STATE OF OHIO
OFFICE OF INFORMATION TECHNOLOGY
STATE TERM SCHEDULE

THIS CONTRACT is between the STATE OF OHIO, OFFICE OF INFORMATION TECHNOLOGY ("OIT"), INVESTMENT and GOVERNANCE DIVISION, ON BEHALF OF THE STATE OF OHIO ("State"), with offices at 30 East Broad Street, Columbus, Ohio 43215 and CareWorks Technologies ("Contractor") with offices at 5555 Glendon Court Dublin, Ohio 43016.

BACKGROUND

The State recognizes that it is sometimes advantageous to do business with some manufacturers under a State term contract rather than through a competitive bidding or proposal process. In such cases, the State will enter into a contract with the manufacturer provided that the manufacturer offers its goods and ancillary services at the same prices that the manufacturer offers those goods and services to its distributors, or if the manufacturer has no distributors, the prices that the manufacturer offers to its similarly situated most favored customers for each product or service.

The State also recognizes that some manufacturers work primarily through dealers for various reasons, including offering customers better support through dealers that have a local presence in the service area. Because of this, the State may sometimes agree to work directly with a manufacturer's dealers. But, if the Contractor is not the manufacturer of the goods or services under this contract, the Contractor must submit a letter from the manufacturer that assures the State that the Contractor will have sufficient quantities of the offered products for the duration of the Contract and any extensions to meet the State's needs under the Contract and that the Contractor is an authorized dealer in the manufacturer's goods or services. The letter must identify each product or service that the Contractor will supply under this Contract. The letter must also contain an assurance of the availability through the dealer of repair and spare parts for equipment covered by this Contract for five (5) years from the date of purchase. It must also contain an assurance that software maintenance will be available under the terms of this Contract either from the dealer or the manufacturer for six (6) years from the date of acceptance. (This assurance is not necessary for PC and PC-based server software with a permanent license fee of less than $5,000.00 per copy.) The manufacturer's letter must be signed by an authorized official of the manufacturer and submitted with the executed copies of this Contract.

This State Term Contract (the "Contract") establishes terms and conditions under which a State agency (including any board, instrumentality or other political body) or political subdivision may acquire the Contractor's goods or services at the Contractor's best pricing. But this Contract only permits such; it in no manner obligates any State agency to do so.

TERMS & CONDITIONS

CERTIFICATION OF ACCURACY. The Contractor hereby certifies the following:

(1) The Contractor's prices under this Contract are the best prices for which it or any of its distributors has sold each product or provided each service to any of its or its distributor's similarly situated most favored customers within the year before the date the Contractor executed this Contract and added the product or service to this Contract.

(2) If the Contractor has submitted a manufacturer's letter to certify that the Contractor is an authorized dealer for the manufacturer, the Contractor warrants that the information in the letter is accurate and that a duly authorized representative of the manufacturer signed the letter.

The Contractor further represents and warrants that all future pricing information submitted to revise this Contract would also be true, correct, current, accurate, and complete.

ECONOMIC PRICE ADJUSTMENT. The State will be entitled to a price decrease any time the Contractor or any of its distributors sells a product or a service to any similarly situated most favored customer for less than the price agreed to between the State and the Contractor under this Contract. Any time the Contractor or any of its distributors sells a product or provides a service to any customer or dealer for less than it is then available to the State under this Contract, the Contractor must notify the State of that event within thirty (30) calendar days of its occurrence and immediately reduce the price of the affected goods or services to the State under this Contract. The Contractor will also notify the State within thirty (30) calendar days of any general reduction in the price of any product or service covered by this Contract even if the general reduction does not place the price of the product or service below the price available to the State under this Contract. The purpose of this notice of a general reduction in price is to allow the State to assess the value the State believes it is receiving under this Contract in light of the general reduction. If the State believes it is appropriate, the State will ask to renegotiate the price under this Contract of the goods and services affected by the general reduction in price. If the Contractor and the State cannot agree on a renegotiated price, the State will have the right, on notice to the Contractor, to immediately remove the affected products and services from this Contract.

DELIVERABLES. Attached as Exhibit I is the Contractor's price list for the products and services that the Contractor may provide to the State under this Contract. For convenience, those goods and services are referred to as "Deliverables" under this Contract. The Contractor may not provide any other goods or services under this Contract without an amendment to this Contract. Also, the Contractor may not charge any other prices for these Deliverables other than the prices on the Exhibit I. If Exhibit I contains or incorporates by reference any terms or conditions other than a description of the scope of license for software, product/service description, and product/service prices, they are excluded from this Contract and are of no effect. The Contractor's price list attached as Exhibit I is identified as the following commercial price list(s):

SALES, USE, EXCISE, AND PROPERTY TAXES. The State is exempt from any sales, use, excise, or property tax. To the extent sales, use, excise, or any similar tax is imposed on the Contractor in connection with a Deliverable; the Contractor will pay such taxes (together with any interest and penalties not disputed with the appropriate taxing authority.)

AUDITS. During the term of this Contract and for three (3) years after termination, on reasonable notice and during customary business hours, the State may audit the Contractor's records and other materials that relate to the Deliverables and to the pricing representations that the Contractor has made to acquire this Contract. This audit right will also apply to the State's duly authorized representatives and any organization providing financial support for any Deliverable.

Unless it is impracticable to do so, all records related to this Contract must be kept in a single location, either at the Contractor's principle place of business or its place of business where this Contract has been substantially performed. If this is not practical, the Contractor will assume the cost of collecting, organizing, and relocating the records, along with any technology needed for accessing the records, to its office nearest Columbus, Ohio whenever the State or anyone else with audit rights requests access to the Contractor's records. The Contractor will do so with all due speed, not to exceed thirty (30) business days.

If any audit reveals any material misrepresentation or overcharges to the State, the State will be entitled to recover damages, as well as the cost of the audit. The Contractor acknowledges that a misrepresentation to obtain this Contract may also be grounds for criminal prosecution.

INSURANCE. The Contractor will provide the following insurance coverage at its own expense throughout the term of this Contract:

(1) Workers' compensation insurance, as required by Ohio law or the laws of any other state where work under this Contract will be done. The Contractor will also maintain employer's liability insurance with at least a $1,000,000.00 limit.

(2) Personal injury, bodily injury, and property damage liability insurance, including automobile coverage, with personal injury and bodily injury of not less than $1,000,000.00 combined single limit, and property damage of at least $500,000.00 for any one (1) occurrence.

The Contractor will also furnish a certificate of insurance to the State for the required coverages evidencing insurance from an insurance carrier, or carriers authorized to do business in Ohio. The certificate must be in a form that is reasonably satisfactory to the State as to the contents of the policies and the quality of the insurance carrier(s). The certificate must also provide thirty (30) days notice to the State before cancellation.

CONTRACT COMPLIANCE. The participating state agency and/or political subdivision that utilize this State Term Schedule will be responsible for the administration of the Contract and will monitor the Contractor's performance and compliance with the terms, conditions and specifications of the Contract. If an agency observes any infraction(s), such shall be documented and conveyed to the Contractor for immediate correction. If the Contractor fails to rectify the infraction(s), the agency will notify the State through, Office of Information Technology, Contract Management by executing a Complaint to Vendor (CTV) to help resolve the infraction(s). OIT will apply the terms and conditions of the Termination provision of this Contract to resolve the infractions(s).

PRODUCT RECALL. In the event product delivered has been recalled, seized, or embargoed and/or has been determined to be misbranded, adulterated, by the packer, processor, manufacturer or by any State or Federal regulatory agency, the Contractor shall be responsible to notify the State through, Office of Information Technology, Contract Management and all ordering agencies/entities within two business days after notice has been given. Contractor shall, at the option of the ordering agency, either reimburse the purchase price or provide an equivalent replacement product at no additional cost. Contractor shall be responsible for removal and/or replacement of the affected product within a reasonable time as determined by the ordering agency. At the option of the ordering agency, Contractor may be required to reimburse storage and/or handling fees to be calculated from time of delivery and acceptance to actual removal. Contractor will bear all costs associated with the removal and proper disposal of the affected product. Failure to reimburse the purchase price or provide equivalent replacement product will be considered a default.

TERMINATION. The State may terminate this Contract or any order under this Contract if the Contractor defaults in meeting its obligations and fails to cure its default within the time allowed by this Contract, or if a petition in bankruptcy has been filed by or against the Contractor. The State may also terminate this Contract or any order if the Contractor violates any law or regulation while performing under this Contract, or it appears to the State that the Contractor's performance is substantially endangered through no fault of the State. In such case, the termination will be for cause.

On written notice, the Contractor will have thirty (30) days to cure any breach of its obligations under this Contract, provided the breach is curable. If the Contractor fails to cure the breach within thirty (30) days after written notice or if the breach is not one that is curable, the State will have the right to terminate this Contract or the applicable order(s). The State may also terminate this Contract in the case of breaches that are cured within thirty (30) days but are persistent. "Persistent" in this context means that the State has notified the Contractor in writing of the Contractor's failure to meet any of its obligations three (3) times. After the third such notice, the State may terminate this Contract without a cure period if the Contractor again fails to meet any obligation. The three (3) notices do not have to relate to the same obligation or type of failure. Some provisions of this Contract may provide for a shorter cure period than thirty (30) days or for no cure period at all. Those provisions will prevail over this one. If a particular section does not state what the cure period will be, this provision will govern.

The State may also terminate this Contract or any order under this Contract for its convenience and without cause or if the Ohio General Assembly fails to appropriate funds for any order under this Contract. If a third party is providing funding for a Deliverable, the State may also terminate this Contract or any order should that third party fail to release any funds.

The notice of termination, whether for cause or without cause, will be effective as soon as the Contractor receives it. On receipt of the notice of termination, the Contractor will immediately cease all work on any Deliverables affected by the termination and take all steps necessary to minimize any costs the Contractor will incur related to the affected orders. The Contractor will also immediately prepare a report and deliver it to the State. The report must detail all open orders at the time of termination.

If the State terminates this Contract or any order for cause, it will be entitled to cover for any affected orders by using another contractor on such commercially reasonable terms and conditions as it and such covering contractor may agree. The Contractor will be liable to the State for all costs related to covering for any affected orders to the extent that such costs exceed the costs that the State would have incurred under this Contract. The Contractor will also be liable for any other direct damages resulting from its breach of this Contract or other action leading to termination for cause.

If the termination is for the convenience of the State, the Contractor will be entitled to compensation for any Deliverable that the Contractor has delivered before the termination. Such compensation will be the Contractor's exclusive remedy in the case of termination for convenience and will be available to the Contractor only once the Contractor has submitted a proper invoice for such, with the invoice reflecting the amount determined by the State to be owing to the Contractor.

The State will have the option of suspending rather than terminating this Contract where the State believes that doing so would better serve its interest.

In the case of a suspension for the State's convenience, the amount of compensation due to the Contractor for work performed before the suspension will be determined in the same manner as provided in this section for termination for the State's convenience or the Contractor may be entitled to compensation for work performed before the suspension, less any damage to the State resulting from the Contractor's breach of this Contract or other fault.

The notice of suspension, whether with or without cause will be effective immediately on the Contractor's receipt of the notice. The Contractor will immediately prepare a report and deliver it to the State as is required in the case of termination.

RETURN GOODS POLICY. The State will apply the following Return Goods Policy on all purchases made under the Contract. The Contractor acknowledges to have read, understood, and agrees to this Policy.

(A) Return goods, when due to Contractor error (i.e. over-shipment, defective merchandise, unapproved substitution, etc.) shall be returned to the Contractor, at the Contractor's expense. The Contractor shall make arrangements to remove the return goods from the ordering agency premises within seven (7) calendar days after notification. The Contractor shall not apply any restocking or other charges to the ordering agency. At the option of the ordering agency, replacement items may be accepted and will be shipped within seven (7) calendar days of notification. Failure of the Contractor to arrange for return of the items within the specified time will result in the items being deemed as abandoned property and the ordering agency will dispose of accordingly.

(B) Return goods of regular catalog stock merchandise, when due to agency error (i.e. over purchase, discontinued use, inventory reduction, etc.) will be accepted by the Contractor if notice is given by the agency within six (6) months of delivery and acceptance. All items to be returned must be unused and in their original containers and in suitable condition for resale. The ordering agency will be responsible for all transportation costs associated with both the original shipment of items to the agency and the subsequent return of the items to the location designated by the Contractor. Return of regular stock catalog merchandise, when delivery and acceptance exceed six (6) months will be at the option of the Contractor.

FORCE MAJEURE. If the State or Contractor is unable to perform any part its obligations under this Contract by reason of force majeure, the party will be excused from its obligations, to the extent that its performance is prevented by force majeure, for the duration of the event. The party must remedy with all reasonable dispatch the cause preventing it from carrying out its obligations under this Contract. The term "force majeure" means without limitation: acts of God; such as epidemics; lightening; earthquakes; fires; storms; hurricanes; tornadoes; floods; washouts; droughts; any other severe weather; explosions; arrests; restraint of government and people; war; strikes; and other like events; or any other cause that could not be reasonably foreseen in the exercise of ordinary care, and that is beyond the reasonable control of the party.

INDEPENDENT STATUS OF THE CONTRACTOR. The parties will be acting as independent contractors. The partners, employees, officers, and agents of one party will act only in the capacity of representatives of that party and not as employees, officers, or agents of the other party and will not be deemed for any purpose to be such. Each party assumes full responsibility for the actions of its employees, officers, and agents, and agents while performing under this Contract and will be solely responsible for paying its people. Each party will also be alone responsible for withholding and paying income taxes and social security, workers' compensation, disability benefits and the like for its people. Neither party will commit, nor be authorized to commit, the other party in any manner.

OWNERSHIP OF DELIVERABLES. Notwithstanding this contract can not be used for software development, all custom work done by the Contractor and covered by this Contract will be treated as "work for hire" on behalf of the State, with all rights, title, and interest in all intellectual property that comes into existence through the Contractor's custom work being assigned to the State. Additionally, the Contractor waives any shop rights, author rights, and similar retained interests in custom developed material. The Contractor will provide the State with all assistance reasonably needed to vest such rights of ownership in the State. But the Contractor will retain ownership of all tools, methods, techniques, standards, and other development procedures, as well as generic and preexisting shells, subroutines, and similar material incorporated in any custom Deliverable ("Pre-existing Materials").

The Contractor will grant the State a worldwide, non-exclusive, royalty-free perpetual license to use, modify, sell, and otherwise distribute all Pre-existing Materials that are incorporated in any custom-developed Deliverable rather than grant the State ownership of the Pre-existing Materials. The Contractor will not include in any custom Deliverable any intellectual property unless such has been created under this Contract or qualifies as Pre-existing Material. If the Contractor wants to incorporate any Pre-existing materials in a custom Deliverable, the Contractor must disclose that and obtain written approval from the State for doing so in advance. On request of the Contractor, the State will incorporate any proprietary notice of the Contractor may reasonably want for any Pre-existing Materials included in a custom Deliverable in all copies the State makes of that Deliverable.

Subject to the limitations and obligations of the State with respect to Pre-existing Materials, the State may make all custom Deliverables available to the general public without any proprietary notices of any kind.

SPECIFIC CHANGES. The State and the Contractor agree to the following additions, deletions, and modifications to the specific provisions of the Contractors Software License Agreement, Software Maintenance Agreement and Purchase Agreement Terms and Conditions that are hereby delineated under this heading:

The Contractor will not sell to the State any notebook computers with less than a 1.2 GHz internal clock - speed. And the Contractor will not sell to the State any PCs or servers using CPUs with less than a 1.6 GHz internal clock speed. All such items listed in the Contractor's Price List are deleted for purposes of this contract.

The Contractor will not sell to the State any term software licenses. All such items listed in the Contractor's Price List are deleted for purposes of this contract.

The Contractor may not use a Blanket Purchase Order to sell the State any product. All references to Blanket Purchase Orders in the Contractor's offering are deleted for purposes of the State.

The Contractor will not offer to the State any product's that are not year 2000 compliant. All such items listed in the Contractor's Price List are deleted for purposes of this contract.

The following amendments to the terms and conditions of CareWorks Technologies are hereby incorporated into this State Term Schedule between the Contractor and the State.

OhioTracks Software License Agreement

Modify paragraph (2) page 1 Restrictions by replacing the wording "Licensee shall not modify, copy, duplicate, reproduce, license or sublicense the Software, or transfer or convey the Software or any right in the Software to anyone else without the prior written consent of Developer; provided that the Licensee may make one copy of the Software for backup or archival purposes." with

"Licensee shall not copy, duplicate, reproduce, license or sublicense the Software, or transfer or convey the Software or any right in the Software to anyone else without the prior written consent of Developer; provided that the Licensee may make one copy of the Software for backup or archival purposes."

Delete paragraph (4) page 1 Warranty of Title in its entirety.

Modify paragraph (5)(A) page 2 Warranty of Functionality by replacing the wording "For a period of one (1) year following delivery of the Software to the Licensee (the "Warranty Period"), Developer warrants that the Software shall perform in all material respects according to the Developer's specifications concerning the Software when used within the minimal required computer environment as specified by the Developer. In the event of any breach or alleged breach of this warranty, Licensee shall promptly notify Developer and return the Software to Developer at Licensee's expense. Licensee's sole remedy shall be that Developer shall correct the Software so that is operates according to the warranty. This warranty shall not apply to the Software if the software is modified by anyone or if used improperly or on an operating environment not approved by Developer." with

"For a period of one (1) year following delivery of the Software to the Licensee (the "Warranty Period"), Developer warrants that the Software shall perform in all material respects according to the Developer's specifications concerning the Software when used within the minimal required computer environment as specified by the Developer. In the event of any breach or alleged breach of this warranty, Licensee shall promptly notify Developer and return the Software to Developer at Licensor's expense. Developer shall correct the Software so that is operates according to the warranty. This warranty shall not apply to the Software if the software is modified by anyone or if used improperly or on an operating environment not approved by Developer."

Modify paragraph (5)(B) page 2 Warranty of Functionality by replacing the wording "In the event of any defect in the media upon which the Software is provided arising within one (1) year of the date of delivery of the Software, upon return to Developer of the Software upon the original media, Developer shall provide Licensee a new copy of the Software." with

"In the event of any defect in the Software arising within one (1) year of the date of delivery of the Software, upon return to Developer of the Software upon the original media, Developer shall provide Licensee a new copy of the Software or refund the total purchase price paid for the Software."

Modify paragraph (6)(B) page 2 Optional Maintenance by replacing the wording "After expiration of the Warranty Period, Licensee may continue to receive maintenance support for successive twelve (12) month periods ("Annual Maintenance") or on a time and material basis ("Professional Computer Staffing Service"). The charge for such optional maintenance support is set forth in the Fee Schedule attached hereto as Exhibit "A". Licensee shall notify Developer in writing if it desires to receive Annual Maintenance. If Licensee fails to take Annual Maintenance and later elects to receive it, Developer reserves the right to charge Licensee its maintenance fees for the period of the lapse in maintenance. Developer may elect to discontinue Annual Maintenance with a twelve (12) month advance notice to Licensee and refund any then unearned Annual Maintenance fees on a monthly prorated basis." with

"After expiration of the Warranty Period, Licensee may continue to receive maintenance support for successive twelve (12) month periods ("Annual Maintenance") or on a time and material basis ("Professional Computer Staffing Service"). The charge for such optional maintenance support is set forth in the State Term Schedule Fee Schedule attached hereto as Exhibit "A". Licensee shall notify Developer in writing if it desires to receive Annual Maintenance. If Licensee fails to take Annual Maintenance and later elects to receive it, Developer reserves the right to charge Licensee its maintenance fees for the period of the lapse in maintenance. Developer may elect to discontinue Annual Maintenance with a twelve (12) month advance notice to Licensee and refund any then unearned Annual Maintenance fees on a monthly prorated basis."

Delete paragraph (8) page 3 Warranty Disclaimer in its entirety.

Delete paragraph (9) page 3 Limitation of Liability in its entirety.

Delete paragraph (11) page 3 Governing Law in its entirety.

Modify paragraph (12) page 3 No Assignment by replacing the wording "Neither this Agreement not any interest in this Agreement may be assigned by Licensee without the prior express written approval of Developer." with

"Neither this Agreement not any interest in this Agreement may be assigned by the Parties without the prior express written approval."

Delete paragraph (13) page 3 Severability in its entirety.

Delete paragraph (15) page 4 Waiver in its entirety.

Delete paragraph (16) page 4 Entire Agreement in its entirety.

Those terms and conditions of the Contractor's offering documentation not specifically referenced by the Amendments delineated under this heading shall remain unchanged.

CONTRACTOR QUARTERLY SALES REPORT. The Contractor must report the quarterly dollar value (in U.S. dollars and rounded to the nearest whole dollar) of the sales under this Contract by calendar quarter (i.e., January-March, April-June, July-September and October-December). The dollar value of the sale is the price paid by the schedule user for the products and services on a schedule contract task or delivery order, as recorded by the Contractor.

The Contractor shall be required to report the quarterly dollar value of sales to the State on a form prescribed by OIT. If no sales occur, the Contractor must show zero. The report must be submitted thirty (30) days following the completion of the reporting period.

The Contractor shall also submit a close - out report within one hundred and twenty (120) days after the expiration of this Contract. The contract expires upon the physical completion of the last, outstanding task or delivery order of the Contract. The close - out report must cover all sales not shown in the final quarterly report and reconcile all errors and credits. If the Contractor reported all contract sales and reconciled all errors and credits on the final quarterly report, then the Contractor should show zero "0" sales in the close - out report.

The Contractor must forward the Quarterly Sales Report to the Following address:

Office of Information Technology
Business Office
30 East Broad Street, 39th Floor
Columbus, Ohio 43215 - 3414

If the Contractor fails to submit sales reports, falsifies sales reports or fails to submit sales reports in a timely manner the State may terminate or cancel this Contract.

CONTRACTOR REVENUE SHARE. The Contractor must pay the State a revenue share of the sales transacted under this Contract. The Contractor must remit the revenue share in U.S. dollars within thirty (30) days after the end of the quarterly sales reporting period. The revenue share equals .0075 of the total quarterly sales reported. Contractors must include the revenue share in their prices. The revenue share is included in the award price(s) and reflected in the total amount charged to ordering activities.

The Contractor must remit any monies due as the result of the close - out report at the time the close - out report is submitted to OIT.

The Contractor must pay the revenue share amount due by check. To ensure the payment is credited properly, the Contractor must identify the check as a "Revenue Share" and include the following information with the payment:

Applicable State Term Schedule Number, report amount(s), and reporting period covered.

Contractor must forward the check to the following address:

Department of Administrative Services
Office of Finance
30 East Broad Street, Suite 4060
Columbus, Ohio 43215 - 3414

Please make check payable to: Treasurer, State of Ohio.

If the full amount of the revenue share is not paid within thirty (30) calendar days after the end of the applicable reporting period, the non-payment constitutes a contract debt to the State. The State may either initiate withholding or setting off of payments or employ the remedies available under Ohio law for the non-payment of the revenue share.

If the Contractor fails to pay the revenue share in a timely manner the State may terminate or cancel this Contract.

CONTRACTOR DISCLOSURE; LOCATION OF SERVICES, DATA. As part of this Agreement, Contractor shall disclose the following:

(1) The locations(s) where all services will be performed; and

(2) The location(s) where any state data applicable to the contract will be maintained or made available; and

(3) The principal location of business for the contractor and all subcontractors.

Contractor shall not, during the performance of this Contract, change the location(s) of the country where the services are performed or change the location(s) of the country where the data is maintained or made available without prior written approval of the State.

CONTRACTOR'S WARRANTY AGAINST AN UNRESOLVED FINDING FOR RECOVERY. Contractor warrants that it is not subject to an unresolved finding for recovery under ORC 9.24. If the warranty was false on the date the parties sign this Contract, the Contract is void *ab initio*.

GENERAL REPRESENTATIONS AND WARRANTIES. The Contractor warrants that the recommendations, guidance, and performance of the Contractor under this Contract will:

(1) Be in accordance with the sound professional standards and the requirements of this Contract and without any material defect.

(2) No Deliverable will infringe on the intellectual property rights of any third party.

(3) All warranties are in accordance with Contractors standard business practices attached.

(4) That the Deliverables hereunder are merchantable and fit for the particular purpose described in this contract.

Additionally, with respect to the Contractor's activities under this Contract, the Contractor warrants that:

(1) The Contractor has the right to enter into this Contract.

(2) The Contractor has not entered into any other contracts or employment relationships that restrict the Contractor's ability to perform under this Contract.

(3) The Contractor will observe and abide by all applicable laws and regulations, including those of the State regarding conduct on any premises under the State's control.

(4) The Contractor has good and marketable title to any goods delivered under this Contract and which title passes to the State.

(5) The Contractor has the right and ability to grant the license granted in any Deliverable in which title does not pass to the State.

If any work of the Contractor or any Deliverable fails to comply with these warranties, and the Contractor is so notified in writing, the Contractor will correct such failure with all due speed or will refund the amount of the compensation paid for the Deliverable. The Contractor will also indemnify the State for any direct damages and claims by third parties based on breach of these warranties.

SOFTWARE WARRANTY. If Exhibit I includes work to develop custom software as a Deliverable, then, on delivery and for one (1) year after the date of acceptance of any Deliverable that includes custom software, the Contractor warrants that:

(1) The software will operate on the computer(s) for which the software is intended in the manner described in the relevant software documentation.

(2) The software will be free of any material defects.

(3) The Contractor will deliver and maintain relevant and complete software documentation, commentary, and source code.

(4) The source code language used to code the software is readily available in the commercial market, widely used and accepted for the type of programming involved, and support programming in the language is reasonably available in the open market; and

(5) The software and all maintenance will be provided in a professional, timely, and efficient manner.

For Commercial Software developed by the Contractor or licensed from a third party, the Contractor represents and warrants that it either has the right or has obtained a binding commitment from the third party licensor (if applicable) to make the following warranties and maintenance obligations directly to the State. During the warranty period described in the next paragraph, the Contractor will:

(1) Maintain or cause the third-party licensor to maintain the Commercial Software so that it operates in the manner described in its documentation.

(2) Supply technical bulletins and updated user guides.

(3) Supply the State with updates, improvements, enhancements, and modifications to the Commercial Software and documentation and, if available, the commentary and the source code.

(4) Correct or replace the software and/or remedy any material programming error that is attributable to the Contractor or the third-party licensor; and

(5) Maintain or obtained a commitment from the third-party licensor to maintain the Commercial Software so that it will properly operate in conjunction with changes in the operating environment for which it was designed.

For Commercial Software designed for mainframe platforms and for Commercial Software designed for PC or PC-based servers and costing more than $5,000.00 per license or per copy, the warranty period will be the longer of one (1) year after acceptance or the licensor's standard warranty period. For Commercial Software designed for PC or PC-based servers and costing less than $5,000.00 per license or per copy, the warranty period will be the longer of three (3) months after acceptance or the licensor's standard warranty period. For PC and PC-based servers, the warranty will not include updates, improvements, enhancements, or modifications to the Commercial Software and documentation if such are not provided as part of the licensor's standard warranty or license fee.

Software documentation means well written, readily understood, clear, and concise instructions for the software's users as well as a system administrator. The software documentation will provide the users of the software with meaningful instructions on how to take full advantage of all of the capabilities designed for end users. It also means installation and system administration documentation for a system administrator to allow proper control, configuration, and management of the software. Source code means the uncompiled operating instructions. The source code will be provided in the language in which it was written and will include commentary that will allow a competent programmer proficient in the source language to readily interpret the source code and understand the purpose of all routines and subroutines contained within the source code.

EQUIPMENT WARRANTY. If any electrical equipment, mechanical device, computer hardware, telecommunications hardware, or other type of physical machinery ("Equipment") will be a part of any Deliverable, the following warranties apply. The Contractor warrants that the Equipment fully complies with all government environmental and safety standards applicable to the Equipment. The Contractor also warrants for the warranty period described in the next paragraph that the Equipment will perform Substantially in accordance with its user manuals, technical materials, and related writings published by the manufacturer with respect to such Equipment, and that such Equipment will achieve any function described in such writings. The foregoing warranty will not apply to Equipment that is modified or damaged after title passes to the State.

The Contractor will do the following if any Equipment does not meet the above warranties:

(1) Cause the Equipment to perform substantially in accordance with the user manuals, technical materials, and related writings published by the manufacturer with respect to the Equipment, or it that is not commercially practicable, then

(2) Grant the State a refund equal to the amount the State paid for the Equipment.

For all Equipment, the warranty period will be the longer of one (1) year after acceptance or the Equipment's standard warranty period.

INDEMNITY. The Contractor will indemnify the State against all liability or expense resulting from bodily injury to any person (including injury resulting in death) or damage to property arising out of the performance of this Contract, providing such bodily injury or property damage is due to the negligence of the Contractor, its employees, agents, or subcontractors. The Contractor will also indemnify the State against any claim of infringement of a copyright, patent, trade secret, or similar intellectual property rights based on the State's proper use of any Deliverable under this Contract. This obligation of indemnification will not apply where the

State has modified the Deliverable and the claim of infringement, is based on the modification. The state agrees to give the Contractor notice of any such claim as soon as reasonably practicable. If a successful claim of infringement is made, or if the Contractor reasonably believes that an infringement claim that is pending may actually succeed, the Contractor will do one, (1) of the following four (4) things:

(1) Modify the Deliverable so that is no longer infringing.

(2) Replace the Deliverable with an equivalent or better item.

(3) Acquire the right for the State to use the infringing Deliverable as it was intended for the State to use under this Contract; or

(4) Remove the Deliverable and refund the fee the State paid for the Deliverable and the fee for any other Deliverable that required the availability of the infringing Deliverable for it to be useful to the State.

LICENSE IN COMMERCIAL MATERIAL. As used in this section, "Commercial Material" means anything that has been developed at private expense by the Contractor or a third party, commercially available in the marketplace, subject to intellectual property rights, and readily copyable through duplication on magnetic media, paper, or other media. Examples include the written reports, books, pictures, videos, movies, computer programs, and computer source code and documentation.

Any commercial Material that the Contractor intends to deliver as a Deliverable must have the scope of the license granted in such material disclosed in Exhibit I or as an attachment referenced in Exhibit I, if that scope of license is different than the scope of license contained in this section for Commercial Materials. Except for Commercial Material that is software ("Commercial Software"), if the Commercial Material is copyrighted and published material, then the State will have the rights permitted under the Federal copyright laws for each copy of the Commercial Material delivered to it by the Contractor.

Except for Commercial Software, if the Commercial Material is patented, then the State will have the rights permitted under the Federal patent laws for each copy of the Commercial Material delivered to it by the Contractor.

For Commercial Software, the State will have the perpetual rights in item (1) through (8) of this section or as expressly stated otherwise in this Contract. The Commercial Software may be:

(1) Used or copied for use in or with the computer or computers for which it was acquired, including use at any State installation to which such computer or computers may be transferred.

(2) Used or copied for use in with a backup computer for disaster recovery and disaster recovery testing purposes or if any computer for which it was acquired is inoperative;

(3) Reproduced for safekeeping (archives) or backup purposes;

(4) Modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating any of the Commercial Software will be subject to same restrictions on use;

(5) Disclosed to and reproduced for use on behalf of the State by support service contractors or their subcontractors, subject to the same restrictions on use; and

(6) Used or copied for use in or transferred to a replacement computer.

However:

(7) If Commercial Software delivered under this Contract is published and copyrighted, it is licensed to the State without disclosure prohibitions; and

(8) If any Commercial Software is delivered under this Contract with the copyright notice in 17 U.S.C. 401, it will be presumed to be published, copyrighted, and licensed to the State without disclosure restrictions unless a statement substantially as follows accompanies the copyright notice: "Unpublished-rights reserved under the copyright laws of the United States". The State will treat such Commercial Software as Confidential Information to the extent that such is actually the case.

In case any other scope of license (e.g., MIPs, tier, concurrent users, enterprise, site, or otherwise) the foregoing will apply except as modified expressly by the applicable license description, which must be incorporated as part of Exhibit I. If the Contractor provides greater license rights in an item included in Exhibit I to its general customer base for the Software's list price, those additional license rights will also be provided to the State without additional cost or obligation. No license description may reduce the rights in items 1 through 6 above; it may only define the extent of use if the use is other than a CPU license.

ACCEPTANCE. The acceptance procedure for Deliverables will be an informal review by the agency acquiring the Deliverables to ensure that each Deliverable meets the warranties in this Contract. The State will have up to thirty (30) days after installation to do this. The State will not issue a formal letter of acceptance, and passage of thirty (30) days will imply acceptance, though the State will issue a notice of noncompliance if a Deliverables does not meet the warranties in this Contract. If the State issues a letter of noncompliance, then the Contractor will have thirty (30) calendar days to correct the problems listed in the noncompliance letter. If the Contractor fails to do so, the Contractor will be in default without a cure period. If the State has issued a noncompliance letter, the Deliverable will not be accepted until the State issues a letter of acceptance indicating that each problem noted in the noncompliance letters has been cured. If the problems have been fixed during the thirty (30) day period, the State will issue the acceptance letter within fifteen (15) days after all defects have been fixed.

PASSAGE OF TITLE. Title to any Deliverable will pass to the State only on acceptance of the Deliverable. All risk of loss will remain with the Contractor until title to the Deliverable passes to the State.

SOFTWARE MAINTENANCE. If this Contract involves any custom software as a Deliverable, then, during the warranty period, the Contractor will correct any material programming errors that are attributable to the Contractor, within a reasonable time, provided that the State notifies the Contractors, either orally or in writing, of a problem with the software and provides sufficient information to identify the problem. Contractor's response to a programming error will depend upon the severity of the problem. In the case of programming errors that slow the processing of data by a small degree, render minor and non-critical functions of the System inoperable or unstable, or require users or administrations to employ work-arounds to fully use the software, Contractor will respond to requests for resolution within four (4) business hours and begin working on a proper solution within one (1) business day, dedicating the resources of one (1) qualified programmer full-time to fixing the problem. In the case of any defects with more significant consequences, including those that render key functions of the software inoperable or significantly slow data processing, the Contractor will respond within two (2) business hours of notification and, if requested, provide on-site assistance and dedicate all available resources to resolving the problem.

For Commercial Software other than PC or PC-based server software costing less than $5,000.00 per copy or license, the Contractor will provide maintenance during the warranty period at no cost to the State. That maintenance will be the standard maintenance program that the licensor, whether the Contractor or a third party, normally provides to its client base. But, at a minimum, that maintenance program must include all new releases, updates, patches, and fixes to the commercial Software. It will also include a commitment to keep the software current with the operating environment in which it is designed to function and to correct material defects that the State finds in the software in a timely fashion.

Additionally, the Contractor will make (or obtain a commitment from the third-party licensor to make) maintenance available for the product for at least five (5) years after the warranty period. The Contractor will limit or obtain a commitment from the third-party licensor, if applicable, to limit increases in the annual

fee for maintenance to no more than five percent (5%) annually. If the licensor, whether it is the Contractor or a third-party, is unable to provide maintenance during that period, then the licensor must do one (1) of the following two (2) things: (a) give the State a pro rata refund of the license fee based on a five (5) year useful life; or (b) release the source code for the software to the State for use by the State solely for the purpose of maintaining the copy (ies) of the software for which the State has a proper license. For purposes of receiving the source code, the State agrees to treat is as confidential and to be obligated to the requirements under the Confidentiality Section of this Contract with respect to the source code. That is, with respect to the source code that the State gets under this section, the State will do all the things that the Confidentiality Section requires the contractor to do in handling the State's Confidential Information. In the case of third-party Commercial Software, the Contractor warrants that it has legally bound the third-party licensor to the obligations of this Contract or that the contractor has the right to make these commitments directly to the State.

For Commercial Software designed for PC or PC-based server platforms and costing less than $5,000.00 per copy or license, the Contractor will provide the maintenance and/or user assistance during the warranty period at no additional cost to the State that the Contractor or the third-party licensor makes generally available at no additional charge to its other customers.

That maintenance will be the standard maintenance program that the licensor, whether the Contractor or a third-party, normally provides to its client base.

UPGRADES. After an initial acquisition of a license in Commercial Software, the State may want to acquire a broader license than the original. Or the State may later want to migrate to another platform on which to use the Commercial Software. When the Contractor or third-party licensor make the broader license generally available to its customer base or makes the version of the Commercial Software that runs on the new platform to which the State wants to migrate, then the State will have a right to upgrade any of its licenses to that broader license or to acquire the version of the Software that is appropriate for the new platform that the State intends to use. In these cases, the Contractor will provide the broader license or other version of the Commercial Software in exchange for a license fee that is based on the lesser of the following:

(1) The Contractor's (or third parties) standard upgrade or migration fee.

(2) The upgrade or migration fee in Exhibit I.

(3) Or the difference between the license fee originally paid and the then-current license fee for the license or version of the Commercial Software that the State seeks to acquire. This will not apply to Commercial Software for PCs and PC-based server software with a license fee of less than $5,000.00, unless the Contractor or third-party licensor makes upgrade packages available for the Commercial Software to other customers. If PC or PC-based server software upgrades are available, the State will be entitled to the most favorable license fee on which such are made available to other similarly situated most favored customers or dealers, as appropriate.

EQUIPMENT MAINTENANCE. If this Contract involves computer or telecommunications hardware or other mechanical or electrical Equipment (use of the word "Equipment" means all the foregoing) as a Deliverable, then, during the warranty period and during any period covered by annual maintenance, the Contractor will provide Equipment maintenance to keep the Equipment in or restore the Equipment to good working order. This maintenance will include preventative and remedial maintenance, installation of safety changes, and installation of engineering changes based upon the specific needs of the individual item of Equipment. This maintenance will also include the repair, replacement, or exchange deemed necessary to keep the Equipment in good working order. For purposes of this Contract, Equipment restored to good working condition means Equipment that performs in accordance with the manufacturer's published specifications. The Contractor will exert its best efforts to perform all fault isolation and problem determination attributed to the Equipment covered under this Contract. The following services are outside the scope of this Contract:

(1) Maintenance to bring the Equipment into compliance with any law, rule, or regulation if such law, rule, or regulation was not in effect on the acceptance date.

(2) Repair and replacement work or increase in maintenance time as a result of damage or loss resulting from accident, casualty, neglect, misuse, or abuse if such is the State's fault (and beyond normal wear and tear), damage resulting from improper packing or failure to follow prescribed shipping instruction (If such is done by the State), failure of electrical power, air conditioning or humidity control, use of supplies not approved by the original manufacturer of the Equipment as describe or included in the Contractor's proposal, or causes other than ordinary use of Equipment.

(3) Furnishing platens, supplies, or accessories, making specification changes, or adding, or removing approved accessories, attachments or other devices except as set forth herein.

(4) Maintenance or increase in maintenance time resulting from any improper use, maintenance, or connection to other equipment (not done by the Contractor) that results in damage to the Equipment.

(5) Activities required restoring the Equipment to good operating condition if the problem has resulted from someone other than Contractor's authorized service personnel repairing, modifying or performing any maintenance service on the Equipment.

EQUIPMENT MAINTENANCE STANDARDS. This section applies if Equipment will be a Deliverable under this Contract. Except in the case of excusable delay, remedial Equipment maintenance by the Contractor will be completed within eight (8) business hours after notification by the State that maintenance is required. In the case of preventative maintenance, the Contractor will perform such in accordance with the manufacturer's published schedule and specifications. If maintenance is not completed within eight (8) hours after notification by the State, the Contractor will be in default. Failure of the Contractor to meet or maintain these requirements will provide the State with the same rights and remedies as specified elsewhere in this Contract for default, except that the Contractor will only have eight (8) hours to remedy a default. The Contractor will provide adequate staff to provide the maintenance required by this Contract.

EQUIPMENT MAINTENANCE CONTINUITY. This section applies if Equipment will be a Deliverable under this Contract. If the Contractor is unable to provide maintenance services to meet the State's ongoing performance requirements and if, in the State's sole opinion, the Contractor is unlikely to resume providing warranty services that meets the State's ongoing performance requirement, the Contractor will be in default, and the State will be entitled to the remedies in the default section of this Contract. But the State will also be entitled to the following items from the Contractor:

(1) All information necessary for the State to perform the maintenance, including but not limited to logic diagrams, maintenance manuals and system and unit schematics with all changes noted.

(2) A listing of suppliers capable of supplying necessary spare parts.

(3) Adequate information to permit the State to have spare parts manufactured elsewhere; and

(4) A listing of spare parts and their recommended replacement schedule that will enable the State to create a centralized inventory of spare parts.

Any information in items (1) through (4) above that the Contractor rightfully identifies as proprietary information will be maintained in confidence by the State except where disclosure to a third-party is necessary for the State to continue the maintenance. However, the State will require any third-party to whom disclosure is made to agree to hold the proprietary information in confidence and to make no further disclosure of it. Further, the State agrees that any such proprietary information will be used solely to perform maintenance for the State and will be returned to the Contractor or destroyed on completion of such use.

PRINCIPAL PERIOD OF MAINTENANCE (GENERAL). This section applies if software or Equipment will be a Deliverable under this Contract. Maintenance will be available nine (9) working hours per weekday, between 8:00 a.m. and 5:00 p.m. Eastern Standard Time. Travel time and expenses related to remedial and preventative maintenance will not be considered billable but will be included in the price of the maintenance.

MAINTENANCE ACCESS (GENERAL). The section applies if any software or Equipment will be a Deliverable under this Contract. The State will provide the Contractor with reasonable access to the Deliverable to perform maintenance. All maintenance that requires the Deliverable to be inoperable must be performed outside the State's customary working hours except when the Deliverable is already inoperable. Preventative or scheduled maintenance will be performed at mutually agreeable times, within the parameters of the manufacturer's published schedule.

DISTRIBUTORS AND DEALERS. The State authorizes the Contractor to name one or more dealers to work with the State on behalf of the Contractor. But if the Contractor decides to use any dealers, the Contractor must submit the name, address, and telephone number of any such dealer, as well as the dealer's purchase order and payment address (es) and Federal tax identification number. The Contractor must also submit a completed W9 form for each dealer it wishes to name under this section. The Contractor's submission must be on its official letterhead, signed by an authorized representative, and addressed to the Deputy Director, Office of Information Technology.

In doing so, the Contractor warrants that:

(1) The dealer has been given a copy of this Contract, and a duly authorized representative of the dealer has agreed, in writing, to be bound by the terms and conditions in this Contract.

(2) Such agreement specifically provides that it is for the benefit of the State as well as the Contractor.

(3) The Contractor agrees to remain liable under this Contract for the services of any dealer to perform and any breach of the dealer under this Contract.

(4) Payments under this Contract for the services of any dealer may be made directly to that dealer, and the Contractor will look solely to the dealer for any payments due the Contractor once the State has paid the dealer.

(5) To the extent that there is any liability to the State arising from doing business with a dealer that has not signed the agreement required under this section with the Contractor, the Contractor would indemnify the State for such liability.

If the Contractor wants to designate a dealer that will not receive payments (a "distributor"), the Contractor may do so by identifying the person or organization as a distributor in the authorizing letter. In such cases, information regarding taxpayer identification and payment addressing may be omitted, as may the distributor's W9 form. All other requirements and obligations for designating a dealer apply to designating a distributor.

LIMITATION OF LIABILITY. NOTWITHSTANDING ANY LIMITATION PROVISIONS CONTAINED IN THE DOCUMENTS AND MATERIALS INCORPORATED BY REFERENCE INTO THIS AGREEMENT, THE PARTIES AGREE AS FOLLOWS:

1. NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOST PROFITS, EVEN IF THE PARTIES HAD BEEN ADVISED, KNEW, OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

2. THE CONTRACTOR FURTHER AGREES THAT THE CONTRACTOR SHALL BE LIABLE FOR ALL DIRECT DAMAGES DUE TO THE FAULT OR NEGLIGENCE OF THE CONTRACTOR.

PAYMENT DUE DATE. Payments will be due on the thirtieth (30) day after the later of:

(1) The date the State actually receives a proper invoice at the office designated in the applicable purchase order to receive it; or

(2) The date the State accepts the products or services. The date the State issues a warrant (the State's equivalent to a check) in payment of an invoice will be considered the date payment is made. Without diminishing the Contractor's right to timely payment, the payment will be overdue only if it is not received by the thirtieth (30th) day after the payment's due date. If the State has not issued payment by then, interest will begin to accrue under Ohio Revised Code ("Code") Section 126.30.

INVOICE REQUIREMENTS. The Contractor must submit an original invoice with three (3) copies to the office designated in the purchase order as the "bill to" address. To be a proper invoice, the invoice includes the following information:

(1) Name and address of the Contractor as designated in this Contract.

(2) The Contractor's Federal tax identification number as designated in this Contract.

(3) The Contractor's invoice remittance address as designated in this Contract.

(4) The purchase order number authorizing the delivery of products or services.

(5) A description of what the Contractor delivered, including, as applicable, the time period, serial number, unit price, quantity, and total price of the products and services. If the invoice is for a lease, the Contractor must also include the payment number (e.g., 1 of 36). If an authorized dealer has fulfilled the purchase order, then the dealer's information should be supplied in lieu of the Contractor's information. If an invoice does not meet this section's requirements or if the Contractor fails to give proper notice of a price increase (see the next section), the State will send the Contractor written notice. The State will send the notice, along with the improper invoice, to the Contractor's address designated for receipt of purchase orders within fifteen (15) days. The notice will contain a description of the defect or impropriety and any additional information the Contractor needs to correct the invoice. If such notification has been sent, the payment due date will be thirty (30) days after the State receives a proper invoice and has accepted the Contractor's product or service.

OHIO PAYMENT CARD. Participating state agencies purchasing supplies from the Contract may use the Ohio Payment Card. Such purchases may not exceed $1,000 unless the Office of Budget & Management has approved the agency to exceed this limit. In the event that OBM increases the dollar limit for payment cards for all state agencies, notice of such increase will be posted on the DAS, Office of State Purchasing website. Participating state agencies are required to use the Ohio Payment Card in accordance with the Ohio, Office of Budget and Management's current guidelines for the Ohio Payment Card and the participating agency's approved plan filed with the Office of Budget of Management. Contractor may process a payment in the payment card network only upon delivery and acceptance of the supplies or services ordered. For partial deliveries or performance, Contractor may process a payment for the amount delivered or completed only and not for the entire amount ordered by the participating agency. Upon completion of the delivery of remaining supplies or services, Contractor may process a payment request in the payment card network for the remainder of the order. Contractor will receive payment through its merchant bank within the time frame agreed upon between Contractor and its merchant bank. The Contractor should expect normal processing fees from its merchant bank for payment card transaction which may not be passed on to the agency making the purchase.

NOTIFICATION OF PRICE INCREASES. If this Contract permits any price increases, the Contractor must notify the Deputy Director of the Office of Investment and Governance Division and any affected State customers of the increase at least sixty (60) days before the effective date of the price increase. State customers must be notified at their purchase order "bill to" address contained in the applicable purchase order(s). This notification must specify, when applicable, the product serial number, location, current price, increased price, and applicable purchase order number.

NON-APPROPRIATION OF FUNDS. The State's funds are contingent on the availability of lawful appropriations by the Ohio General Assembly. If the Ohio General Assembly fails to continue funding for the payments due hereunder, this Contract will terminate as of the date that the funding expires, and the State will have no further obligation to make any payments.

CONFIDENTIALITY. The State may disclose to the Contractor written material or oral or other information that the State treats as confidential ("Confidential Information). Title to the Confidential Information and all related materials and documentation the State delivers to the Contractor will remain with the State. The Contractor agrees to treat such Confidential Information as secret if it is so marked, otherwise identified as such, or when, by its very nature, it deals with matters that, if generally known, would be damaging to the best interests of the public, other contractors or potential contractors with the State, or individuals or organizations about whom the State keeps information. The Contractor agrees not to disclose any Confidential Information to third parties and to use it solely to perform under this Contract.

The State acknowledges that, in connection with this Agreement and its relationship with Contractor, it may obtain information relating to the Products or to Contractor that is of a confidential and proprietary nature ("Confidential Information"). Such Confidential Information may include, but is not limited to, trade secrets, know how, inventions, techniques, processes, programs, schematics, software source documents, data, financial information, and sales and marketing plans or information which the State knows or has reason to know is confidential, proprietary or trade secret information of Contractor. The State shall at all times, both during the term of this Agreement and for a period of at least three (3) years after its termination, keep in trust and confidence all such Confidential Information, and shall not use such Confidential Information other than as expressly authorized by Contractor under this Agreement, nor shall the State disclose any such Confidential Information to third parties without Contractor's written consent.

The parties' obligation to maintain the confidentiality of the Confidential Information will not apply where such: (1) was already in the possession of the Receiving Party before disclosure by the Disclosing Party, and was received by the Receiving Party without obligation of confidence; (2) is independently developed by the Receiving Party, provided documentary evidence exists to support the independent development; (3) is or becomes publicly available without breach of this Contract; (4) is rightfully received by the Receiving Party from a third party without obligation of confidence; (5) is disclosed by the Receiving Party with the written consent of the Disclosing Party; or (6) is released under a valid order of a court or governmental agency, provided that the Receiving Party (a) notifies the Disclosing Party of the order immediately upon receipt of it and (b) makes a reasonable effort to obtain a protective order from the issuing court or agency limiting disclosure and use of the Confidential Information solely for the purposes intended to be served by the original order of production. The Receiving Party will return all originals of any Confidential Information and destroy any copies it has made for its own internal use on termination or expiration of this Contract or as requested by the Disclosing Party.

The parties agree that the disclosure of the Confidential Information of the Disclosing Party in a manner inconsistent with the terms of this provision may cause the Disclosing Party irreparable damage for which remedies other than injunctive relief may be inadequate, and each Receiving Party agrees that in the event of a breach of the Receiving Party's obligations hereunder, the Disclosing Party shall be entitled to temporary and permanent injunctive relief to enforce the provisions hereof without the necessity of proving actual damages. This provision shall not, however, diminish or alter any right to claim and recover damages.

OBM CERTIFICATION. This Contract is subject to Code Section §126.07. Any orders under this Contract are void until the Director of the Office of Budget and Management certifies that there is a balance in the appropriation available to pay for the order.

TAXES. The State is exempt from all state and local taxes and does not agree to pay any taxes.

CONTRACT RENEWAL. This Contract may be renewed solely at the discretion of OIT for a period of one month. Any further renewals will be by agreement any number of times for any period of time. The cumulative time of all renewals may not exceed two years.

DELIVERIES. All deliveries will be F.O.B. Destination.

EQUAL EMPLOYMENT OPPORTUNITY. The Contractor will comply with all Ohio laws regarding equal employment opportunity including Ohio Revised Code Section §125.111, and all related Executive Orders of the Governor of Ohio.

DRUG FREE WORKPLACE. The Contractor will comply with all applicable Ohio laws regarding maintaining a drug-free workplace. The Contractor will make a good faith effort to ensure that all its employees, while working on State property, do not possess and will not be under influence of illegal drugs or alcohol or abuse prescription drugs.

OHIO ETHICS AND ELECTIONS LAW. The Contractor certifies that it is currently in compliance and will continue to adhere to the requirements of the Ohio ethics law, Ohio Revised Code Section §102.04. The Contractor affirms that, as applicable to the Contractor, no party listed in Division (I) or (J) of Section §3517.13 of the Ohio Revised Code or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of $1,000.00 to the Governor or to his campaign committees.

PUBLICITY. The Contractor will not advertise that it is doing business with the State or use this Contract as a marketing or sales tool, unless otherwise agreed to in writing by the State.

CONTROLLING BOARD AUTHORIZATION. The State's obligations under this Contract are subject to the Ohio Controlling Board's continuing authorization to use state term contracts. If the Ohio Controlling Board fails to authorize or withdraws its authorization for this program, this Contract will terminate, and the Contractor may not take any more orders under this Contract.

TRAVEL EXPENSES. Any travel or per diem required by the Contractor to do its obligations under this Contract will be at the Contractor's expense. The State will pay for any additional travel that it requests only with prior written approval. All additional travel and per diem that the State requests in addition to what this Contract requires the Contractor to provide at the Contractor's expense will be paid in accordance with the Office of Budget and Management's Travel Rules in Section §126-1-02 of the Ohio Administrative Code.

POLITICAL SUBDIVISIONS. This Contract may be relied on by Ohio political subdivisions, including Ohio cities and counties ("Political Subdivisions"). Whenever a Political Subdivision relies on this Contract to issue a purchase order, the Political Subdivision will step into the shoes of the State under this Contract for purposes of its order, and, as to the Political Subdivision's order, this Contract will be between the Contractor and the Political Subdivision. The Contractor will look solely to the Political Subdivision for performance, including but not limited to payment, and will hold the State harmless with regard to such orders and the Political Subdivision's performance. But the State will have the right to terminate this Contract and seek such remedies on termination as this Contract provides should the Contractor fail to honor its obligations under an order from a Political Subdivision. Nothing in this Contract requires the Contractor to accept an order from a Political Subdivision where the Contractor reasonably believes that the Political Subdivision is or will be unable to perform its obligations in relation to that order.

HEADINGS. The headings used in this Contract are for convenience only and will not be used in interpreting this Contract.

ASSIGNMENT. The Contractor will not assign this Contract without the written consent of the State.

ENTIRE DOCUMENT. This Contract, which includes Exhibit I and all documents referred to in this Contract, constitutes the entire agreement between the parties with respect to the subject matter and supersedes any previous agreements, whether oral or written.

BINDING EFFECT. This Contract will be binding on and inure to the benefit of the respective successors and assigns of the State and the Contractor.

AMENDMENTS – WAIVER. No amendment or modification of this Contract will be effective unless it is in writing and signed by both parties. The failure of either party at any time to demand strict performance by the other party of any of the terms of this Contract will not be construed as a waiver of any such term, and either party may at any time demand strict and complete performance by the other party.

SEVERABILITY. If any provision of this Contract is held by a court of competent jurisdiction to be contrary to law, the remaining provisions of this Contract will remain in full force and affect.

CONSTRUCTION. This Contract will be construed in accordance with the plain meaning of its language and neither for nor against the drafting party.

NOTICES. For any notice under this Contract to be effective it must be made in writing and sent to the address of the appropriate party first appearing above, unless such party has notified the other party, in accordance with the provisions of this section, of a new mailing address. This notice requirement will not apply to any notices that this Contract expressly authorizes to be made orally.

CONTINUING OBLIGATIONS. The terms, conditions, representations, and warranties contained in this Contract will survive the termination or expiration of the time for completion of any Deliverable and the time for meeting any final payment of compensation.

ORDER OF PRIORITY. If there is any inconsistency or conflict between this document and any provision of anything incorporated by reference, this document will prevail.

ENTIRE AGREEMENT. This Contract consists of the Contractor's Schedule Contract (see Composition of Contract Section above), this Contract document, the Contractor's state offer letter, and, if applicable, the Contractor's letter(s) designating dealers (and/or distributors), and any price lists or catalogs specifically mentioned elsewhere in this Contract. The foregoing constitutes the entire agreement between the parties, and any changes or modifications to this Contract must be in writing.

SUBCONTRACTING. The State through Office of Information Technology, Contract Management recognizes that it may be necessary for the Contractor to use a subcontractor to perform a portion of the work under the Contract. In those circumstances, the Contractor shall submit a list identifying its subcontractors or joint venture partners performing portions of the work under the Contract. If any changes occur during the term of the Contract, the Contractor shall supplement its list of subcontractors or joint venture business partners. In addition, all subcontractors or joint venture business partners agree to be bound by all of the Terms and Conditions and specifications of the Contract. The State through Office of Information Technology, Contract Management reserves the right to reject any subcontractor submitted by the Contractor.

LAW. This Contract is governed by and will be construed under Ohio law, and venue for any dispute will be with the appropriate court in Franklin County, Ohio.

TO SHOW THEIR AGREEMENT, the parties have executed this Contract on the date(s) below and unless otherwise indicated is effective as of the date of signature by the State.

THE CONTRACTOR
CAREWORKS TECHNOLOGIES

By: _____

Title: SR. VICE PRESIDENT.

Date: 6/23/06

STATE OF OHIO,
DEPARTMENT OF ADMINISTRATIVE SERVICES,
INVESTMENT AND GOVERNANCE DIVISION

Mary F. Carroll

Mary F. Carroll
Director, Ohio Office of Information Technology
State Chief Information Officer

By: _____

Date: 6-27-06

Revised: 08-24-05 LA 6-21-06