

STATE TERM CONTRACT

THIS CONTRACT (the "Contract") is between the State of Ohio ("State"), through its Department of Administrative Services, General Services Division, at 4200 Surface Road, Columbus, Ohio, 43228 and GL Suite, Inc. (dba GL Solutions) ("Contractor"), with offices at 3020 NW Merchant Way, Bend, OR, 97701.

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 may enter into a contract with the manufacturer provided that the manufacturer offers its products and ancillary services at the same prices that the manufacturer offers those products and services to the US Government under the GSA's Multiple Award Schedule program or SmartBuy program. Or if the manufacturer has no contract under the GSA's Multiple Award Schedule program or SmartBuy program, the State will accept the pricing the manufacturer offers to its distributors. Further, if the manufacturer has no GSA Multiple Award Schedule or SmartBuy contract and no distributors, the State may accept the prices that the manufacturer offers to its 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 a service area. Because of this, the State may sometimes agree to work directly with a manufacturer's dealers.

However, if the Contractor is not the manufacturer of the products or services under this Contract, the Contractor must submit a letter from the manufacturer that assures the State that the Contractor is an authorized dealer in the manufacturer's products or services. The letter also must assure the State that the Contractor will have sufficient quantities of the offered products for the duration of the Contract to meet the State's needs under the Contract during the initial term and any extensions. Further, the letter must identify each of the manufacturer's product and service that the Contractor will supply under this Contract. The letter also must contain an assurance of the availability through the dealer of repair services and spare parts for products covered by this Contract for five years from the date of purchase. It also must contain an assurance that software maintenance will be available under the terms of this Contract either from the dealer or the manufacturer for six years from the date of acceptance. (This assurance is not necessary for PC and PC-based server software with a perpetual license fee of less than \$10,000.00 per copy.) The dealer must submit the letter, signed by an authorized representative of the manufacturer, with the executed copies of this Contract.

This Contract establishes terms and conditions under which State agencies (including any board, instrumentality, commission, or other political body) and Ohio political subdivisions, such as counties, municipalities, and townships, may acquire the Contractor's products or services at the pricing identified below. This Contract, however, only permits such; it is not a requirements contract and does not obligate any State agency or political subdivision to acquire the Contractor's products or services.

TERMS AND CONDITIONS

1 - TERM

- 1.1 **TERM.** This Contract is effective on the date the State's duly authorized representative executes it, as evidenced by the date appearing with the representative's signature, below. Unless this Contract is terminated or expires without renewal, it will remain in effect until the end of the State's current fiscal biennium, which is June 30, 2013. Termination or expiration of this Contract will not limit the Contractor's continuing obligations with respect to Deliverables that the State paid for before termination or limit the State's rights in such.

2 - PRICING AND PAYMENT

- 2.1 **CERTIFICATION OF ACCURACY.** By checking one of the following three items, the Contractor certifies that the Contractor's prices under this Contract are:

The prices at which the Contractor currently offers each product and service to the US Government under the GSA's Multiple Award Schedule program;

The prices at which the Contractor currently offers each product and service to the US Government under the GSA's SmartBuy program; or

- X The best prices at which the Contractor has offered each product and service to its most favored customers within one year before the date the Contractor executed this Contract or adds the product or service to this Contract, whichever is later.

If the Contractor is offering prices based on its most favored customer prices, the Contractor represents that it does not have a GSA Multiple Award Schedule or SmartBuy contract.

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

The Contractor further certifies that the above representations will apply and be true with respect to all future pricing information submitted to revise this Contract.

- 2.2 PRICE ADJUSTMENTS.** If the Contractor has relied on its GSA Multiple Award Schedule pricing or its GSA SmartBuy pricing, the State will be entitled to any price decreases that the Contractor offers to the GSA for any of its products and services during the term of this Contract. The Contractor must notify the State of any reduction in its GSA Multiple Award Schedule or SmartBuy pricing within 30 days of its occurrence and immediately reduce the price of the affected products or services to the State under this Contract.

If the Contractor has relied on its best customer pricing, the State will be entitled to a price decrease any time the Contractor or any of its dealers or distributors under this Contract sells a product or a service to any of its customers for less than the price agreed to between the State and the Contractor under this Contract. Any time the Contractor or any of its dealers or distributors under Section 3.1 of this Contract sells a product or provides a service to any customer for less than it is then available to the State under this Contract, the Contractor must notify the State of that event within 30 days of its occurrence and immediately reduce the price of the affected products or services to the State under this Contract.

The Contractor also must notify the State within 30 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 may ask to renegotiate the Contract price for the products and services affected by the general reduction in price. If the Contractor and the State cannot agree on a renegotiated price, then on written notice to the Contractor, the State may immediately remove the affected products and services from this Contract.

- 2.3 PRICELIST.** The Contractor's pricelist for the products and services that the Contractor may provide to the State under this Contract is attached as Exhibit I. For convenience, those products and services are called "Deliverables" in this Contract. Any custom materials resulting from the Contractor's services also are called "Deliverables" in this Contract. The Contractor may not provide any other Deliverables under this Contract without a prior written amendment to this Contract that both the State and the Contractor have signed. Furthermore, the Contractor may not charge the State greater prices for these Deliverables 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, a description of the Contractor's products and services, and the prices for those products and services, those terms or conditions are excluded from this Contract and are of no effect. Exhibit I is identified as the following pricelist:

Exhibit I – Price List Template for GL Suite

The Contractor will not sell to the State any notebook computers with less than a 1.60 GHz internal clock speed. Additionally, the Contractor will not sell to the State any PCs or servers using CPUs with less than a 3.0 GHz internal clock speed. Additionally, the Contractor will not sell to the State any term software licenses. And except in the case of operating systems licensed in conjunction with

desktop PCs, notebook computers, PDAs, and similar personal computing devices that the OEM does not distribute without an operating system, the Contractor will not sell or license any Microsoft software to the State. If any of the foregoing items are listed in the Contractor's pricelist, they are deleted for purposes of this Contract.

2.4 Payment Due Date. Payments will be due on the 30th day after the later of:

- (a) The date the State actually receives a proper invoice at the office designated in the applicable purchase order to receive it; or
- (b) The date the State accepts the Deliverable.

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 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 (the "Code") § 126.30.

2.5 Invoice Requirements. The Contractor must submit an original invoice with three copies to the office designated in the purchase order as the "bill to" address. To be a proper invoice, the invoice must include the following information:

- (a) Name and address of the Contractor as designated in this Contract;
- (b) The Contractor's federal tax identification number as designated in this Contract;
- (c) The Contractor's invoice remittance address as designated in this Contract;
- (d) The purchase order number authorizing the delivery of the Deliverables;
- (e) A description of the Deliverables, including, as applicable, the time period, serial number, unit price, quantity, and total price of the Deliverables; and

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 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 30 days after the State receives a proper invoice and has accepted the Contractor's Deliverable.

2.6 OHIO PAYMENT CARD. Participating State agencies issuing orders under this Contract may use the Ohio Payment Card. Such purchases may not exceed \$2,500 unless the Office of Budget and Management ("OBM") has authorized the agency to exceed this limit. If OBM increases the dollar limit for payment cards for all State agencies, the State will post notice of that on its Procurement Website. Participating State agencies are required to use the Ohio Payment Card in accordance with OBM's current guidelines for the Ohio Payment Card and the agency's approved plan filed with the OBM. The Contractor may process a payment in the payment card network only upon delivery and acceptance of the applicable Deliverables. For partial deliveries or performance, the Contractor may process a payment for the amount delivered or completed only and not for the entire amount ordered by the ordering agency. Upon completion of the delivery of remaining Deliverables, the Contractor may process a payment request in the payment card network for the remainder of the order. The Contractor should receive payment through its merchant bank within the time agreed upon between the Contractor and its merchant bank. The Contractor should expect normal processing fees from its merchant bank for payment card transactions, which the Contractor may not pass on to the State.

2.7 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 any payments due hereunder, the order or orders under this Contract that are affected by the lack of funding will terminate as of the date that the funding expires, and the State will have no further obligation to make any payments with respect to the affected order or orders.

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

- 2.9 CONTROLLING BOARD AUTHORIZATION.** The State's obligations under this Contract are subject to the Ohio Controlling Board continuing to authorize the State's use of its term contracts program. If the Ohio Controlling Board fails to authorize or withdraws its authorization for this program, this Contract will terminate immediately, and the Contractor may not take any more orders under it.
- 2.10 TRAVEL EXPENSES.** Any travel that the Contractor requires to perform 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. The State will pay for all additional travel expenses that it requests in accordance with OBM's travel policy in Rule 126-1-02 of the Ohio Administrative Code (the "Administrative Code").
- 2.11 TAXES.** The State is exempt from all sales, use, excise, and property taxes and will not pay any such taxes. To the extent sales, use, excise, or any similar taxes are imposed on the Contractor in connection with any Deliverable, the Contractor must pay those taxes together with any interest and penalties not successfully disputed with the taxing authority.
- 2.12 OFFSET.** The State may set off any amounts the Contractor owes to the State under this or other contracts against any payments due from the State to the Contractor under this or any other contracts with the State.

3 - CONTRACT ADMINISTRATION

- 3.1 DEALERS AND DISTRIBUTORS.** 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, principal business address, addresses for purchase orders and for payments, telephone number, and its federal tax identification number. The Contractor also must 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 State Chief Information Officer, Office of Information Technology. In doing so, the Contractor warrants that:
- (a) The Contractor has provided the dealer with 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.
 - (b) Such agreement specifically provides that it is for the benefit of the State as well as the Contractor.
 - (c) The Contractor will remain liable under this Contract for the services of any dealer and will remedy any breach of the dealer under this Contract.
 - (d) 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 to the Contractor once the State has paid the dealer.
 - (e) 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 will 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.

The State strongly encourages the participation of small and disadvantaged businesses in its contracting programs and has created a certification program to Encourage Diversity Growth and Equity (EDGE) in State contracting. State agencies are instructed to include in their procurements such participation, including through the use of State Term Schedule contracts that are either held by EDGE businesses or that offer the opportunity to work with EDGE dealers or distributors.

- 3.2 AUDITS.** During the term of this Contract and for three 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 also will apply to the State's duly authorized representatives and any organization providing funding 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 the facilities where the Contractor substantially performed under this Contract. If this is not practical, the Contractor must 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 any entity with audit rights requests access to the records. The Contractor must do so within 15 days of receiving the State's written notice of its intent to audit the Contractor's records and must notify the State as soon as the records are ready for audit.

If any audit reveals any material misrepresentation or overcharge to the State, the State will be entitled to recover its damages, including the cost of the audit.

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

- a. Workers' compensation insurance, as required by Ohio law, and if some work will be done outside Ohio, the laws of the appropriate states where work will be done. The Contractor also must maintain employer's liability insurance with at least a \$1,000,000.00 limit.
- b. Commercial General Liability insurance coverage for bodily injury, personal injury, wrongful death, and property damage. The defense cost must be outside of the policy limits. Such policy must designate the State of Ohio as an additional insured, as its interest may appear. The policy also must be endorsed to include a blanket waiver of subrogation. At a minimum, the limits of the insurance must be:

- \$ 2,000,000 General Aggregate
- \$ 2,000,000 Products/Completed Operations Aggregate
- \$ 1,000,000 Per Occurrence Limit
- \$ 1,000,000 Personal and Advertising Injury Limit
- \$ 100,000 Fire Legal Liability
- \$ 10,000 Medical Payments

The policy must be endorsed to provide the State with 30-days prior written notice of cancellation or material change to the policy. And the Contractor's Commercial General Liability must be primary over any other insurance coverage.

- a. Commercial Automobile Liability insurance with a combined single limit of \$500,000.
- b. Professional Liability insurance covering all staff with a minimum limit of \$1,000,000 per incident and \$3,000,000 aggregate. If the Contractor's policy is written on a "claims made" basis, the Contractor must provide the State with proof of continuous coverage at the time the policy is renewed. If for any reason the policy expires, or coverage is terminated, the Contractor must purchase and maintain "tail" coverage through the applicable statute of limitations.

All certificates 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 carriers. All carriers must have at least an "A-" rating by A.M. Best.

3.4 CONTRACT COMPLIANCE. Any State agency that uses this Contract will be responsible for the administration of this Contract with respect to the orders that it places and may monitor the Contractor's performance and compliance with this Contract. If an agency becomes aware of any noncompliance with the terms of this Contract or the specifications of an order, the agency may document the noncompliance and give the Contractor written notice of the noncompliance for immediate correction. If the Contractor fails to cure the noncompliance, the agency may notify the State through the Department of Administrative Services, Office of State Purchasing, by executing a Complaint to Vendor form to help resolve the issue. Should the State determine that the form identifies an uncured breach of this Contract, the State may terminate this Contract and seek such other remedies as may be available to it.

3.5 POLITICAL SUBDIVISIONS. Ohio political subdivisions, such as Ohio cities, counties, and townships ("Political Subdivisions"), may rely on this Contract. 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 must look solely to the Political Subdivision for performance, including but not limited to payment, and must 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, if the Contractor reasonably believes that the Political Subdivision is or will be unable to perform its obligations in relation to that order.

3.6 RECALLS. If a Deliverable is recalled, seized, or embargoed, or if the Contractor, a manufacturer, packer, processor, or regulatory body finds that a Deliverable has been misbranded, adulterated, or is unsafe, the Contractor must notify the State, through the Department of Administrative Services, Office of State Purchasing, as well as all agencies that have ordered the Deliverable, within ten business days after the Contractor learns of any of the above events. At the option of the State, the Contractor must either reimburse the State for the purchase price of each affected Deliverable or provide an equal or better replacement for each Deliverable at no additional cost to the State. The Contractor also must remove and replace all affected Deliverables within a reasonable time, as determined by the State. Further, at the option of the State, the Contractor may be required to reimburse the State for storage costs and handling fees, which the State may calculate from the time of delivery of each affected Deliverable to the Deliverable's actual removal. Furthermore, the Contractor must bear all costs associated with the removal and proper disposal of the affected Deliverables. The State will treat any failure to refund the purchase price or provide a suitable replacement within a reasonable time, not to exceed 30 days, as a default.

3.7 TERMINATION. The State may terminate this Contract or any order under this Contract if the Contractor defaults in meeting its obligations and fails to timely cure its default. The State also may terminate this Contract or any order under it if a petition in bankruptcy is filed by or against the Contractor and not dismissed within 60 days. And the State may terminate this Contract or any order under it if the Contractor violates any law or regulation while performing under this Contract or if it appears to the State that the Contractor's performance is substantially endangered through no fault of the State. In all of the foregoing cases, the termination will be for cause.

On written notice, the Contractor will have 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 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, the applicable orders, or both immediately upon written notice to the Contractor. Some provisions of this Contract may provide for a shorter cure period than 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 also may terminate this Contract in the case of breaches that are cured within 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 two times. After the second such notice, the State may terminate this Contract without a cure period if the Contractor again fails to meet any obligation. The three defaults do not have to relate to the same obligation or type of failure.

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

Any notice of termination 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 also must 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 the affected orders by using another vendor or vendors on such commercially reasonable terms and conditions as it and the covering vendors may agree. The Contractor will be liable to the State for all costs related to covering for the affected orders to the extent that such costs exceed the costs that the State would have incurred under this Contract for those orders. The Contractor also will be liable for any other direct damages resulting from its breach of this Contract or other event 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 the State determines that it owes the Contractor.

- 3.8 EXCUSABLE DELAY.** Neither party will be liable for any delay in its performance under this Contract that arises from causes beyond its reasonable control and without its negligence or fault. The delayed party must notify the other promptly of any material delay in performance and must specify in writing the proposed revised performance date as soon as practicable after notice of delay. For any such excusable delay, the date of performance or delivery will be extended for a period equal to the time lost by reason of the excusable delay. The delayed party also must describe the cause of the delay and what steps it then is taking or will take to remove the cause. The delayed party may not rely on a claim of excusable delay to avoid liability for a delay if the party has not taken commercially reasonable steps to mitigate or avoid the delay.
- 3.9 INDEPENDENT STATUS.** The parties will be acting as independent entities. The partners, employees, officers, directors, and agents of one party may only act in the capacity of representatives of that party and not as employees, officers, directors, or agents of the other party and will not be deemed as such for any purpose. Each party assumes full responsibility for the actions of its partners, employees, officers, directors, and agents while performing under this Contract and will be solely responsible for paying those people. Additionally, each party will be solely responsible for withholding and paying social security and income taxes, making workers' compensation contributions, paying disability benefits, and providing fringe benefits, if any, for its partners, employees, officers, directors, and agents, and neither party may legally bind the other party in any manner.
- 3.10 LOCATION OF SERVICES AND DATA.** As part of this Contract, the Contractor must disclose the following:
- (a) All locations where any services will be performed;
 - (b) All locations where any State data applicable to the Contract will be maintained or made available; and
 - (c) The principal place of business for the Contractor and all its subcontractors.

The Contractor may not change any location where any services are performed to a location outside the country of the original location or change any location where the data is maintained or made available to any other location outside the country of the original location without prior written approval of the State, which the State will not be obligated to provide.

4 - DELIVERY AND ACCEPTANCE

- 4.1 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 30 days after installation to do this. The State will not issue a formal letter of acceptance, and passage of 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 noncompliance letter, the Contractor will have 30 days to correct the problems listed in the 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 letter has been cured. If the problems have been fixed during the 30-day period, the State will issue the acceptance letter within 15 days after all defects have been fixed.

4.2 **TITLE.** Title to any Deliverable will pass to the State only on acceptance of the Deliverable, and all risk of loss will remain with the Contractor until title to the Deliverable passes to the State.

4.3 **DELIVERIES.** The Contractor must make all deliveries F.O.B. destination.

5 - INTELLECTUAL PROPERTY

5.1 **COMMERCIAL MATERIAL.** As used in this section, "Commercial Material" means anything that the Contractor or a third party has developed at private expense and that is commercially available in the marketplace, subject to intellectual property rights, and readily susceptible to copying through duplication on magnetic media, paper, or other media. Examples include the written reports, books, pictures, videos, movies, computer programs, 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 an Exhibit to this Contract, 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 following, perpetual rights, subject to the next paragraph. The State may:

- (1) Use and copy the Commercial Software 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) Use or copy the Commercial Software for use with a backup computer for disaster recovery and disaster recovery testing purposes or if any computer for which it was acquired is inoperative;
- (3) Reproduce the Commercial Software for archival, image management, and backup purposes;
- (4) Modify, adapt, and combine the Commercial Software with other computer software, provided that the modified, combined, and adapted portions of the derivative software incorporating any of the Commercial Software will be subject to same restrictions on use;
- (5) Disclose to and reproduce the Commercial Software for use on behalf of the State by support service contractors or their subcontractors, subject to the same restrictions on use; and
- (6) Use or copy the Commercial Software for use with a replacement computer.

In the case of any other scope of license (e.g., MIPs, tier, concurrent users, enterprise, site, or otherwise), the foregoing will apply except as expressly modified 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 also will 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.

The State will treat any Commercial Software as Confidential Information, in accordance with the requirements of the Confidential Information section of this Contract, if the Commercial Software is clearly and conspicuously labeled as confidential or secret.

5.2 **CUSTOM DELIVERABLES.** All custom work done by the Contractor and covered by this Contract will belong to the State, with all rights, title, and interest in all intellectual property that comes into existence through the Contractor's work under this Contract being assigned to the State. Additionally, the Contractor waives any shop rights, author rights, and similar retained interests in any such custom developed materials. The Contractor must provide the State with all assistance reasonably needed to vest such rights of ownership in the State. However, 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 grants 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. The Contractor may 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 desire to the State and obtain written approval from the State for doing so in advance. On the request of the Contractor, the State will incorporate any proprietary notice that 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.

5.3 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 must 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 may not disclose any Confidential Information to third parties and must use it solely to perform under this Contract.

If any Deliverables contain data, documentation, or other written information that is confidential in nature and properly labeled as such, then it also will be Confidential Information for purposes of this section. The State will keep all such Confidential Information in confidence and will not use it other than as authorized under this Contract. Nor will the State disclose any such Confidential Information to any third party without first obligating the third party to maintain the secrecy of the Confidential Information.

If one party discloses Confidential Information ("Disclosing Party") to the other party to this Contract ("Receiving Party"), the Receiving Party's obligation to maintain the confidentiality of the Confidential Information will not apply where such:

- (1) Was already in the possession of the Receiving Party without an obligation of confidence;
- (2) Is independently developed by the Receiving Party, provided documentary evidence exists to support the independent development;
- (3) Except as provided in the next paragraph, is or becomes publicly available without a breach of this Contract;
- (4) Is rightfully received by the Receiving Party from a third party without an 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 the disclosure and use of the Confidential Information solely for the purposes intended to be served by the original order of production.

Information that may be available publicly through other sources about people that is personal in nature, such as medical records, addresses, phone numbers, social security numbers, and similar things are nevertheless sensitive in nature and may not be disclosed or used in any manner except as expressly authorized in this Contract. Therefore, item (3) in the preceding paragraph does not apply, and the Contractor must treat such information as Confidential Information whether it is available elsewhere or not.

Except for Confidential Information that the Contractor delivers to the State and that is part of a Deliverable or necessary for the proper use or maintenance of a Deliverable, the Receiving Party must return all originals of any Confidential Information and destroy any copies it has made on termination or expiration of this Contract.

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 will be entitled to temporary and permanent injunctive relief to enforce the provisions of this Contract without the necessity of proving actual damages. However, provision does not diminish or alter any right to claim and recover damages.

- 5.4 USE OF NAME.** The Contractor may not publicize that it is doing business with the State or use this Contract or the Contractor's relationship with the State as a marketing or sales tool, unless the State agrees otherwise in writing. The State has no obligation to agree to any such advertising, publicity, sales, or marketing activities.

6 – TRANSACTION REPORTING

- 6.1 Contractor's SALES REPORT.** The Contractor must report the quarterly dollar value (in US currency rounded to the nearest whole dollar) of the sales under this Contract each calendar quarter (i.e., January-March, April-June, July-September and October-December). The dollar value of the sales reported must equal the price paid by all State agencies and Political Subdivisions for Deliverables under this Contract during the reporting period.

The Contractor must report the quarterly dollar value of sales to the State via the Internet using the Web form at the Department of Administrative Services, OIT vendor portal, <https://cm.ohio.gov>. If no sales occur, the Contractor must show zero sales on the report. The report must be submitted 30 days after the completion of the reporting period.

The Contractor also must submit a closeout report within 120 days after the expiration of this Contract. The Contract expires on the physical completion of the last, outstanding task or delivery order of the Contract. The closeout 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 sales in the closeout report.

If the Contractor fails to submit any sales report in a timely manner or falsifies any sales report, the State may terminate this Contract for cause.

- 6.2 Contractor's REVENUE SHARE.** The Contractor must pay the State a share of the sales transacted under this Contract. The Contractor must remit the revenue share in US dollars within 30 days after

the end of the quarterly reporting period. The revenue share that the Contractor must pay equals .0075 of the total quarterly sales reported. The revenue share is included in the prices reflected on Exhibit I and reflected in the total amount charged to ordering activities, and the Contractor may not add a surcharge to orders under this Contract to cover the cost of the revenue share.

The Contractor must remit any amount due as the result of a quarterly or closeout report at the time the quarterly or closeout report is submitted to the Department of Administrative Services, Office of State Purchasing. The Contractor also must pay the revenue share by check. To ensure the payment is credited properly, the Contractor must identify the check as a "Revenue Share" and include the applicable State Term Contract Number, total report amount, and reporting period covered.

The Contractor must make each check payable to "Treasurer, State of Ohio", and forward it to the following address:

Department of Administrative Services
GSD Business Office
4200 Surface Road
Columbus, OH 43228

If the full amount of the revenue share is not paid within 30 days after the end of the applicable reporting period, the non-payment will constitute a contract debt to the State. The State may setoff any unpaid revenue share from any amount owed to the Contractor under this Contract and employ all other remedies available to it under Ohio law for the non-payment of the revenue share. Additionally, if the Contractor fails to pay the revenue share in a timely manner, the failure will be a breach of this Contract, and the State may terminate this Contract for cause and seek damages for the breach.

7 - WARRANTIES AND LIABILITIES

7.1 WARRANTIES. The Contractor warrants that the recommendations, guidance, and performance of the Contractor and all Deliverables under this Contract will:

- (a) Be in accordance with the sound professional standards and the requirements of this Contract and without any material defects;
- (b) Not infringe on the intellectual property rights of any third party;
- (c) Be the work solely of the Contractor, unless otherwise provided in this Contract; and
- (d) Be merchantable and fit for the particular purpose for which the Deliverables were acquired.

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

- (a) The Contractor has the right to enter into this Contract;
- (b) The Contractor has not entered into any other contracts or employment relationships that restrict the Contractor's ability to perform under this Contract;
- (c) 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;
- (d) The Contractor has good and marketable title to any products delivered under this Contract and in which title passes to the State; and
- (e) The Contractor has the right and ability to grant the license provided 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 must correct such failure with all due speed, not to exceed 30 days, or refund the amount of the compensation paid for the Deliverable. The Contractor also must indemnify the State for any direct damages and any claims by third parties based on any breach of these warranties.

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

- (a) The software will operate on the computer(s) for which the software is intended in the manner described in the relevant software documentation;
- (b) The software will be free of material defects;
- (c) The Contractor will deliver and maintain relevant and complete software documentation, commentary, and source code;
- (d) 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
- (e) 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 to make the following warranties and commit to the following maintenance obligations. During the warranty period described in the next paragraph, the Contractor must:

- (a) Maintain or cause the third-party licensor to maintain the Commercial Software so that it operates in the manner described in its documentation;
- (b) Supply technical bulletins and updated user guides;

- (c) Supply the State with all updates, improvements, enhancements, and modifications to the Commercial Software and documentation and, if available, the commentary and the source code;
- (d) Correct or replace the software and remedy any material programming error that is attributable to the Contractor or the third-party licensor; and
- (e) Maintain or obtain 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 \$10,000.00 per license or per copy, the warranty period will be the longer of one year after acceptance or the licensor's standard warranty period. For Commercial Software designed for PC or PC-based servers and costing less than \$10,000.00 per license or per copy, the warranty period will be the longer of three 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 must 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 Contractor must provide the source code in the language in which it was written and must include such commentary or annotations as would 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.

- 7.3 EQUIPMENT WARRANTY.** If any computer hardware or other type of electrical equipment ("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 the State modifies or damages after title passes to it. The warranty period for all Equipment will be the longer of one year after the State accepts the Equipment or the Contractor's standard warranty period.

If any Equipment does not meet the above warranties during the applicable warranty period, the Contractor must fix the nonconforming Equipment so it performs substantially in accordance with its user manuals, technical materials, and related publications, replace the Equipment, or grant the State a refund equal to the amount it paid for the Equipment. The Contractor must either fix or replace the Equipment or refund the purchase price to the State with all due speed, not to exceed seven days in the case of a fix or a replacement or 30 days in the case of a refund. The Contractor will be responsible for all shipping costs associate with fixing, replacing, or returning any defective equipment.

- 7.4 INDEMNITY.** The Contractor must 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 its performance under this Contract, provided such bodily injury or property damage is due to the negligence or other tortious conduct of the Contractor, its employees, agents, or subcontractors. The Contractor also must indemnify the State against any claim of infringement of a copyright, patent, trade secret, or other 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 will 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 of the following four things:

- (a) Modify the Deliverable so that it is no longer infringing;
- (b) Replace the Deliverable with an equivalent or better item;

- (c) Acquire the right for the State to use the Deliverable as it was intended for the State to use under this Contract; or
- (d) 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.

7.5 LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS CONTRACT OR ANYTHING INCORPORATED BY REFERENCE INTO THIS CONTRACT, THE PARTIES AGREE AS FOLLOWS:

- (a) 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 HAVE BEEN ADVISED, KNEW, OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.
- (b) THE CONTRACTOR WILL BE LIABLE FOR ALL DIRECT DAMAGES DUE TO THE FAULT OR NEGLIGENCE OF THE CONTRACTOR OR ITS BREACH OF ANY PROVISION OF THIS CONTRACT.

8 - MAINTENANCE

8.1 SOFTWARE MAINTENANCE. If this Contract involves any custom software as a Deliverable, then during the warranty period, the Contractor must correct any material programming errors that are attributable to the Contractor within a reasonable time, provided the State notifies the Contractor, either orally or in writing, of a problem with the software and provides sufficient information to identify the problem. The 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 workarounds to fully use the software, the Contractor must respond to requests for resolution within four business hours and begin working on a proper solution within one business day, dedicating the resources of one 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 must respond within two 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 \$10,000.00 per copy or license, the Contractor must provide maintenance during the warranty period at no cost to

the State. At a minimum, that maintenance must be the standard maintenance program that the licensor, whether the Contractor or a third party, normally provides to its client base. That maintenance program must include all new releases, updates, patches, and fixes to the Commercial Software. It also must include a commitment to keep the software current with the operating environment in which it is designed to function and a commitment to promptly correct all material defects in the software.

Additionally, the Contractor will make (or obtain a commitment from the third-party licensor to make) maintenance available for the software for at least five years after the warranty period. 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 of the following things: (a) give the State a *pro rata* refund of the license fee based on a five-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 any copies of the software for which the State has a proper license. The State will treat the source code as Confidential Information under the Confidentiality Section of this Contract. 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 \$10,000.00 per copy or license, the Contractor must provide the same maintenance and user assistance during the warranty period at no additional cost to the State as the Contractor or the third-party licensor makes generally available at no additional charge to its other customers.

8.2 SOFTWARE 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 for 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:

- (a) The Contractor's (or third party licensor's) standard upgrade or migration fee;
- (b) The upgrade or migration fee in Exhibit I; or
- (c) 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.

The foregoing will not apply to Commercial Software for PCs and PC-based server software with a license fee of less than \$10,000.00, 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 most favored customers or dealers, as appropriate.

8.3 EQUIPMENT MAINTENANCE. If this Contract involves computer or telecommunications hardware or other mechanical or electrical equipment ("Equipment") as a Deliverable, then, during the warranty period and during any period covered by annual maintenance, the Contractor must provide maintenance to keep the Equipment in or restore the Equipment to good working order. This maintenance must 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 also must 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 order means Equipment that performs in accordance with the manufacturer's published specifications. The Contractor must use its best efforts to perform all fault isolation and problem determination attributed to the Equipment. The following services are outside the scope of this Contract:

- (a) 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;
- (b) 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 in the Equipment's documentation, or causes other than ordinary use of Equipment;
- (c) Furnishing platens, supplies, or accessories, making specification changes, or adding or removing approved accessories, attachments, or other devices except as permitted in the Equipment's user documentation;
- (d) Maintenance or increased 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;
- (e) Repairs needed to restore the Equipment to good operating condition if the Equipment has been damaged by anyone other than the Contractor's authorized service personnel repairing, modifying, or performing maintenance on the Equipment.

8.4 EQUIPMENT MAINTENANCE STANDARDS. Except in the case of excusable delay, remedial Equipment maintenance by the Contractor will be completed within eight 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 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 hours to remedy a default. The Contractor will provide adequate staff to provide the maintenance required by this Contract.

8.5 EQUIPMENT MAINTENANCE CONTINUITY. If the Contractor is unable to provide Equipment maintenance 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. The State will also be entitled to the following items from the Contractor:

- (a) 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;
- (b) A listing of suppliers capable of supplying necessary spare parts;
- (c) Adequate information to permit the State to have spare parts manufactured elsewhere; and
- (d) A listing of spare parts and their recommended replacement schedule to enable the State to create a centralized inventory of spare parts.

The State will treat as Confidential Information in accordance with the Confidentiality Section of this Contract any information in items (a) through (d) above that the Contractor rightfully identifies in writing as confidential. And when disclosure to a third-party is necessary for the State to continue the maintenance, the State will require any third-party to whom disclosure is made to agree to hold the Confidential Information in confidence and to make no further disclosure of it. Further, the State agrees that any such Confidential Information will be used solely to perform maintenance for the State and will be returned to the Contractor or destroyed when such use is no longer needed.

8.6 PRINCIPAL PERIOD OF MAINTENANCE (GENERAL). Software and Equipment maintenance must be available nine 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 billable and must be included in the price of the maintenance.

8.7 MAINTENANCE ACCESS (GENERAL). For all Software and Equipment maintenance under this Contract, the State will provide the Contractor with reasonable access to the Deliverable to perform maintenance. All maintenance that requires a 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 must be performed at mutually agreeable times, within the parameters of the manufacturer's published schedule.

9 - ASSIGNMENT AND SUBCONTRACTING

9.1 ASSIGNMENT. The Contractor may not assign this Contract without the written consent of the State, which the State will not be obligated to provide.

9.2 SUBCONTRACTING. The State recognizes that it may be necessary for the Contractor to use subcontractors to perform portions of the work under this Contract. In those circumstances, before the Contractor engages any such subcontractor, the Contractor must submit a list identifying its subcontractors or joint venture partners performing portions of the work under the Contract. If any changes to that list occur during the term of the Contract, the Contractor must immediately provide the State an updated list of subcontractors or joint venture business partners. In addition, all subcontractors and joint venture business partners must agree in writing to be bound by all of the terms and conditions of this Contract and any specifications of any order under this Contract for which they perform work. The State may reject any subcontractor submitted by the Contractor.

10 - CONSTRUCTION

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

10.2 ENTIRE DOCUMENT. This Contract, which includes the Contractor's pricelist attached as 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.

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

- 10.4 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 or conditions of this Contract may not be construed as a waiver of any those terms or conditions, and either party may at any time demand strict and complete performance by the other party.
- 10.5 SEVERABILITY.** If a court of competent jurisdiction finds any provision of this Contract to be unenforceable, the remaining provisions of this Contract will remain in full force and affect.
- 10.6 CONSTRUCTION.** This Contract must be construed in accordance with the plain meaning of its language and neither for nor against the drafting party.
- 10.7 NOTICES.** For any notice under this Contract to be effective, the noticing party must make it in writing and sent it to the address of the other party first appearing above, unless that party has notified the other party, in writing and in accordance with the provisions of this section, of a new mailing address for the receipt of notices. This notice requirement will not apply to any notices that this Contract expressly authorizes to be made orally.
- 10.8 CONTINUING OBLIGATIONS.** Any terms, conditions, representations, or warranties contained in this Contract that must survive termination or expiration of this Contract to be fully effective will survive the termination or expiration of the Contract. Additionally, termination or expiration of this Contract will not affect the State's right to continue to use any Deliverable for which it has paid, including licensed material. And no termination or expiration of the Contract will affect the State's right to receive maintenance, warranty work, or other services for which the State has paid.
- 10.9 PRIORITY.** If there is any inconsistency or conflict between this document and any provision of anything incorporated by reference, this document will prevail.
- 10.10 DAYS.** When this Contract refers to days, it means calendar days, unless it expressly provides otherwise.

11 - LAW AND COURTS

- 11.1 EEO.** The Contractor must comply with all Ohio laws regarding equal employment opportunity, including among others Code § 125.111, as well as all related Executive Orders of the Governor of Ohio.
- 11.2 DRUG FREE WORKPLACE.** The Contractor must comply with all Ohio laws regarding maintaining a drug-free workplace and make a good faith effort to ensure that all its employees do not possess and are not under influence of illegal drugs or alcohol or abuse prescription drugs while working on State property.
- 11.3 OHIO ETHICS LAW AND LIMITS ON POLITICAL CONTRIBUTIONS.** The Contractor certifies that it is currently in compliance and will continue to adhere to the requirements of the Ohio ethics laws. The Contractor hereby certifies that all applicable parties listed in Ohio Revised Code Section 3517.13 are in full compliance with of Ohio Revised Code Section 3517.13.
- 11.4 SECURITY & SAFETY RULES.** When using or possessing State data or accessing State networks and systems, the Contractor must comply with all applicable State rules, policies, and regulations regarding data security and integrity. And when on any property owned or controlled by the State, the Contractor must comply with all security and safety rules, regulations, and policies applicable to people on those premises.
- 11.5 LAW AND VENUE.** This Contract is governed by and will be construed under Ohio law, and venue for all disputes will lie exclusively with the appropriate court in Franklin County, Ohio.
- 11.6 UNRESOLVED FINDINGS.** The Contractor represents that it is not subject to an unresolved finding for recovery under Code § 9.24. If this warranty proves false when the parties sign this Contract, the Contract will be void. Additionally, if this representation proves false on the date of any renewal or extension of the Contract, the renewal or extension will be void.

11.7 **TERROR DECLARATION.** In accordance with R.C. 2909.33(C), Contractor certifies that it meets one of the following conditions:

(a) Contractor has **not** received, nor will receive as a result of this contract, an aggregate amount greater than one hundred thousand dollars (\$100,000) in business or funding, excluding personal benefits, from the state, instrumentalities, or political subdivisions during the current fiscal year;
or

(b) (1) Contractor has received, or will receive as a result of this contract, an aggregate amount greater than one hundred thousand dollars (\$100,000) in business or funding, excluding personal benefits, from the state, instrumentalities, or political subdivisions during the current fiscal year.
and,

(2) Contractor has either precertified with the Office of Budget and Management, or has completed the attached Declaration of Material Assistance form certifying that Contractor has not provided material assistance to any organization on the Terrorist Exclusion List, as that term is defined in R.C. 2909.21.

11.8 **ANTITRUST.** The State and the Contractor recognize that, in actual economic practice, overcharges resulting from antitrust violations are usually borne by the State. The Contractor therefore assigns to the State all state and federal antitrust claims and causes of action that the Contractor has or acquires relating to the goods and services acquired under this Contract.

11.9 **11.9 Governing the Expenditure of Public Funds on Offshore Services (EO 2011-12K).** The Contractor affirms to have read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of this Contract. Notwithstanding any other terms of this Contract, the State reserves the right to recover any funds paid for services the Contractor performs outside of the United States for which it did not receive a waiver. The State does not waive any other rights and remedies provided the State in this Contract.

The Contractor agrees to complete the attached Executive Order 2011-12K Affirmation and Disclosure Form which is incorporated and becomes a part of this Agreement.

To SHOW THEIR AGREEMENT, the parties have executed this Contract on the date(s) identified below, and this Contract will be effective as of the date it is signed on behalf of the State.

CONTRACTOR

STATE OF OHIO,
DEPARTMENT OF ADMINISTRATIVE SERVICES
OFFICE OF STATE PURCHASING

BY: [Signature] CEO

BY: [Signature]
ROBERT BLAIR, DIRECTOR,
DEPARTMENT OF ADMINISTRATIVE SERVICES

DATE: 08/29/2012

DATE: 9-13-13

Product Name	Manufacturer Part No.	Vendor Part No.	Description	Unit of Measure	State Price	List Price	Optional/License Type	Contact GL Solutions	URL Product Specs/Details	UNSPSC Code
Project Initiation for GL Suite™ Application	GL Suite, Inc. dba GL Solutions	2011-Project Initiation-0001	Initiation fee for new GL Suite™ sensors system installation project	Per install project	\$ 10,000.00	\$ 10,000.00		541.312.3662 phone	http://www.glsolutions.com	
Installation Cost for GL Suite™ Application	GL Suite, Inc. dba GL Solutions	2011-Installation Cost-0002	Fee assessed per user for GL Suite™ application installation & configuration	Per named user	\$ 5,000.00	\$ 5,000.00	Requires 2011-Project Initiation	541.312.3662 phone	http://www.glsolutions.com	
Online Verification for GL Suite™ Application	GL Suite, Inc. dba GL Solutions	2011-Verification-0003	Set-up fee for enabling online verification of license per license type	Per license type	\$ 1,280.00	\$ 1,280.00	Requires 2011-Project Initiation	541.312.3662 phone	http://www.glsolutions.com	
Online Renewal Site Set-up for GL Suite™ Application	GL Suite, Inc. dba GL Solutions	2011-Renewal Set-up-0004	Site set-up fee for enabling online renewal of license	Per install project	\$ 4,982.50	\$ 4,982.50	Requires 2011-Project Initiation	541.312.3662 phone	http://www.glsolutions.com	
Online Renewals for GL Suite™ Application	GL Suite, Inc. dba GL Solutions	2011-Online Renewals-0005	Fee for enabling online renewal process per license type	Per license type	\$ 1,600.00	\$ 1,600.00	Requires 2011-Renewal Set-up	541.312.3662 phone	http://www.glsolutions.com	
Online Application Site Set-up for GL Suite™ Application	GL Suite, Inc. dba GL Solutions	2011-Application Set-up-0006	Site set-up fee for enabling online applications for license	Per install project	\$ 3,200.00	\$ 3,200.00	Requires 2011-Project Initiation	541.312.3662 phone	http://www.glsolutions.com	
Online Applications for GL Suite™ Application	GL Suite, Inc. dba GL Solutions	2011-Online Applications-0007	Fee for enabling online application process per license type	Per license type	\$ 3,200.00	\$ 3,200.00	Requires 2011-Application Set-up	541.312.3662 phone	http://www.glsolutions.com	
Interfaces for GL Suite™ Application	GL Suite, Inc. dba GL Solutions	2011-Interfaces-0008	Set-up fee for interfacing GL Suite™ application to basic 3rd party systems (complex interfaces may be more)	Per interface	\$ 3,200.00	\$ 3,200.00	Requires 2011-Project Initiation	541.312.3662 phone	http://www.glsolutions.com	
Support Option #1 - GL Simple Enterprise for GL Suite™	GL Suite, Inc. dba GL Solutions	2011-GL Simple Enterprise-0009	All-inclusive maintenance, warranty and dedicated support model includes all system changes, enhancements, modifications throughout life of contract	Per named user / year	\$ 5,568.00	\$ 5,568.00	Requires 2011-Project Initiation	541.312.3662 phone	http://www.glsolutions.com	
Support Option #2 - GL Simple Professional for GL Suite™	GL Suite, Inc. dba GL Solutions	2011-GL Simple Professional-0010	All-inclusive maintenance, warranty and dedicated support model includes all system changes, enhancements, modifications throughout life of contract	Per named user / year	\$ 3,045.00	\$ 3,045.00	Requires 2011-Project Initiation	541.312.3662 phone	http://www.glsolutions.com	
Support Option #3 - GL Simple Standard for GL Suite™	GL Suite, Inc. dba GL Solutions	2011-GL Simple Standard-0011	All-inclusive maintenance, warranty and dedicated support model includes all system changes, enhancements, modifications throughout life of contract	Per named user / year	\$ 1,523.00	\$ 1,523.00	Requires 2011-Project Initiation & minimum of 8 named users	541.312.3662 phone	http://www.glsolutions.com	
Support Option #4 - Basic for GL Suite™	GL Suite, Inc. dba GL Solutions	2011-Basic Technical Support-0012	Basic technical, maintenance and warranty plan with dedicated support. (Does NOT INCLUDE changes, enhancements & modifications)	Per named user / year	\$ 1,036.00	\$ 1,036.00	Requires 2011-Project Initiation	541.312.3662 phone	http://www.glsolutions.com	
Support Option #5 - Limited for GL Suite™	GL Suite, Inc. dba GL Solutions	2011-Limited Support-0013	Limited technical support and warranty. (Does NOT INCLUDE enhancements & modifications)	Per named user / year	\$ 508.00	\$ 508.00	Requires 2011-Project Initiation	541.312.3662 phone	http://www.glsolutions.com	
Support Option #6 - Professional Support Plan for GL Suite™	GL Suite, Inc. dba GL Solutions	2011-Professional Support Plan-0014	Configuration, troubleshooting, disaster recovery, backup, hardware, network and security tips, architecture and Best Practice Guidance, Online Remote Support, Account Management, GL Suite Web Courses, Core Software Documentation, New Software Versions, and Core Software Patents. (Does NOT INCLUDE changes, enhancements & modifications)	Per named user / year	\$8,500.00	\$ 6,500.00	Requires 2011-Project Initiation	541.312.3662 phone	http://www.glsolutions.com	

Installation Licensing Fee for CL Suite™ Application*	CL Suite, Inc. dba CL Solutions	2011-Install Licensing-0015	2011-Install Licensing-0015	Set-up fee for licensing CL Suite application for use by named user	Per named user	varies	varies	Initiation. Price = \$4,000/ user for first 10 users, \$300/ user for users 11-50, \$200/ user for users 51-100. (*) Not applicable if CL Suite™ Application is selected	http://www.gisolutions.com
Upgrade Subscription*	CL Suite, Inc. dba CL Solutions	2011-Upgrade Subscription-0018	2011-Upgrade Subscription-0018	Upgrade Subscription for CL Suite™ Application	15% of Installation Licensing Cost	varies	varies	(*) Not applicable if CL Suite™ support plan is selected	http://www.gisolutions.com
Project Escalation Fee -CL Simple Standard for CL Suite™	CL Suite, Inc. dba CL Solutions	2011-Project Escalation Standard-0019	2011-Project Escalation Standard-0019	Fee per additional project needed for CL Suite Application for rate of return within window for rate of return within Support Option #1 - 3, 2011-CL Simple Enterprise-0008, 2011-CL Simple Professional-0010 and 2011-CL Simple Standard-0011.	Per Project	\$ 8,120.00	\$ 8,120.00	Requires 2011-Project Initiation	http://www.gisolutions.com
Project Escalation Fee -CL Simple Professional for CL Suite™	CL Suite, Inc. dba CL Solutions	2011-Project Escalation Professional-0020	2011-Project Escalation Professional-0020	Fee per additional project needed for CL Suite Application for rate of return within window for rate of return within Support Option #1 - 3, 2011-CL Simple Enterprise-0008, 2011-CL Simple Professional-0010 and 2011-CL Simple Standard-0011.	Per Project	\$ 5,075.00	\$ 5,075.00	Requires 2011-Project Initiation	http://www.gisolutions.com
Project Escalation Fee -CL Simple Enterprise for CL Suite™	CL Suite, Inc. dba CL Solutions	2011-Project Escalation Enterprise-0021	2011-Project Escalation Enterprise-0021	Fee per additional project needed for CL Suite Application for rate of return within window for rate of return within Support Option #1 - 3, 2011-CL Simple Enterprise-0008, 2011-CL Simple Professional-0010 and 2011-CL Simple Standard-0011.	Per Project	\$ 5,075.00	\$ 5,075.00	Requires 2011-Project Initiation	http://www.gisolutions.com
Task Escalation Fee -CL Simple Standard for CL Suite™	CL Suite, Inc. dba CL Solutions	2011-Task Escalation Standard-0022	2011-Task Escalation Standard-0022	Fee per additional task needed for CL Suite Application return window for rate of return within Support Option #1 - 3, 2011-CL Simple Enterprise-0008, 2011-CL Simple Professional-0010 and 2011-CL Simple Standard-0011.	Per Task	\$ 812.00	\$ 812.00	Requires 2011-Project Initiation	http://www.gisolutions.com
Task Escalation Fee -CL Simple Professional for CL Suite™	CL Suite, Inc. dba CL Solutions	2011-Task Escalation Professional-0023	2011-Task Escalation Professional-0023	Fee per additional task needed for CL Suite Application return window for rate of return within Support Option #1 - 3, 2011-CL Simple Enterprise-0008, 2011-CL Simple Professional-0010 and 2011-CL Simple Standard-0011.	Per Task	\$ 812.00	\$ 812.00	Requires 2011-Project Initiation	http://www.gisolutions.com
Task Escalation Fee -CL Simple Enterprise for CL Suite™	CL Suite, Inc. dba CL Solutions	2011-Task Escalation Enterprise-0024	2011-Task Escalation Enterprise-0024	Fee per additional task needed for CL Suite Application return window for rate of return within Support Option #1 - 3, 2011-CL Simple Enterprise-0008, 2011-CL Simple Professional-0010 and 2011-CL Simple Standard-0011.	Per Task	\$ 558.25	\$ 558.25	Requires 2011-Project Initiation	http://www.gisolutions.com

GL Suite Software and Software Support Agreement

Date of Agreement: _____

Parties to this agreement:

GL Suite, Inc., an Oregon corporation ("Company"), and
_____, an agency of the State of _____ ("Licensee").

GL Suite Software

This section applies to the following part #'s:

2011-Project Initiation-0001
2011-Installation Cost-0002
2011-Verification-0003
2011-Renewal Set-up-0004
2011-Online Renewals-0005
2011-Application Set-up-0006
2011-Online Applications-0007
2011-Interfaces-0008
2011-GL Simple Enterprise-0009
2011-GL Simple Professional-0010
2011-GL Simple Standard-0011
2011-Basic Technical Support-0012
2011-Limited Support-0013
2011-Professional Support Plan-0014
2011-Install Licensing-0015
2011-Upgrade Subscription-0018
2011-Project Escalation Standard-0019
2011-Project Escalation Professional-0020
2011-Project Escalation Enterprise-0021
2011-Task Escalation Standard-0022
2011-Task Escalation Professional-0023
2011-Task Escalation Enterprise-0024

Also refer to Pricing & Initial Scope of Work Addendums attached hereto.

1. **Grant of License.** Company grants to Licensee and Licensee accepts from Company a non-exclusive, non-transferrable, perpetual license and right to use GL Suite software (the "Software") on the terms and conditions set forth in this Agreement, exclusively for the following purposes:

(a) Licensee's employees may use the Software for the purpose of performing their regulatory and support functions for Licensee.

(b) Licensee may install Software on one Internet server accessed by any agency employee. Licensee may install Software on an additional Internet server which mirrors

the initial server for the purpose of balancing the application hardware load among more than one server.

(c) Licensee may install Software on one or more servers for the purpose of confirming the functionality of the software in a test environment. Licensee may not allow use of Software on a testing server for the purpose of editing production or live data.

(d) Licensee may use the Software to support customers, licensees, and other third-parties for the purpose of providing these persons the ability to apply, renew and verify a license, permit, or registration and related information, documents and enforcement actions. Licensee may connect third-party software to the Software through Company provided interfaces to support the use identified in this paragraph.

(e) Company perpetually licenses to Licensee the rights to develop new customized functionality, create and modify database objects, stored procedures, tables, fields and structures, create and modify customized reports and otherwise make customizations to the Software for the exclusive use of Licensee. All such developments by Licensee shall be considered part of the "Software."

(f) The "Software" includes all new releases and versions, and Customizations, as described in Section 7.

(g) Licensor agrees that transfers between state entities are permitted.

2. Certain Limitations. The Software license granted by this agreement is limited.

(a) Licensee may not use, copy, modify, or transfer the Software, or any copy, in whole or in part, except as expressly provided for in this agreement.

(b) Licensee may copy the Software only for backup and disaster recovery purposes, provided that Licensee reproduces all copyright and other proprietary notices that are on the original copy of the Software provided to Licensee.

(c) Company retains all rights, title and interest in and to all software, documentation, derivative works and other intellectual property developed, designed, created or contributed by Company pursuant to this Agreement, excluding Licensee's domain name, and excluding the graphics and data supplied by Licensee.

(d) Licensee may transfer the Software and all rights under this agreement to another party together with a copy of this agreement if the other party agrees to accept the terms of this agreement and Licensee receives written authorization directly from Company prior to any such transfer. If Licensee transfers the Software, Licensee must at the same time either transfer all copies whether in printed or machine-readable form to the same party or destroy any copies not transferred. Any attempt to transfer any of the rights, duties, or obligations hereunder except as expressly provided for in this agreement is void.

(e) Licensee may not rent, lease, loan, resell for profit, distribute, or network the Software except as otherwise provided in this agreement.

(f) Licensee agrees not to disassemble, decompile, translate or convert into human readable form or into another computer language, reconstruct or decrypt, or reverse engineer, all or any part of the Software to develop new software with some or all of the functions of the Software.

(g) In the event Company ceases to exist and fails to assign its rights in the Software to another entity, Licensee shall have the right to make modifications of the Software source code notwithstanding the terms of this paragraph.

(h) Licensee shall not donate, distribute, license, sell or otherwise authorize the use or possession of modifications to any person other than Licensee's employees and consultants who have a need to know for agency internal business purposes.

(i) Any software, reports, data structures, and other work product created as a consequence of Software Support Services shall become the exclusive property of Company. Company licenses without additional charge Custom Programs to Licensee. License shall include all rights granted under the Software License and the additional rights to decompile and modify the software, reports, data structures, and other work product created as a consequence of Customization Services.

3. Intellectual Property Protection. This Agreement does not provide Licensee with title to or ownership of the Software, but only a right of limited use. Licensor shall have sole and exclusive ownership of all right, title and interest in and to the Software, all copies thereof, all derivative works, Program Concepts, and all related works and materials (including ownership of all copyrights, trademarks and other intellectual property rights pertaining thereto), in any media now existing or subsequently developed, whether created by Licensor or any other party, subject to the rights of Licensee expressly granted herein. Licensee agrees to protect Company's interest in the Software, as follows.

(a) Licensee agrees to allow access or use of the Software only by employees of Licensee or by contractors who have a need to know for agency internal business purposes. .

(b) Licensee agrees to maintain the confidentiality of the Software including all concepts, documentation, methods, processes and ideas, and the structure, sequence, and organization, designs, data models, tables and set-ups, and interfaces embodied, or expressed therein (the "Program Concepts") and to use same only as expressly authorized in this License. Licensee shall not disclose, provide, or make the Software or Program Concepts available in any form or medium to any person, in whole or in part, except on a confidential basis to such of Licensee's employees and consultants who need to access the Software to enable Licensee to exercise its rights under this License. Licensee shall take reasonable steps to ensure that such employees and consultants will keep the Software and Program Concepts confidential, Licensee shall include all proprietary, copyright, trademark, design right and trade secret legends, in the same form and location as the legend appearing on the Software on all authorized backup and archival copies of

the Software. Further, Licensee shall not remove any proprietary, copyright, trademark, design right or trade secret legend from the Software.

(c) Licensee shall, at its own expense, keep the Software free and clear of all levies, liens and encumbrances. Licensee shall give Company immediate notice of any attachment or other judicial process affecting the Software.

4. **No Adequate Remedy**. Licensee agrees that should it breach or threaten to breach any provision of this section, Company will suffer irreparable damages and its remedy at law will be inadequate. Upon any breach or threatened breach of this section by Licensee, Company shall be entitled to seek injunctive relief in addition to any other remedy which it may have at law or in equity.

5. **License Fees**. As consideration for the license granted hereunder Licensee shall pay a "License Fee" in the amount and payable at the time(s) as provided in the Initial Scope of Work Addendum attached hereto.

Software Support Services and Plans

This section applies to the following part #'s:

2011-GL Simple Enterprise-0009
2011-GL Simple Professional-0010
2011-GL Simple Standard-0011
2011-Basic Technical Support-0012
2011-Limited Support-0013
2011-Professional Support Plan-0014
2011-Install Licensing-0015
2011-Upgrade Subscription-0018
2011-Project Escalation Standard-0019
2011-Project Escalation Professional-0020
2011-Project Escalation Enterprise-0021
2011-Task Escalation Standard-0022
2011-Task Escalation Professional-0023
2011-Task Escalation Enterprise-0024

Also refer to Pricing & Initial Scope of Work Addendums attached hereto.

6. Software Support Services and Plans. Company offers Software Support Services to Licensee. As described in Section 7, Software Support Services include Help Desk Support, Training and Documentation, and Software Patches and Releases. In addition, and also as described in Section 7, Software Support Services include all Customizations, Enhancements and Corrections, Conversion Services, , including such services that are provided prior to production use of the Software in a live environment. The specific Software Support Services to be provided to Licensee, and the fees therefore, shall be determined by the type of Software Support Plan(s) purchased by Licensee pursuant to Section 8.

7. "Software Support Services" means any of the following services:

(a) Help Desk Support

i. 24 X 7 Emergency Support - Company provides access to a technical representative, who can be reached 24 hours a day, seven days a week to resolve critical issues.

ii. End-User Support – Company provides end-user support including telephone support for user-level questions about how to use Software to perform the user's job function.

iii. Configuration Troubleshooting – Licensee may call and get support from Company when Licensee's IT staff need help modifying the configuration of the software. Company will provide guidance, troubleshooting

and examples on how to configure screens, fields, rules, reports and correspondence.

iv. Developer-to-Developer Support – Company provides access to Company software developers when Licensee’s professional IT staff need help with web site development, third-party application integration, custom GUIs, etc.

v. Hardware, Network and Security Tips – Company provides technical-level guidance to Licensee’s staff to assist with hardware and network and security specifications. Company will offer suggestions on redundancy, load balancing, firewall configuration, etc

vi. Architecture and Best Practice Guidance – Company will provide assistance to solve complex software design or architectural problems through access to Company’s analysts. Company provides comprehensive business analysis and application component support.

vii. Online Remote Desktop Support – Company provides Licensee with Software Support Services that allow Company to view and interact with Licensee’s desktop computer to troubleshoot problems and demonstrate functionality.

viii. Account Management – Company will assign an Account Manager who monitors Licensee’s issues, coordinates regular service release installation, and tracks Licensee’s business process cycles to help Licensee prepare for renewals and other busy times. The Account Manager is available for periodic reviews on the status of open issues and future goals.

ix. Local User Group Support – Company provides remote support for periodic meetings between Licensee and other local licensees of the Software. Support by Company includes providing existing training documentation, train-the-trainer support, technical support, product guidance, and remote presentations in support of the periodic meetings.

(b) Training and Documentation

i. GL Suite Web Courses – Company offers Licensee opportunities to attend regularly scheduled, live training sessions on the configuration of screens, security, rules, correspondence, reports and more. Courses via remote desktop demonstrations and conference call.

ii. Agency-Specific Process Training – Company provides Licensee’s employees with training on the use of the software to perform specific Licensee business processes.

iii. Software Training – Company provides Licensee technical staff with training on the administration, maintenance and configuration of the Software.

iv. Core Software Documentation – Company provides access to application use, administration and configuration manuals via the Company web site.

v. User Conference in Bend, OR – Licensee may attend Company’s annual User Conference in Bend, Oregon. The User Conference includes opportunities to: meet and learn from staff at other agencies that are using the Software, attend information and training sessions on new features, and meet directly with Company’s staff.

(c) Software Patches and Releases

i. New Software Versions – Company produces and makes available to Licensee an enhanced version of the Software under the same Software license terms of this agreement. An enhanced version of the software contains new or improved functionality not included in a previous version of the software, including but not limited to new releases to support compatibility with new releases of the Microsoft operating systems known as Windows Server and desktop operating systems, Microsoft Internet Explorer and Microsoft Office. Company may elect at Company’s sole discretion the features and compatibility of new releases. Company provides access to new versions of the Software on Company’s web site, along with documentation on changes, enhancements and installation instructions.

ii. Installation of New Software Versions – Company provides remote installation services for new versions of GL Suite.

iii. Core Software Patches – Company produces and makes available to Licensee a version of the Software that corrects Software defects or errors that prevent the Software from providing the functionality described in the Software documentation. Company provides access to Core Software Patches on Company’s web site, along with documentation on changes and installation instructions. Core software refers to the base, pre-configured/customized software application only.

iv. Installation of Core Software Patches - Company provides remote installation services for Core Software Patches of the Software.

(d) Customization, Enhancement and Corrections

i. Company provides services to specify, configure, design, program, test, implement, correct and document the Software as required to meet the business needs of the agency (such services collectively “Customizations”), pursuant to a written Scope of Work Addendum as agreed upon by Company and Licensee (the description of a Customization in a Scope of Work Addendum a “Specification”). For purposes of determining applicable fees, Customizations are classified as “Customization Projects” or “Customization Tasks,” as described in this Section 7(d).

ii. Customization Projects –

- (1) A proposed Customization is a “Customization Project” if it includes the following: 1) functionality requests that require coordination between Company and a third-party; 2) functionality requests with three or more finite deliverables which must be delivered in a specific sequence to meet the Licensee’s business requirements; or 3) service or functionality which requires the presence of a Company employee onsite at Licensee’s place of business.
- (2) Company may determine a request is more than one Customization Projects if the activities are designed to produce more than one specific final output, the activities may start and stop independently of one another, an output is being produced for more than one internal or external customer, or the process steps substantially vary to produce the specific final output.
- (3) Company designed the Software for the purpose of meeting multiple Licensee needs without modification of software code distributed to all Licensees. Customization Projects may include configuration of the Software, or other modifications to the Software, as determined by Company. Configuration includes making changes to the Software through existing Software interfaces designed for such purposes including, but not limited to, creating screens, fields, reports, business logic and correspondence. Company retains the right to determine whether the functionality requirements shall be provided by configuration of the Software or by other means.

Company shall periodically create a project timeline which identifies the latest date by which each party must perform specific duties in this contract in order to deliver timely Customization Projects.

iii. Customization Tasks – A “Customization Task” is a single request for a modification or defect correction of a customization of the Software except: 1) requests that are a Customization Project; or 2) an enhancement or defect in a Customization Project reported within thirty days following the delivery of a Customization Project or Task.

iv. Defect Correction – Company provides corrections to Customizations for thirty days following delivery of the Customization or Task. A “correction” means causing the functionality to perform in material conformity with an applicable Specification.

v. Installation of Configuration and Customization Corrections – Company provides remote installation services for configuration and customization corrections.

vi. Company may subdivide a Customization or other Software Support Service deliverable into one or more discrete deliverables for acceptance and payment by Licensee, as may be agreed to by Licensee in an applicable Scope of Work Addendum or an accepted Software Support Service request.

vii. Licensee acknowledges that failure to timely review or test scope deliverables or to allocate sufficient and timely staff resources necessary to accomplish the purpose of this contract shall delay the provision of Customization Projects, Tasks or Defect Corrections. The extent of the delay shall be determined by Company after consideration of Company's prior commitments to third parties, available Company resources, and Licensee's business needs.

(e) **Conversion Services** - Company transfers data from delimited or fixed length ASCII text files or an ODBC compliant data source to the Software. Transfer of data means the manipulation of data from a data source to the table structure utilized by Software. Currently used software must be intended to perform functionality similar to the functionality of Licensed Software. Conversion Services does not include the identification or correction of data-entry or normalization errors present in legacy systems. Licensee produces legacy data in the Company specified format along with documentation that describes the legacy data structure, relationships, fields and tables in sufficient detail to enable Company to convert the data to a format utilized by Software.

8. Software Support Plans. Licensee shall have the right and option to purchase Software Support Services from Company until _____. Licensee may purchase Software Support Services under a GL Simple Plan and/or a combination of Basic Technical Support Plans, Limited Support Plans, Professional Support Plans, Hourly-Rate Support or Fixed-Priced Support, as selected by Licensee (each a "Software Support Plan"), as described in this Section 8. The Software Support Plan(s) purchased by Licensee shall be specified on the Initial Scope of Work Addendum, and on any subsequent Scope of Work Addendum, at the STS pricing. No Scope of Work Addendum shall be effective unless approved in writing by both Company and Licensee and purchase order if applicable

(a) "GL Simple Plan." Under the "GL Simple" plan Customizations, Help Desk Support, Training and Documentation, Software Patches and Releases, are provided by Company to Licensee on a month-to-month basis at a predetermined, fixed monthly cost.

i. Licensee may elect one of the following GL Simple service level agreements ("SLA"). Maximum Customization Tasks/Customization Projects per SLA:

SLA	Max Customization Tasks	Max Customization Projects
Standard 2011-GL Simple Standard-0011	0.50 tasks/user/year	0.10 projects/user/year
Professional	4 tasks/user/year	0.25 projects/user/year

2011-GL Simple Professional-0010		
Enterprise 2011-GL Simple Enterprise-0009	7 tasks/user/year	0.5 projects/user/year

ii. Fractional numbers of Customization Projects or Tasks will be rounded to the nearest whole number.

iii. Every SLA requires a minimum of one Customization Project per year, and a maximum of 12 Customization Projects per year.

iv. Every Professional SLA requires a minimum of twenty-four Customization Tasks per year. Every Enterprise SLA requires a minimum of forty-eight Customization Tasks per year.

v. Licensees purchasing a GL Simple Software Support Services must purchase a support plan for the number of actual named users of the Software or two users, whichever is greater. Licensees with 8 or fewer named users may not purchase the Standard SLA. Licensees with more than 75 named users may purchase GL Simple for a maximum of 75 named users but shall receive Software Patches and Releases for all actual users of the Software.

vi. Licensee may request any number of Customization Projects or Tasks in a given year and Company shall provide Software Support Services to the Licensee for those requests in the order specified by the Licensee, until Licensee's requests meet the maximum number of Customization Projects or Tasks purchased under Licensee's GL Simple Plan. If Licensee requests additional Customization Projects or Tasks in excess of the maximum number purchased under Licensee's GL Simple Plan, Licensee may incrementally increase the number of Customization Projects or Tasks within the SLA by paying an "Escalation Fee" in the amount applicable pursuant to the Pricing Addendum.

vii. Licensee must purchase GL Simple Enterprise (2011-GL Simple Enterprise-0009) SLA for a period beginning with the execution of this Agreement until not earlier than the date of the first production usage of the Software.

viii. Certain project management, Training and Conversion Services may be considered Customization Projects provided under a GL Simple Plan, as may be agreed upon by Company and Licensee pursuant to the Initial Scope of Work Addendum or subsequent Scope of Work Addendum.

(b) Other Support Plans. In lieu of or in addition to the GL Simple Plan, Licensee may purchase Software Support Services pursuant to the following Software Support Plans.

(c) "Basic Technical Support Plan" (2011-Basic Technical Support-0012) means the provision of certain Support Services by Company to Licensee for a one year period at a predetermined, fixed cost. Technical Support Plans include only the provision of Software Support Services listed under the headings Help Desk Support, Training and Documentation, Software Patches and Releases, and the specific support for Defect Correction and Installation of Configuration and Customization Corrections.

(d) "Limited Support Plan" (2011-Limited Support-0013) means the provision of certain Support Services by Company to Licensee for a one year period at a predetermined, fixed cost. Basic Support Plans include only the provision of Software Support Services listed under the headings End-User Support and Defect Correction and Installation of Configuration and Customization Corrections.

(e) "Professional Support Plan" (2011-Professional Support Plan-0014) means the provision of certain Support Services by Company to Licensee for a one year period at a predetermined, fixed cost. To be eligible, Licensee's IT staff must possess prerequisite experience or education to purchase this plan. Professional Support Plans include only the following Software Support Services: Configuration Troubleshooting, Developer-to-Developer Support, Hardware, Network and Security Tips, Architecture and Best Practice Guidance, Online Remote Desktop Support, Account Management, GL Suite Web Courses, Core Software Documentation, New Software Versions, and Core Software Patches.

(f) "Hourly Rate Support" means the purchase Software Support Services on a time and materials basis.

i. Hourly Rate Support is rendered on a time and materials basis regardless of the actually work product produced, if any.

ii. Hourly Rate Support may be used to acquire any Software Support Service except items under the Software Patches and Release section.

iii. Company makes no warranty on functionality developed on an Hourly Rate basis. Licensee must purchase additional Software Support Services to correct defects.

iv. Upon request by Licensee, Company shall specify and provide a written authorization approval form for each Hourly Rate Software Support Service. The request shall contain a description an estimate of the hours required to complete the Software Support Service. Upon written approval by Licensee, Company shall perform Software Support Services.

v. Company shall notify and request additional approval from Licensee to continue providing Hourly Rate Support if the objective of the request is not met and the hours actually expended exceed the approved estimate.

vi. Licensee may decline or revoke initial or subsequent Hourly Rate Support authorizations at any time. In the event of a declined or revoked authorization, Licensee shall pay to Company for all hours expended prior to the refusal or revocation regardless of work product produced.

(g) "Fixed-Priced Support" means the provision of a specific Software Support Service by Company to Licensee on a fixed-cost basis.

i. Fixed-Priced Support is rendered at a quoted price without regard to the time or material expended by Company.

ii. Fixed-Priced Support may be used to acquire any Software Support Service.

iii. The right to purchase a Software Support Service under the section Software Patches and Release may be terminated by Company unless Software Patches and Releases were purchased continuously from for first production usage of the Software by Licensee.

iv. Upon request by Licensee, Company shall specify and provide a written authorization approval form for each Fixed-Price Software Support Service. The request shall contain a specification of the Software Support Service and the total cost of the request. Upon written approval by Licensee, Company shall perform the Software Support Service.

v. Licensee shall pay Company the total cost of the approved request upon completion of the Support Service. The total cost of the request shall be based on the estimated time and material to complete and support the request through the expiration of the warranty.

vi. Licensee may revoke a Fixed-Price Software Support authorization at any time. In the event of a revoked authorization, Licensee shall pay to Company the "All other Software Support Services" hourly rate multiplied by the number of hours actually worked by Company on the Fixed-Price Software Support item or the total cost of the Fixed-Price Service, whichever is less. The parties agree that Licensee will not be required to pay for those services if the services are not satisfactory or Company is in breach of the Contract..

vii. Company warrants for 90 days following completion of the Software Support Service, that Fixed-Priced Support deliverables will conform to the applicable Specifications in all material respects, and will be free from material defects in operational performance. Company will, at its own expense, promptly correct all such deficiencies reported by Licensee in writing during the warranty period even if the period to perform such corrective action extends

beyond the original warranty period. If such non-conformity cannot be corrected, worked around, or replaced, then Company shall refund any amounts paid for the Fixed-Priced Support request already paid. This remedy is Licensee's sole and exclusive remedy for any non-conformities, defects or errors and all performance Company shall estimate Fixed-Priced and Hourly Rate Support hourly charges at the applicable hourly rate, less ten percent, to the extent of Service Contract hours not yet expended by Licensee.

(i) Software Support Services will only be provided for the most current and immediately prior version of the Software in effect at the time the Software Support Services are requested.

(j) Company may increase the cost of any Software Support Service, as set forth on the Pricing Addendum, by a percentage not to exceed the consumer price index of the most recent twelve month period reported by the United States Department of Labor. Company shall notify Licensee not less than three months prior to the commencement of the Licensee's fiscal year of any such increases.

Other Terms

9. Acceptance. Licensee agrees that any the following conditions constitute acceptance of the Software by Licensee, in the form delivered by Company, including acceptance of a Customization or other Software Support Service deliverable:

(a) Written acceptance by Licensee;

(b) Production use of the Software (or, as applicable, Customization or other Software Support Service deliverable) in a live environment; or

(c) Failure to inspect and report defects regarding the Software within fourteen calendar days after delivery by Company.

10. Software Warranties.

(a) Company warrants that for a period of ninety (90) days from the date of initial installation of the Software (the "Warranty Period"), the Software and Customization Services will function in material conformity with the description, definition, specification and functional requirements set forth in this License and the Scope Deliverables, and will be free from material defects in operational performance. Company will, at its own expense, promptly cure all breaches of the foregoing warranty reported by Licensee in writing during the Warranty Period even if the period to perform such corrective action extends beyond the Warranty Period. If such non-conformity cannot be corrected, worked around, or replaced, then Licensee may terminate this License and all funds previously paid to Company during the current License term shall be refunded immediately to Licensee. These remedies are Licensee's sole and exclusive remedies for any non-conformities, defects or errors and all performance or non-performance problems related to the Software, Software Support Services, or this License, including without limitation any breach of warranty by Company.

(b) Company warrants that Company has the full power and authority to grant the rights granted Licensee hereunder with respect to the Software, and neither the License or use by Licensee of the Software, as permitted under this License, will in any way constitute an infringement or other violation of any copyright, patent, trade secret, trademark or any other intellectual property right of any third party.

(c) In the event Software requires updating due to Federal, State statutory or regulatory requirements affecting Licensee, the Company's Software development department shall give its highest priority to the implementation of such updates, but Company does not warrant that all such updates will be completed, or that any updates will be completed by a certain time.

(d) In the event that the Software is, in the opinion of the Company, likely to or does become the subject of a claim for copyright or other intellectual property rights infringement, Company may, at its option and expense, either (1) procure for Licensee,

the right under such third-party rights to use the Software; or (2) replace or modify the Software, or parts thereof, with other suitable and reasonable equivalent technology so that the Software becomes non-infringing; or (3) if it is not commercially reasonable to take actions specified in (1) and (2) immediately preceding, terminate this License and refund all license fees to Licensee.

See Section 7.5 of the State Term Schedule

11. Assignments See Sections 9.1 and 10.3 of the State Term Schedule

12. Defaults and Remedies

If Licensee fails to observe, keep or perform its obligations, covenants and agreements hereunder and does not cure such failure, within thirty (30) days after the sending of notice of such default by Company, then Company shall have the right, with thirty (30) days notice or demand, to exercise any one or more of the following remedies:

(i) To bring an action in the Court of Claims of Ohio ;

(ii) If Licensee fails to surrender the Software and make assurances the Software was completely removed from all storage media controlled by Licensee, to bring an action in a court with jurisdiction over Licensee seeking injunctive relief mandating such removal and surrender of the Software;

(iii) To terminate this License as to any or all items of the Software; and

(iv) To pursue any other remedy available at law or in equity.

The foregoing remedies are cumulative and not exclusive or sequential.

(b) Licensee shall provide no less than thirty (30) days written notice and allow such period to cure any warranty breach. Company and Licensee agree that thirty (30) days written notification, as defined in the "Notices" section of this contract, are a substantive, material and essential to the ability of the parties to perform their respective responsibilities.

See Section 3.8 of the State Term Schedule. **14. Miscellaneous.**

(a) This agreement creates no liability or responsibility for Company to maintain, setup, troubleshoot or otherwise support computer systems owned by Licensee. Licensee shall provide hardware and support for computer systems owned by Licensee.

(b) Company shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to this Contract.

See Section 3.3 of the State Term Schedule for Insurance requirements

(g) Notice of Cancellation or Change. Company shall not cancel, cause a material change in, reduce its limits for or omit or intend not to renew the insurance coverage

required under this Agreement without thirty (30) calendar days' prior written notice from Company or its insurers to Licensee.

(i) Certificates of Insurance. The certificates shall specify all of the parties who are additional insured and shall indicate all deductible amounts or retentions for all self-insurance. If requested, complete copies of insurance policies shall be provided to Licensee. Company shall be financially responsible for all pertinent deductibles, self-insured retention, and self-insurance.

(j) Notices. Any and all notices ("Notices") which either party hereto may desire to give to the other party hereunder shall be deemed to be duly given if and only if mailed by registered or certified mail, postage prepaid, addressed to the other party at its address as set forth below or at such other address as such party may designate to the other party in writing from time to time. Notification by any other means shall be considered a service request and a waiver of any related breach of contract dispute until such time as the party provides notice in accordance with this paragraph.

If to Company:
GL Suite, Inc.
PO Box 591
Bend, Oregon 97709

If to Licensee:

(k) Waiver. See Section 10.4 of the State Term Schedule Headings. See Section 10.1 of the State Term Schedule

(l) Access of Company. Company shall at reasonable times and in a manner that minimizes disruption of the Licensee's operations have the right to enter into and upon the premises of the Licensee during business hours and upon prior written notice for the purposes described by this contract, inspecting the software, observing its use or otherwise protecting Company's interest therein. Licensee shall, whenever requested by Company, advise Company of the exact location of the Software. Subject to Licensee's review and approval of data access security precautions, Licensee shall establish a secure method by which Company can perform remote administration and updates to the installed Software.

(m) This License may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one agreement which is binding upon all the parties hereto, notwithstanding that all parties are not signatories to the same counterpart.

(n) This License and all rights and obligations of the parties hereunder and all rights and obligations of the parties shall be governed by, and construed and interpreted

in accordance with, the laws of the State of Ohio _____ applicable to agreements made and to be performed entirely within such State, including all matters of enforcement, validity and performance. This License may only be amended in a written agreement executed by authorized representatives of both parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this License to be duly executed the day and year first above written.

GL Suite, Inc.

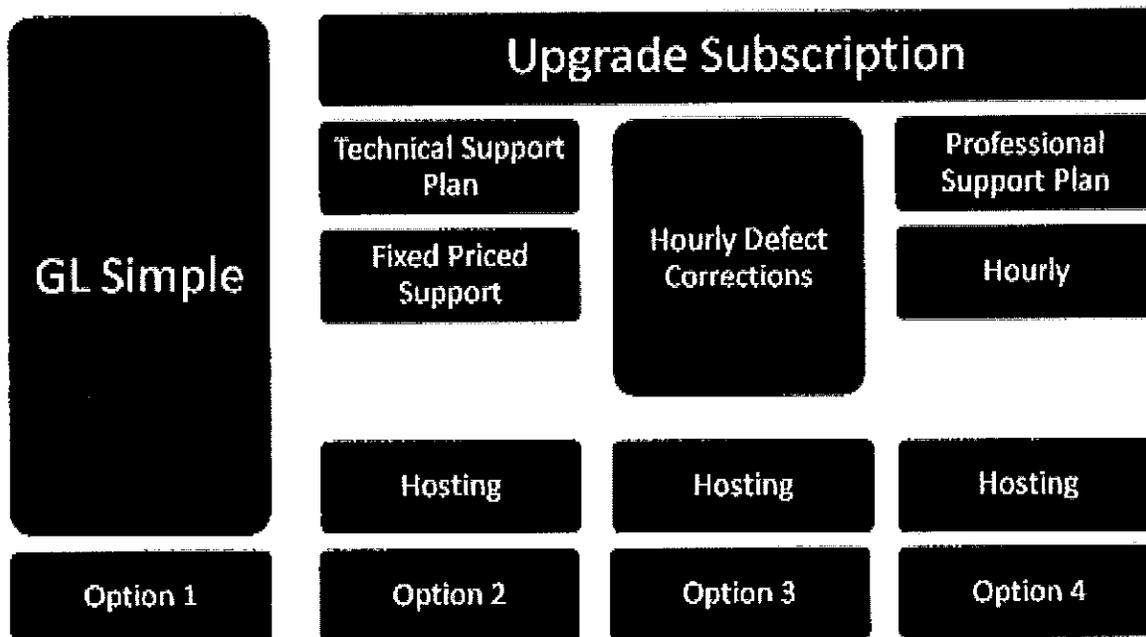
By _____
Signature, Title Date

Licensee

By _____
Signature, Title Date

Pricing Addendum

Software Support Plan Options Diagram:



Software Support Plan Options:

- 1) Option 1: GL Simple
Fixed price plan includes everything – technical support, defect correction, enhancements, modifications, installation, optional hosting, etc. Various tiers and escalation fees are available to adjust rate of completion if necessary.
- 2) Option 2: Upgrade Subscription + Technical Support Plan + Fixed Price Support + optional Hosting
Includes technical support and defect correction. Enhancements, installation, modifications, etc. are purchased separately at an agreed fixed cost.
- 3) Option 3+ Upgrade Subscription + Hourly Defect Correction + optional Hosting
Includes new versions of core software only. Customization defects, technical support, enhancements, installation, modifications, etc. are purchased separately at an hourly rate with no warranty.
- 4) Option 4: Upgrade Subscription + Professional Support Plan + Hourly Support + optional Hosting
Includes same benefits and limits as Option 3 plus the ability for designated professional IT staff to phone Company for IT support questions. Supports agency IT staff's ability to support the GL Suite application.

Support ItemsUnits Cost Per Unit

GL Simple plans & fees

2011-GL Simple Standard-0011.....per user per year.....	\$1,523
2011-GL Simple Professional-0010.....per user per year.....	\$3,045
2011-GL Simple Enterprise-0009.....per user per year.....	\$5,583

Project Escalation Fees

2011- Project Escalation Standard-0019.....per project.....	\$8,120
2011- Project Escalation Professional-0020..per project.....	\$5,075
2011- Project Escalation Enterprise-0021.....per project.....	\$5,075

2011- Task Escalation Fees

2011- Task Escalation Standard-0022.....per task.....	\$812
2011- Task Escalation Professional-0023.....per task.....	\$812
2011- Task Escalation Enterprise-0024.....per task.....	\$558

2011-Upgrade Subscription-0018*per install project.....varies
 Annual fee for upgrading GL Suite™ application equaling 15% of Install Licensing cost
 (see part 2011-Install Licensing-0015 within Initial Scope of Work Addendum)

2011- Basic Technical Support Plan-0012per licensed user per year.....\$1,036.00

2011-Limited Support Plan-0013per licensed user per year.....\$508.00

2011-Professional Support Plan-0014per agency technical staff per year\$6,500.00^
 ^plus applicable Software Patches and Releases fee shown below.

^Software Patches and Releases

1 – 10 usersper user.....	\$600
11-50 usersper user.....	\$150
51+ usersper user.....	\$75

All other Software Support Services.....per hour.....\$123.00

Initial Scope of Work Addendum

Software System Installation

Service **Units** **Cost**

2011-Project Initiation-0001..... per install project..... \$10,000.00
Initiation fee for new GL Suite™ software system installation project

2011-Installation Cost-0002.....per named user..... \$5,000.00
Fee assessed per user for GL Suite™ application installation & configuration

2011-Verification-0003..... .per license type..... \$1,280.00
Set-up fee for enabling online verification of licensure per license type

2011-Renewal Set-up-0004.....per install project \$4,982.50
Site set-up fee for enabling online renewal of licensure

2011-Online Renewals-0005.....per license type \$1,600.00
Fee for enabling online renewal process per license type

2011-Application Set-up-0006.....per license type \$3,200.00
Site set-up fee for enabling online applications for licensure

2011-Online Applications-0007per license type \$3,200.00
Fee for enabling online application process per license type

2011-Interfaces-0008per interface \$3,200.00
Set-up fee for interfacing GL Suite™ application to basic 3rd party systems
(Complex interfaces may be more)

2011-Install Licensing-0015*.....per named user.....varies
Set-up fee for licensing GL Suite™ application for use by named user
(\$4,000/ user for first 10 users, \$1,000/user for users 11-50, \$500/user for users 51+)

2011-Upgrade Subscription-0018*.....per install project.....varies
Annual fee for upgrading GL Suite™ application equaling 15% of Install Licensing cost
(see part 2011-Install Licensing-0015)

(*) Not applicable if GL Simple support plan is selected

STANDARD AFFIRMATION AND DISCLOSURE FORM
EXECUTIVE ORDER 2011-12K

Governing the Expenditure of Public Funds on Offshore Services

All of the following provisions must be included in all invitations to bid, requests for proposals, state term schedules, multiple award contracts, requests for quotations, informal quotations, and statements of work. This information is to be submitted as part of the response to any of the procurement methods listed.

By the signature affixed hereto, the Contractor affirms, understands and will abide by the requirements of Executive Order 2011-12K. If awarded a contract, both the Contractor and any of its subcontractors shall perform no services requested under this Contract outside of the United States.

The Contractor shall provide all the name(s) and location(s) where services under this Contract will be performed in the spaces provided below or by attachment. Failure to provide this information may subject the Contractor to sanctions. If the Contractor will not be using subcontractors, indicate "Not Applicable" in the appropriate spaces.

1. Principal location of business of Contractor:

3020 NW Merchant Way
(Address)

Bend OR 97701
(City, State, Zip)

Name/Principal location of business of subcontractor(s):

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

2. Location where services will be performed by Contractor:

3020 NW Merchant Way
(Address)

Bend OR 97701
(City, State, Zip)

Name/Location where services will be performed by subcontractor(s):

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

3. Location where state data will be stored, accessed, tested, maintained or backed-up, by Contractor:

7020 NW Merchant Way
(Address)

Bend OR 97701
(Address, City, State, Zip)

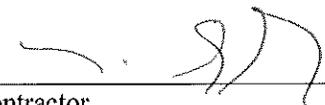
Name/Location(s) where state data will be stored, accessed, tested, maintained or backed-up by subcontractor(s):

(Name)

(Address, City, State, Zip)

Contractor also affirms, understands and agrees that Contractor and its subcontractors are under a duty to disclose to the State any change or shift in location of services performed by Contractor or its subcontractors before, during and after execution of any Contract with the State. Contractor agrees it shall so notify the State immediately of any such change or shift in location of its services. The State has the right to immediately terminate the contract, unless a duly signed waiver from the State has been attained by the Contractor to perform the services outside the United States.

On behalf of the Contractor, I acknowledge that I am duly authorized to execute this Affirmation and Disclosure form and have read and understand that this form is a part of any Contract that Contractor may enter into with the State and is incorporated therein.

By: 
Contractor

Print Name: William S Moseley

Title: CEO

Date: 08/28/2012