHTO shall be: (1) to make available to the LICENSEE all published modifications or updates made by AASHTO to the Software Product(s) provided to it for a period of 90 days after the effective date of this Master Agreement, or any Supplemental Agreement executed pursuant to this Master Agreement, and (2) to make available to the LICENSEE all such modifications or updates

after the initial 90 days, only in the event the LICENSEE has a current Supplemental Agreement(s) with AASHTO.

10. Limitation of Liability. The foregoing warranty is in lieu of all other warranties, express or implied, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.

11. Patent, Copyright, and Trade Secret Indemnification: AASHTO will defend at its expense any action brought against the LICENSEE to the extent that it is based on a claim that the Software Product(s), provided under this Master Agreement and used within the scope of the license hereunder infringes a United States copyright or United States letters patent, or a trade secret. AASHTO shall have no liability for any claim of copyright, patent or trade secret infringement made on: (1) use of other than the latest unmodified release of the materials from AASHTO if such infringement would have been avoided by use of the latest materials, or (2) use or combination of the licensed materials with non-AASHTO programs or data if such infringement would have been avoided by use or combination of the licensed materials with other programs or data. The foregoing states the entire liability of AASHTO with respect to infringement of any copyright, patent or trade secret by the Software Product(s) or any part thereof, and AASHTO shall have no liability with respect to any other proprietary rights.

12. Right of Source Program: If AASHTO, whether directly or through a successor or affiliate, shall cease to be a provider of Software Products, or if AASHTO should be declared bankrupt or insolvent by a court of competent jurisdiction, LICENSEE shall have the right to obtain, for its own and sole use only, a single copy of the then current version of the source programs for all programs supplied under this Master Agreement, and a single copy of the documentation associated therewith, upon payment to the person in control of the source program the reasonable cost of providing each copy. Each source program supplied to LICENSEE under this paragraph shall be subject to each and every restriction on use set forth in this Master Agreement, and LICENSEE acknowledges that the source programs and their associated documentation are extraordinarily valuable proprietary property of AASHTO and will guard against unauthorized use or disclosure with great care.

13. Charges: The license fees shall be set forth in Supplemental Agreements, and are incorporated by reference herein.

22. General: The term "Master Agreement" as used herein includes any future written amendments, modifications, supplements, or attachments made in accordance herewith. The LICENSEE agrees that its acceptance of the Software Product(s) from AASHTO under this Master Agreement is conclusive evidence that the license for such software is governed by the terms of this Master Agreement.

If any provision of this Master Agreement is determined to be unenforceable or invalid under any applicable statute or rule of law, the remaining provisions of this Master Agreement shall not be affected and shall remain in full force and effect.

The LICENSEE's remedies in this Master Agreement are exclusive.

AASHTO and LICENSEE acknowledge that they have read this Master Agreement, understand it, and agree to be bound by its terms, and further agree that it is the complete and exclusive statement of the agreement between the parties, which supersedes all proposals, oral or written, and all other communications between the parties relating to the subject matter of the Master Agreement.

MnDOT Contract No. 02853

In the event of any conflict between the terms and conditions of this Master Agreement and the terms and conditions of any subsequent purchase order, the terms and conditions of the Master Agreement shall control.

AASHTO

By: *BW*
Bud Wright

Title: Executive Director

Date: 6/4/13

MN.IT Licensee's Primary Designee
Recommended for Approval

By: *TOOD BERGLAND*

Title: Portfolio Manager

Date: 6/7/2013

MN.IT

By: *Jim Close by Karen Duder*

Title: CIO

Date: 6-7-13

COMMISSIONER OF
TRANSPORTATION

By: *Ann Sabr*
(with Delegated Authority)

Title: Asst/Division Director - ESD

Date: 6/7/13

COMMISSIONER OF
ADMINISTRATION

By: *Laura J. Jernstedt*

Title: Acq. Sup

Date: 6/25/2013

~~6-12-13~~
Swift Contract 63649
Walter K
6-12-13

ADDENDUM I

The Master License Software Agreement, attached, is hereby amended to include the following:

1. State Audit: Under Minnesota Statutes §16C.05, subdivision 5, AASHTO's books, records, documents and accounting procedures and practices relevant to any Supplemental Agreement or Addendum are subject to examination by LICENSEE, LICENSEE's Auditor or the Legislative Auditor, as appropriate, for a minimum of six years from the expiration date of this Master Agreement.
2. LICENSEE's Liability: Notwithstanding any of the foregoing, the LICENSEE's liability is governed by the Minnesota Torts Claim Act, Minnesota Statute §3.736 and other applicable law. Nothing in this Master Agreement or any Supplemental Agreement will be construed as a waiver of LICENSEE's sovereign immunity, or of any limitation of liability afforded to it by its state laws.
3. Worker's Compensation: AASHTO certifies that it is in compliance with Minnesota Statutes §176.181, subdivision 2, pertaining to workers' compensation insurance coverage. AASHTO's employees and agents will not be considered LICENSEE employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees and any claims made by any third party as a consequence of any act or omission on the part of these employees are in no way LICENSEE's obligation or responsibility.
4. Government Data Practices Act: AASHTO and LICENSEE must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by LICENSEE under this Master Agreement and any Supplemental Agreements, and as it applies to all data created, collected, received, stored, used, maintained or disseminated by AASHTO under this Master Agreement and any Supplemental Agreements.
5. Affirmative Action: If this Master Agreement or any Supplemental Agreements exceed \$100,000.00 and AASHTO employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principle place of business, then AASHTO recognizes and acknowledges the requirements of Minnesota Statutes §363A.36 and Minn. R. Parts 5000.3400-5000.3600.
6. Discrimination Prohibitions: AASHTO agrees to comply with the discrimination prohibitions under Minnesota Statutes §181.59.
7. Data Disclosure: Under Minnesota Statutes §270C.65, and other applicable law, AASHTO consents to disclosure of its social security number, federal employer tax identification number and/or Minnesota tax identification number, already provided to LICENSEE, to federal and state tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring AASHTO to file state tax returns and pay delinquent state tax liabilities, if any.
8. Early Retirement Incentive Reemployment Prohibition: Laws of Minnesota 2010, Chapter 337, Subdivision 5, provided an early retirement incentive to some State of Minnesota employees. The law provides that an individual who received an early retirement incentive payment may not be hired as a consultant by any agency or entity that participates in the State Employee Group Insurance Program for a period of three years after termination of service. AASHTO certifies that it will not utilize any former state employee in the performance of this Master Agreement or any Supplemental

Agreements who received an retirement incentive payment under Laws of Minnesota 2010, Chapter 337, unless three years have passed from the date of the employee's separation from state service.

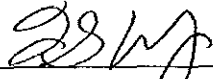
9. E-Verify Certification (In Accordance with Minnesota Statute §16C.075): For services valued in excess of \$50,000, AASHTO certifies that as of the date of services performed on behalf of LICENSEE, AASHTO and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify program for all newly hired employees in the United States who will perform work on behalf of the State. Contractor is responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available at <http://www.mmd.admin.state.mn.us/doc/EverifySubCertForm.doc>. All subcontractor certifications must be kept on file with AASHTO and made available to LICENSEE upon request.
10. Software Accessibility: AASHTOWare's mission is to enable the development, management, and support of cost effective, quality technical solutions that meet the business requirements of AASHTO members. We are committed to ensuring that our products are accessible to customers with disabilities. For guidance, we look to the accessibility best practices and standards defined by Section 508 of the U.S. Rehabilitation Act and the Web Content Accessibility Guidelines (WCAG) of the World Wide Web Consortium Web Accessibility Initiative (W3C WAI).

There are ongoing progressive measures in place to assure compliance throughout the AASHTOWare® portfolio of products. It is our goal to be 508 compliant. All planned AASHTOWare product improvements will consider a logical, cost-effective approach for enabling accessibility features as new software development is performed, and releases are issued. Our efforts to retrofit and/or upgrade non-accessible information are ongoing.

A Voluntary Product Accessibility Template, or VPAT, is a standardized form developed by the Information Technology Industry Council to show how a software product meets key standards of Section 508 of the Rehabilitation Act. AASHTOWare VPATs may be found at the following web address: www.aashtoware.org/VPATs.

The parties will work together to resolve any accessibility compliance issues.

AASHTO

By: 
Frederick G. Wright

Title: Executive Director

Date: 6/12/13


**MN.IT Licensee's Primary Designee
Recommended for Approval**

By: 

Title: Applications Manager

Date: 6/12/2013


MN.IT

By:  FOR JIM CLOSE

Title: CIO

Date: 6-17-2013

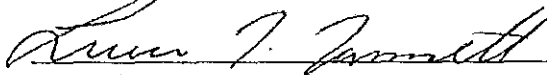
**COMMISSIONER OF
TRANSPORTATION**

By: 
(with Delegated Authority)

Title: Asst/Division Director - ESD

Date: 6/17/13

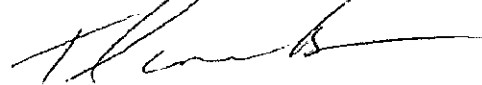
**COMMISSIONER OF
ADMINISTRATION**

By: 

Title: Acq. Sup

Date: 6/25/2013

Swift Contract 63689



6-12-13

AMENDMENT # 1 TO MnDOT Master License Software Agreement # 02853

This amendment is by and between the State of Minnesota, through its Commissioner of Transportation ("LICENSEE") and the American Association of State Highway and Transportation Officials ("AASHTO").

Recitals

1. LICENSEE has a Master License Software Agreement with AASHTO identified as MnDOT Contract Number 02853 ("Original Agreement") to provide for the licenses and use of AASHTO software products.
2. The Original Agreement is being amended to include a more detailed Affirmative Action clause.
3. LICENSEE and the AASHTO are willing to amend the Original Agreement as stated below.

Agreement Amendment

REVISION 1. Article 5. "Affirmative Action" of Addendum I is deleted in its entirety and replaced as follows:

- 5 Affirmative Action: LICENSEE intends to carry out its responsibility for requiring affirmative action by AASHTO.
 - 5.1 Covered Agreements If this Master Agreement or any Supplemental Agreements exceeds \$100,000.00 and AASHTO employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principle place of business, then AASHTO must comply with the requirements of Minnesota Statutes §363A.36 and Minn. R. Parts 5000.3400-5000.3600. If AASHTO is covered by Minnesota Statutes §363A.36 because it employed more than 40 full-time employees in another state and does not have a certificate of compliance, then AASHTO must certify that it is in compliance with federal affirmative action requirements.
 - 5.2 Minnesota Statutes §363A.36. Minnesota Statutes §363A.36 requires AASHTO to have an affirmative action plan for the employment of minority persons, women and qualified disabled individuals approved by the Minnesota Commissioner of Human Rights ("Commissioner") as indicated by a certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.
 - 5.3 Minnesota R. 5000.3400-5000.3600
 - 5.3.1 General. Minnesota R. 5000.3400-5000.3600 implements Minnesota Statutes §363A.36. These rules include, but are not limited to, criteria for contents, approval and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a contractor's compliance status; procedures for addressing deficiencies, sanctions and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minnesota R. 5000.3400-5000.3600 including, but not limited to, parts 5000.3420-5000.3500 and 5000.3552-5000.3559.
 - 5.3.2 Disabled Workers. AASHTO must comply with the following affirmative action requirements for disabled workers.
 - 5.3.2.1 AASHTO must not discriminate against any employee or applicant for

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employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. AASHTO agrees to take affirmative action to employ, advance in employment and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

- 5.3.2.2 AASHTO agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
- 5.3.2.3 In the event of AASHTO's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minnesota Statutes Section §363A.36 and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
- 5.3.2.4 AASHTO agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Commissioner of the Minnesota Department of Human Rights. Such notices must state AASHTO's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.
- 5.3.2.5 AASHTO must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that AASHTO is bound by the terms of Minnesota Statutes Section §363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.

5.3.3 Consequences. The consequences for AASHTO's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans and termination of all or part of this Agreement by the Commissioner or State.

5.3.4 Certification. AASHTO hereby certifies that it is in compliance with the requirements of Minnesota Statutes §363A.36 and Minnesota R. 5000.3400-5000.3600 and is aware of the consequences for noncompliance.

The terms of the Original Contract are expressly reaffirmed and are incorporated by reference. Except as amended herein, the terms and conditions of the Original Contract and all previous amendments remain in full force and effect.

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AASHTO

By:


Frederick G. Wright

Title:

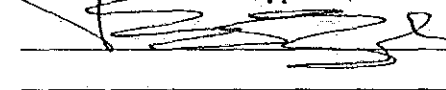
Executive Director

Date:

8/29/13

MN.IT Licensee's Primary Designee
Recommended for Approval

By:



Title:

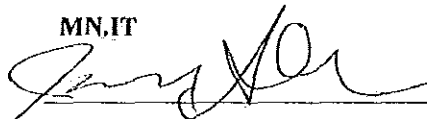
Portfolio Manager

Date:

9/5/2013

MN.IT

By:



Title:

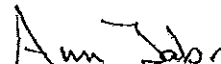
CIO

Date:

9-18-2013

COMMISSIONER OF
TRANSPORTATION

By:



(with Delegated Authority)

Title:

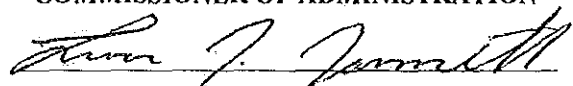
Asst/Division Director - ESD

Date:

9/9/13

COMMISSIONER OF ADMINISTRATION

By:



Title:

Acq. Sup.

Date:

10/23/2013