

**STATE OF OHIO
OFFICE OF INFORMATION TECHNOLOGY
STATE TERM SCHEDULE**

THIS CONTRACT is between the STATE OF OHIO, OFFICE OF INFORMATION TECHNOLOGY (OIT), INVESTMENT AND GOVERNANCE DIVISION, ON BEHALF OF THE STATE OF OHIO ("State"), with offices at 30 East Broad Street, Columbus, Ohio 43215 and Computer Associates International, Inc. ("Contractor") with offices at 6150 Oak Tree Blvd. Park Center Plaza, Building II Independence, Ohio 44131.

BACKGROUND

The Contractor has entered into a contract with the Federal Government under the Federal Government's Supply Schedule Contract Program administered by the General Services Administration ("GSA"). That program allows a contractor and the GSA to negotiate in advance of actual purchases the terms and conditions under which a contractor will supply goods or services to the Federal Government. Such a Federal schedule contract is not a commitment to purchase any goods or services; it is only a convenient way to do so should a Federal agency so choose during the contract's term.

The State has determined that it is in the interest of efficiency and economy to rely on some Federal schedule contracts of the Federal Government, with certain changes, as the basis for some state term contracts, which operate in a manner very similar to Federal schedule contracts. OIT Services has also determined that the Contractor's Federal schedule contract offers goods or services that may be of interest to various state agencies and has therefore decided to use the Contractor's Federal contract as a basis for a State Term Contract with the Contractor. This State Term Contract (the "Contract") establishes terms and conditions under which a state agency may acquire the Contractor's goods or services, but it in no manner obligates any state agency to do so.

TERMS & CONDITIONS

Section 1

COMPOSITION OF CONTRACT. This Contract references the terms of the Contractor's Federal Schedule Contract, (the "Schedule Contract"), as attached hereto as **Exhibit A** for purposes of mirroring forth the terms and conditions where referenced herein for the purposes of this State Term Schedule only. Said Schedule Contract shall not be amended or affected by this Agreement but will be used as additional terms between State and Contractor (see Entire Agreement Section below). The Contractor's Schedule Contract consists of all the documents and materials incorporated in that agreement with the Federal Government as of November 30, 2005 as attached hereto. Those documents include, among possible others, the Federal Government's original solicitation, the Contractor's offer to the Federal Government, with amendments, the Contractor's best and final offer letter, the final award, and the Contractor's most current version of its Authorized Schedule Price List. Additionally, all representations, clarifications, and certifications submitted by the Contractor as a part of that contracting process are also included. And it includes any laws, regulations, documents, guidelines, and other materials incorporated by reference in the Contractor's Schedule Contract, including all FAR, DFAR, FIRMR, FIPS PUB, FED-STD and USC provisions, among others. By way of example, such would include all cited FAR and DFAR provisions relating to warranties, liabilities, and rights in data, and the GSA's Price Reduction Clause, among many others.

Section 2(a)

CERTIFICATION OF ACCURACY. The Contractor hereby certifies that all copies of the Contractor's Authorized Schedule Price List that were submitted to the State as part of the negotiation of this Contract are true, correct, current, and complete copies of that Price List. The Contractor further represents and warrants that all future Price Lists submitted to revise this Contract will also be true, correct, current, and complete copies of the then-current Price List under the Contractor's then-current Federal Contract.

Section 2(b)



FEDERAL REPRESENTATIONS. The Contractor warrants that all certifications and representations made to the Federal Government as a basis for obtaining or as a part of its GSA Schedule Contract were and still are true and accurate. The Contractor further agrees that such representations are a basis for the State entering into this Contract and that such representation and certifications inure to the State's benefit.

Section 2(c)

FUTURE NOTICES. The Contractor acknowledges that any continuing obligation to notify the Federal Government of changes affecting its GSA Schedule Contract, including by way of example, notices required under the price reduction provisions of its Schedule Contract, must be provided in the same manner to the State. And the State's rights under those notices will be the same as the rights of the Federal Government. Additionally, the Contractor agrees to notify the State within thirty (30) days of all changes in the status of or amendments to its Federal Schedule Contract.

Section 3

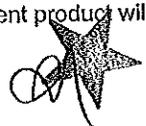
PARTIES TO THE CONTRACT. For purposes of this Contract, all references to "Government," "Federal Government," "GSA," or similar terms meaning the Federal Government in the Contractor's Schedule Contract will mean the "State." And references to the "Contracting Officer" will mean the State representative, or their successor or designee, who signed this Contract on behalf of the State. Additionally, for purposes of this Contract, all rights and obligations of the Contractor and the Federal Government under the Contractor's Schedule Contract, except to the extent that such would create an absurdity, or are otherwise clearly inappropriate, or would violate state or federal law, will be rights and obligations between the Contractor and the State. This Contract may be relied on by Ohio counties, townships, municipalities and other political subdivisions of the State, (collectively, Political Subdivisions). Whenever a Political Subdivision relies upon this Contract to issue a purchase order, the Political Subdivision will step into the shoes of the State under this Contract. Any order placed by a Political Subdivision under this contract will be between the Contractor and the Political Subdivision. The Contractor will look solely to the Political Subdivision for performance, including but not limited to payment, and will hold the State harmless with regard to such orders. The State, however, will have the right to terminate this Contract and seek such remedies on termination as this Contract provides should the Contractor fail to honor its obligations under an order from a Political Subdivision. Nothing in this Contract requires the Contractor to accept an order from a Political Subdivision where the Contractor reasonably believes that the Political Subdivision is or will be unable to perform its obligations in relation to that order.

Section 4

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

Section 5

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



Section 6

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

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

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

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

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

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

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

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

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



Section 7

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

Section 8

LICENSE IN CUSTOM DELIVERABLES.

The Contractor hereby grants to the State a worldwide, non-exclusive, royalty-free, perpetual license to use, copy, modify, and distribute all custom Deliverables produced by the Contractor and covered by this Contract, including any generic or preexisting shells, subroutines, and similar material incorporated in any custom Deliverable ("Pre-existing Materials"). But the State may distribute such Pre-existing materials only to the extent required by governmental funding mandates. The Contractor will not include in any custom Deliverable any intellectual property unless such has been created under this Contract or qualifies as Pre-existing Material. On the request of the Contractor, the State will incorporate any proprietary notice the Contractor may reasonably request for any custom Deliverable in all copies the State makes of that Deliverable.

For any order involving custom Deliverables under this Contract, the ordering agency, whether a State entity or a Political Subdivision (as defined in Section 4) may include a statement of ownership in the order or statement of work for the order that provides for greater rights in the State to any custom Deliverables covered by the order or statement of work, including full ownership in the State or joint ownership between the State and the Contractor. But no statement of ownership in any such order or statement of work may provide for lesser rights, and to the extent that any statement of ownership in any order or statement of work does provide for lesser rights in the State, the rights in this provision will prevail.

Section 9-A

SPECIFIC CHANGES. The State and the Contractor agree to the following changes to specific provisions of the Schedule Contract as attached as Exhibit A.

All equipment will be new, and replacement parts will be new.

(i) The ordering and payment addresses under this Contract will be those contained in the Contractor's offer letter to the State.

(ii) Payments and invoicing will be done according to the terms below.
All shipping of equipment under warranty for repairs will be at the Contractor's expense.

(iii) All references to hours of the day will be deemed to be references to Eastern Standard Time.

(iv) The State will not purchase goods or services using credit cards, order goods or services for overseas delivery, or provide the Contractor with overseas support.

(v) The State has the specific right to use any software licensed to it at one (1) remote, third-party disaster recovery site for disaster recovery and disaster recovery testing.

(vi) Except for PC software, the license fee for which is less than \$5,000.00 per copy and for which maintenance is not made generally available, software maintenance will be available to the State under the



terms of this Contract for the longer of the period the Contractor is required to make it available under its Federal Contract or the period the Contractor makes it generally available to its customer base. Further, the State will be entitled to software maintenance at the then-current price it is made available to the Federal Government or, if the Contractor does not make maintenance available to the Federal Government under a federal contract through the GSA, at a price that represents an annual increase in the maintenance fee from the last Federal contract price for such of no more than five percent. For purposes of this section, the Contractor's last Federal contract means the last GSA federal supply schedule contract covering the applicable maintenance program.

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

(viii) With respect to the purchase of software licenses (hereinafter "Licensed Programs"), the parties agree as follows:

(i) With respect to software licenses originally acquired by the State from CA or a CA predecessor as a perpetual, permanent, or similarly designated license term (Existing Licensed Programs), the original term granted therein shall remain in effect indefinitely and shall survive expiration of any license period (the Term) set forth on separately executed purchase order (or any other ordering document) for maintenance or usage and maintenance of any such Existing Licensed Programs. On termination of the then current maintenance or usage and maintenance Term, the State will continue to have a permanent license at the MIPS capacity licensed during the Term, but continued maintenance of the Existing Licensed Programs thereafter shall be subject to payment of CA's then prevailing annual maintenance fee.

(ii) Newly licensed mainframe software without an Existing Licensed Program shall be licensed to State subject to the execution of a purchase order, or similar ordering document, and shall be inclusive of usage and maintenance for such term. Upon expiration of the agreed upon Term, continued usage and maintenance as provided herein will be subject to an annual payment of CA's prevailing usage and maintenance fee. If the parties do not agree in writing upon such payment terms prior to the expiration of the then current term, (a) the then prevailing Licensed MIPS Capacity shall be frozen without the State having the right to exceed the same, however, the State shall be afforded ninety (90) days to complete a new agreement or a renewal. Upon expiration of the ninety (90) days, if the State notifies CA in writing of its election to terminate the licenses, the State shall not be obligated for the usage and maintenance during the ninety (90) day period. If, however, the parties do agree to a renewal, on or before the expiration of the ninety (90) day period, the renewal period will begin at the beginning of the ninety-day grace period and will include that period. The State shall pay the annual usage and maintenance fee for the Licensed Programs based the published fee schedule for software licensed as set forth in paragraph (x) below, per CPU at each distinct State Site, and the State may not use any Licensed Program thereafter to process data for any additional entities other than State entities, including its Political Subdivisions.

Notwithstanding anything to the contrary in this Contract, for non-mainframe software the Contractor may only license to the State indefinite (i.e., permanent or perpetual) licenses under this Contract, {already provided above, could be confusing}

(ix) Supplemental License Fee. The State may increase the Licensed MIPS Capacity during the Term upon prior written notice to CA and payment of CA's Supplemental License Fee and an annual UMF, each calculated as set forth in paragraph (x) below. In each instance, the Supplemental License Fee and initial UMF shall be billable upon the State providing CA notice of its desire to increase the



Licensed MIPS Capacity, including by request that CA issue an authorization key for an additional or replacement CPU. Such fees shall be paid within thirty (30) days notwithstanding any installment payment schedule for the initial License Fee. The UMF shall be prorated for the year of the increase and shall be payable in full thereafter.

(x) MIPS Capacity Calculation. MIPS Capacity shall be calculated by reference to Gartner published schedules of the MIPS capacity of processors. In the event that any particular processor is not accounted for on the Gartner schedule, the manufacturer's published specification of MIPS capacity shall control.

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

(xii) The Contractor will not sell to the State any Microsoft Products. All such items listed in the Contractor's Price List are deleted for purposes of the State.

(xiii) As this Contract refers to a Schedule Contract for convenience, orders under this Contract are not orders under the GSA schedule program. The Federal Supply Schedules for blanket purchase agreements, contractor team arrangements and purchase of incidental, non-schedule items, therefore, are not applicable to this Contract.

Section 9 – B

The following terms below amend Exhibit A as follows:

All references to "Government" are deleted and replaced by the "State."

(i) Delete paragraph (12)(d) page 7 Use of Federal Supply Service Information Technology Schedule Contracts in its entirety

(ii) Delete paragraph (17) page 9 Purchase of Incidental, Non-Schedule Items in its entirety.

(iii) Modify paragraph (18)(b) page 9 Contractor Commitments, Warranties and Representations by replacing the wording "The above is not intended to encompass items not currently covered by the GSA Schedule contract. Prices, options, terms and conditions of any Delivery Order are limited strictly to those specified in the GSA Schedule and Price List and agreed to by GSA. Any hardware furnished with a Contractor's Computer Program is furnished "AS IS" and contractor makes no warranties with respect to any such hardware or for the implementation thereof." with

"The above is not intended to encompass items not currently covered by the GSA Schedule contract. Prices, options, terms and conditions of any Delivery Order are limited strictly to those specified in the GSA Schedule and Price List and agreed to by GSA .

(iv) Delete paragraph (20) page 10 Blanket Purchase Agreements (BPAs) in its entirety.

(v) Delete paragraph (21) page 10 Contractor Team Arrangements in its entirety.

Section 9 – C

**TERMS AND CONDITIONS APPLICABLE PERPETUAL SOFTWARE ARE LICENSES (SPECIAL 132-34)
OF GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY SOFTWARE**

(i) Modify paragraph (2)(a) page 11 Guarantee/Warranty by replacing the wording "The Contractor warrants that the Computer Programs delivered hereunder shall operate in accordance with those specifications



specifically described in Contractor's published product documentation. If it is determined that the Computer Program (s) do (es) not operate according to such specifications, Contractor's only responsibility will be to use its best efforts, as defined in Section 4 herein (Software Maintenance), consistent with industry standards and federal acquisition regulations, to cure the defect." with

(ii) "The Contractor warrants that the Computer Programs delivered hereunder shall operate in accordance with those specifications specifically described in Contractor's published product documentation."

(iii) Delete paragraph (2)(b) page 11 Guarantee/Warranty in its entirety.

(iv) Modify paragraph (2)(e) page 12 Guarantee/Warranty by replacing the wording "In the event that Government makes any changes or modification to the Computer Programs, Government agrees that such changes and modifications shall be the property of the Contractor, unless Contractor shall have given its prior written consent to the contrary. Furthermore, any such changes or modifications made by Government to a Computer Program will mean that the foregoing limited warranty of Contractor with respect to such Computer Program shall no longer apply, and Contractor shall have the right to charge Government for additional support services at Contractor's then prevailing service rate (outside the scope of this contract), but Contractor shall have no obligation to provide services." With

"Any changes or modifications made by Government to a Computer Program without CA's prior written approval will mean that the foregoing limited warranty of Contractor with respect to such Computer Program shall no longer apply, and Contractor shall have the right to charge Government for additional support services at Contractor's then prevailing service rate (outside the scope of this contract), but Contractor shall have no obligation to provide services."

(v) Delete paragraph (2)(f) page 12 Guarantee/Warranty in its entirety.

(vi) Delete paragraph (4) pages 12 and 13 Guarantee/Warranty in its entirety

(vii) Delete paragraph (5) page 13 Periods of Term Licenses (132) and Maintenance (132-34) in its entirety.

(vii) Delete paragraph (6) page 13 Conversion from Term License to Perpetual License in its entirety.

(viii) Delete paragraph (7) page 13 Term License Cessation in its entirety.

(ix) Modify 1st paragraph (8) page 13 Utilization Limitations (132-32, 132-33, and 132-34) by replacing the wording "Commercial computer software and/or commercial computer software documentation is offered by the Contractor under licenses customarily provided to the public. The Government shall have only those rights specified herein. The Contractor does not furnish technical information related to commercial computer software (or commercial computer software documentation) that is not customarily provided to the public. Further the Contractor does not relinquish rights to use modify, reproduce, release, perform, display, or disclose commercial computer software or commercial computer software documentation) except as mutually agreed to by the parties. See 48 CFR 12.212." with

(x) "Commercial computer software and/or commercial computer software documentation is offered by the Contractor under licenses customarily provided to the public. The Government shall have only those rights specified herein. The Contractor does not furnish technical information related to commercial computer software (or commercial computer software documentation) that is not customarily provided to the public."

Modify paragraph (8)(b)(1) page 13 Utilization Limitations (132-32, 132-33, and 132-34) by replacing the wording "Title to and ownership of the acquired license will pass to the Government. Title to and ownership of the Computer Programs and documentation shall remain with the Contractor unless agreed in writing by both parties. Any modifications, regardless of how extensive, will not impair the Contractor's title, copyright or proprietary rights. Each Computer Program is a trade secret and the proprietary property of the Contractor and is to be kept confidential by the Government." with



"Title to and ownership of the acquired license will pass to the Government. Title to and ownership of the Computer Programs and documentation shall remain with the Contractor. Each Computer Program is a trade secret and the proprietary property of the Contractor and is to be kept confidential by the Government."

(xi) Delete the last sentence in paragraph (8)(b)(3) page 14 Utilization Limitations (132-32, 132-33, and 132-34) in its entirety.

(xii) Modify the last sentence in paragraph (8)(b)(4) page 14 Utilization Limitations (132-32, 132-33, and 132-34) by replacing the wording "Notwithstanding the foregoing, the license to use the Computer Programs or any rights or obligations there under may not be assigned without the prior written consent of the Contractor." with

(xiii) "Notwithstanding the foregoing, the license to use the Computer Programs or any rights or obligations there under may not be assigned without the prior written consent of the parties."

(xiv) Modify paragraph (8)(b)(6) page 14 Utilization Limitations (132-32, 132-33, and 132-34) by replacing the wording "Commercial Computer Software" may be marked with the Contractor's standard commercial restricted rights legend, but the schedule contract and schedule price list, including this clause, "Utilization Limitations" are the only governing terms and conditions, and shall take precedence and supersede any different or additional terms and conditions included in the standard commercial legend." with

"Commercial Computer Software" may be marked with the Contractor's standard commercial restricted rights legend, but the schedule contract and schedule price list, including this clause, "Utilization Limitations" are the only governing terms and conditions, and shall take precedence and supersede any different or additional terms and conditions included in the standard commercial legend."

(xv) Modify paragraph (12) page 15 Termination Provisions by replacing the wording "In the event the Government terminates a delivery order for any reason, Government understands and agrees that if the software license under the delivery order was being acquired under a payment plan and the remain outstanding payments, Government will, within ten (10) after termination of the delivery order, return the software, including all documentation, to Contractor, or a Contractors direction, destroy the software, including documentation, and warrant in writing that all copies and partial copies thereof have been returned to Contractor or destroyed." with

(xvi) "In the event the Government terminates a delivery order for any reason, Government will, within ten (10) days after termination of the delivery order, return the software, including all documentation, to Contractor, or a Contractors direction, destroy the software, including documentation, and warrant in writing that all copies and partial copies thereof have been returned to Contractor or destroyed."

Section 9-D

TRAINING RELATED TO GENERAL PURPOSE INFORMATION TECHNOLOGY EQUIPMENT AND SOFTWARE (SPECIAL ITEM 132-50)

(i) Modify paragraph (1)(c) page 15 Scope by replacing the wording "The contractor provides training at Contractor's Learning Centers and/or at the Government's location, as agreed to by Contractor and the Government. Installation assistance, if any, shall be in accordance with a mutually agreeable schedule. Additional on-site installation and technical assistance is available, subject to a mutually agreeable schedule, at the rate of \$1,500 per day. The on-site classroom training is available, subject to a mutually agreeable schedule, at the rate of 10 TCU's per day, for up to a maximum of 15 students. (Training credits may be used for on-site training)." with

(ii) "The contractor provides training at Contractor's Learning Centers and/or at the Government's location, as agreed to by Contractor and the Government. Installation assistance, if any, shall be in accordance with the State Term Schedule. Additional on-site installation and technical assistance is available, subject to the State Term Schedule rate of \$1,500 per day. The on-site classroom training is available, subject to the



State Term Schedule rate of 10 TCU's per day, for up to a maximum of 15 students. (Training credits may be used for on-site training)."

(iii) Delete paragraph (2) page 15 Orders in its entirety.

(iv) Modify paragraph (4)(a) page 16 Cancellation and Rescheduling by replacing the wording "The Government will notify Contractor at least five (5) work days before the scheduled training date, if a student will be unable to attend. Contractor will then permit the Government to either cancel the Delivery Order or reschedule the training at no additional charge. In the event the training class is rescheduled, the Government will modify its original training Delivery Order to specify the time and date of the rescheduled training class. If the Government cancels or reschedules five (5) or less work-days before the scheduled training date, Contractor will charge 100% of the course fee." with

(v) "The Government will notify Contractor at least 72 hours before the scheduled training date, if a student will be unable to attend. Contractor will then permit the Government to either cancel the Delivery Order or reschedule the training at no additional charge. In the event the training class is rescheduled, the Government will modify its original training Delivery Order to specify the time and date of the rescheduled training class

(vi) Modify paragraph (4)(b) page 16 Cancellation and Rescheduling by replacing the wording "Scheduled onsite training dates may be canceled, without penalty, by notifying Contractor at least eleven (11) working days before the beginning of the period of performance. Cancellation within six to ten working days prior to the start date will result in a cancellation penalty of fifty percent (50%) of the fee plus any expenses already incurred; cancellation with less than six working days will result in a cancellation penalty of one hundred percent (100%) of the fee plus any expenses already incurred. Expenses include but are not limited to non-refundable airline tickets, room rental, and equipment rental." with

"Scheduled onsite training dates may be canceled, without penalty, by notifying Contractor."

(vii) Delete paragraph (4)(c) page 16 Cancellation and Rescheduling in its entirety.

(viii) Modify paragraph (6) page 16 Price for Training by replacing the wording "The price that the Government will be charged will be the Government purchase price in effect at the time of order placement, or the Government price in effect at the time the training course is conducted, whichever is less." with

(ix) "The price that the Government will be charged will be the Government purchase price in effect at the time of order placement, or the Government price on the State Term Schedule at the time the training course is conducted, whichever is less."

(x) Modify paragraph (8)(h) pages 16 and 17 Format and Contents of Training by replacing the wording "Contractor represents that training will be performed by qualified personnel in a professional manner. No other warranties, whether express or implied, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose, are made by Contractor, no event will Contractor be liable to Government or to any other party for any loss. Including time, money, goodwill and consequential damages which may arise from the training hereunder." with

(xi) "Contractor represents that training will be performed by qualified personnel in a professional manner. No other warranties, whether express or implied, including, without limitation, any implied warranties of merchantability are made by Contractor.

Section 9-E

TERMS AND CONDITIONS APPLICABLE TO INFORMATION TECHNOLOGY PROFESSIONAL SERVICES (SPECIAL ITEM 132-51)

(i) Delete paragraph (2) page 20 Performance Incentives in its entirety.



(ii) Delete paragraph (3)(b) page 21 ordering Procedures for Service (Requiring a Statement of Work) in its entirety.

(iii) Modify paragraph (4)(a) page 22 Order by replacing the wording "Agencies may use written orders, EDI orders blanket purchase agreements, individual purchase orders, or task orders for ordering services under this contract. Blanket Purchase Agreement shall not extend beyond the end of the contract period; all services and delivery shall be made and the contract terms and conditions shall continue in effect until the completion of the order.

(iv) Orders for task which extend beyond the fiscal year or which funds are available shall include FAR 52.23219 Availability of Funds for the next Fiscal Year. The purchase order shall specify the availability of funds and the period for which funds are available." with

(v) "Agencies may use written orders, EDI orders, individual purchase orders, or task orders for ordering services under this contract. All services and delivery shall be made and the contract terms and conditions shall continue in effect until the completion of the order."

(vi) Modify paragraph (4)(b) page 22 Order by replacing the wording "All task orders are subject to the terms and conditions of the contract. In the event of conflict between a task order and the contract, the task order will take precedence." with

(vii) All task orders are subject to the terms and conditions of the State Term Schedule. In the event of conflict between a task order and the State Term Schedule, the State Term Schedule will take precedence."

(viii) Modify paragraph (5)(d) page 22 Performance of Services by replacing the wording "Any contractor travel required in the performance of IT Services must comply with the Federal Travel Regulation or Joint Travel Regulations, as applicable, in effect on the date (s) the travel is performed. Established Government per diem rates will apply to all Contractor travel. Contractors cannot use GSA city pair contracts." with

(ix) "Any contractor travel required in the performance of IT Services must comply in accordance with Section 126-1-02 of the Ohio Administrative Code."

(x) Modify paragraph (7) page 22 Responsibilities of the Contractor by replacing the wording "The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character. If the end product of a task order is software, then FAR 52.227.14 Rights in Data General, may apply." with

(xi) "The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character."

(xii) Delete on pages 28 and 29 Suggested Format for Blanket Purchase Agreements in its entirety.

(xiii) Delete on page 29 Contractor Team Arrangements in its entirety.

Section 9 – F TIERED SERVER PRICING

Delete on page 30 eTrust Intrusion Detection URL in its entirety.

(ii) Delete on pages 30 and 31 Maintenance Fee in its entirety.

(iii) Delete Pay Option Plan Descriptions page 31 in its entirety.



(iv) Delete on pages 31 and 32 Conversion of an H-Pay Option Plan to a P-Pay Option License in its entirety.

(v) Delete the 3rd paragraph on page 32 under Upgrades of Tiered Server Licenses in its entirety.

(vi) Modify 4th paragraph on page 32 under Upgrades of Tiered Server Licenses by replacing the wording "If the previously authorized license is under Option P2 or P3, the upgrade fee shall be the then-prevailing difference between the annual MF applicable to the previously authorized tier and the annual MF for the upgraded tier, pro-rated for the number of months remaining in the term. After expiration of the term, the annual MF, if applicable shall be at the rate applicable to the upgrade license." With "If the previously authorized license is under Option P2 or P3, the upgrade fee shall be the then current State Term Schedule prevailing difference between the annual MF applicable to the previously authorized tier and the annual MF for the upgraded tier, pro-rated for the number of months remaining in the term. After expiration of the term, the annual MF, if applicable shall be at the rate applicable to the upgrade license."

(viii) Delete the 5th paragraph on page 32 under Upgrades of Tiered Server Licenses in its entirety.

(ix) Delete the 6th paragraph on page 32 under Upgrades of Tiered Server Licenses in its entirety.

(x) Delete on page 34 Maintenance Fees in its entirety.

(xi) Delete on page 34 Pay Option Plan Descriptions in its entirety.

(xii) Delete on page 35 Conversion of an H-Pay Option Plan to a P-Pay Option in its entirety.

(xiii) Delete on page 35 Conversion of an H-Pay Option Plan to a P-Pay Option License in its entirety.
Delete on page 35 Products Under an H1, H2 or H3 Pay Option in its entirety.

(xiv) Delete 3rd paragraph on page 35 General CA Policies for the Unicenter Family of Products in its entirety.

(xv) Delete 5th paragraph on pages 35 and 36 General CA Policies for the Unicenter Family of Products in its entirety

(xvi) Modify paragraph on page 38 Maintenance Fees by replacing the wording "CA's Special Distributed Products are generally licensed on a "perpetual" basis – payment of the one-time fee provided for indefinite use of the Special Distributed Products (subject to the terms and conditions of the license), but maintenance services are provided only upon payment of an annual maintenance fee ("MF"). The MF is equal to the then prevailing PO one-time fee multiplied by the then prevailing maintenance rate for the Special Distributed Products. The maintenance rate for the Special Distributed Products varies depending on product.

Calculating GSA MF

MF = One-Time Fee for a PO License *MF % (with 2 point GSA discount)

Multiply the One time Fee for a PO license for the product by the MF% for the product listed in the Special Distributed Products section of the Software Fee Schedule under the MF% RATE column and apply the 2% point GSA discount." with

CA's Special Distributed Products are generally licensed on a "perpetual" basis – payment of the one-time fee provided for indefinite use of the Special Distributed Products (subject to the terms and conditions of the license), but maintenance services are provided only upon payment of an annual maintenance fee ("MF")."

(xvii) Delete paragraph on pages 38 and 39 Pay Option Play Descriptions in its entirety.



(xviii) Delete paragraphs on page 40 Conversion of an H-Pay Option Plan to a P-Pay Option License in its entirety.

(xix) Modify 1st paragraph on page 40 General CA Policies for Special Distributed Products by replacing the wording "Special Distributed Programs based on a designated server license type may be upgraded to a higher tier group at any time during the term of the agreement. The expiration date of the term of the agreement or maintenance period shall continue to apply to the license for use on the upgraded tier group and annual maintenance fees, if applicable, shall be separately adjusted on a pro rata basis for the balance of the then current period. The fee for such an upgrade shall be determined as follows." with

Special Distributed Programs based on a designated server license type may be upgraded to a higher tier group at any time during the term of the State Term Schedule agreement. The expiration date of the term of the agreement or maintenance period shall continue to apply to the license for use on the upgraded tier group and annual maintenance fees, if applicable, shall be separately adjusted on a pro rata basis for the balance of the then State Term Schedule then current period. The fee for such an upgrade shall be determined as follows."

(xx) Delete 3rd paragraph page 40 General CA Policies for Special Distributed Product in its entirety.

(xxi) Modify 4th paragraph on page 40 General CA Policies for Special Distributed Product by replacing the wording "If the previously authorized license is under Option P9, the one-time upgrade fee shall be the then prevailing difference between the PO one-time fee applicable to the previously authorized tier and the PO one-time fee applicable to the upgraded tier, plus an MF equal to the difference between the annual MF applicable to the previously authorized tier and the annual MF for the upgraded tier, pro-rated for the number of months remaining in the term. After expiration of the term, the annual MF, if applicable shall be at the rate applicable to the upgraded license." With

"If the previously authorized license is under Option P9, the one-time upgrade fee shall be the then State Term Schedule price difference between the PO one-time fee applicable to the previously authorized tier and the PO one-time fee applicable to the upgraded tier, plus an MF equal to the difference between the annual MF applicable to the previously authorized tier and the annual MF for the upgraded tier, pro-rated for the number of months remaining in the term. After expiration of the term, the annual MF, if applicable shall be at the rate applicable to the upgraded license."

(xxii) Delete 5th paragraph on page 40 General CA Policies for Special Distributed Products in its entirety.

(xxiii) Delete 6th paragraph on page 40 General CA Policies for Special Distributed Products in its entirety.

Section 9-G

Pay Options

(i) Modify paragraph on page 40 01LICENSE. "Under CA's standard mainframe product pay option; known as and 01, the Government pays a one-time fee ("OTF"), inclusive of all charges for usage and maintenance of the Computer Program for a one-year period. Thereafter continued usage and maintenance of the Computer Program is subject an annual usage and maintenance fee ("UMF"). The calculation of a commercial list price 01 Commercial list price 01is described below," with

Under standard mainframe product pay option; known as and 01, the Government pays a one-time fee ("OTF"), inclusive of all charges for usage and maintenance of the Computer Program for a one-year period. Thereafter continued maintenance of the Computer Program is subject an annual usage and maintenance fee ("UMF"). The calculation of a commercial list price 01 Commercial list price 01is described below,"

(ii) Delete paragraph on page 42 Usage and Maintenance Fees in its entirety.



(iii) Delete paragraphs on page 42 and 43 Pay Option Plan Description in its entirety.

Delete paragraphs on page 43 Conversion of an H-Pay Option Plan to O-Pay Option License in its entirety.

(iv) Delete 1st, 2nd and 3rd paragraphs on page 46 Product Demonstration in their entirety.

(v) Delete page 46 Product Evaluations in its entirety.

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

Section 10

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

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

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

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

Office of Information Technology
Investment and Governance Division
Contract Management
30 East Broad Street, Suite 4099
Columbus, Ohio 43215 - 3414

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

Section 11

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

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

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

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



Contractor must forward the check to the following address:

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

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

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

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

Section 12

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

- (1) The location(s) where all services will be performed; and
- (2) The location(s) where any state data applicable to the contract will be maintained or made available; and
- (3) The principal location of business for the contractor and all subcontractors.

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

Section 13

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

Section 14

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

- (1) Be in accordance with the sound professional standards and the requirements of this Contract and without any material defect.
- (2) No Deliverable will infringe on the intellectual property rights of any third party.
- (3) All warranties are in accordance with Contractors standard business practices attached.
- (4) The Contractor also represents that all equipment and software Deliverables will operate according to the specifications and user documentation published by the Contractor and that all custom Deliverables will be in accordance with the requirements contained in the applicable scope of work.



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

- (1) The Contractor has the right to enter into this Contract.
- (2) The Contractor has not entered into any other contracts or employment relationships that restrict the Contractor's ability to perform under this Contract.
- (3) The Contractor will observe and abide by all applicable laws and regulations, including those of the State regarding conduct on any premises under the State's control.
- (4) The Contractor has good and marketable title to any goods delivered under this Contract and which title passes to the State.
- (5) The Contractor has the right and ability to grant the license granted in any Deliverable in which title does not pass to the State.

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

Sectoin 15

INDEMNITY. The Contractor will indemnify the State against all liability or expense resulting from bodily injury to any person (including injury resulting in death) or damage to real or tangible property arising out of the performance of this Contract, provided such bodily injury or real or tangible property damage is due to the negligence of the Contractor, its employees, agents, or subcontractors. The Contractor will also indemnify the State against any claim of infringement of a copyright, patent, trade secret, or similar intellectual property rights based on the State's proper use of any Deliverable under this Contract. This obligation of indemnification will not apply where the State has modified the Deliverable and the claim of infringement, is based on the modification. The state agrees to give the Contractor notice of any such claim as soon as reasonably practicable. If a successful claim of infringement is made, or if the Contractor reasonably believes that an infringement claim that is pending may actually succeed, the Contractor will do one, (1) of the following four (4) things:

- (1) Modify the Deliverable so that is no longer infringing.
- (2) Replace the Deliverable with an equivalent or better item.
- (3) Acquire the right for the State to use the infringing Deliverable as it was intended for the State to use under this Contract; or
- (4) Remove the Deliverable and refund the fee the State paid for the Deliverable and the fee for any other Deliverable that required the availability of the infringing Deliverable for it to be useful to the State.

For purposes of this section, an "agent" of the Contractor is a person or entity that the Contractor has authorized to act for the Contractor under this Contract, including but not limited to any of the Contractor's dealers or distributors under the Distributors section of this Contract.



Section 16

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, address, and telephone number of any such dealer, as well as the dealer's purchase order and payment address(es) and Federal tax identification number. The Contractor must also submit a completed W9 form for each dealer it wishes to name under this section. The Contractor's submission must be on its official letterhead, signed by an authorized representative, and addressed to the Deputy Director of OIT's Investment and Governance Division.

In doing so, the Contractor warrants that: (a) The dealer has been given a copy of this Contract, and a duly authorized representative of the dealer has agreed, in writing, to be bound by the terms and conditions in this Contract. (b) Such agreement specifically provides that it is for the benefit of the State as well as the Contractor. (c) The Contractor agrees to remain liable under this Contract for any failure of the dealer to perform and 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 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. One or more distributors may be identified in the authorizing letter. In such cases, information regarding tax-payer 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.

Section 17

ADDITIONAL OFFERINGS. If the Contractor supplements the products or services it offers to the Federal Government under its Federal Contract, then the following provisions are applicable.

This Contract includes the additional products and/or supplies offered in the price list(s) or catalog(s) identified below. The Contractor agrees to provide these products and/or services to the State under the same terms as those products and/or services listed in the Contractor's GSA Price List. The Contractor certifies that these products and/or services are "commercial" items, in accordance with the definition of "commercial" items in the Contractor's Federal Contract, and the Contractor agrees that the requirements of the GSA's Price Reduction Clause are applicable to these additional products. Further, the Contractor warrants that these products and/or services are being offered to the State at the most favorable prices it has made them available to any other customer within the year immediately preceding the date these products and/or services were added to this Contract.

The additional products and/or services are identified in the following price list(s) and/or catalog(s) (insert "none" if this provision is inapplicable): None.

If the price list(s) and/or catalog(s) contain suggested retail prices or undiscounted, direct customer pricing, indicate by individual item or service, or by category of item or service, the applicable discount to the State (insert none if no additional product(s) or service(s) are being offered or see price list/catalog if the prices include the applicable State discount): None.

Section 18

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

1. **THE LIMITATION IN PARAGRAPH 3 DOES NOT APPLY TO LIABILITY ARISING FROM THIRD PARTY CLAIMS OR THE SECTIONS IN THIS DOCUMENT WHERE THE SECTIONS EXPRESSLY PROVIDES A RIGHT TO PARTICULAR DAMAGES SUCH AS INDEMNITY.**



2. 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 DAMAGE.
3. THE CONTRACTOR SHALL REMAIN LIABLE FOR ALL DIRECT DAMAGES DUE TO THE CONTRACTOR'S FAULT OR NEGLIGENCE UP TO THREE (3) TIMES THE COST OF THE PRODUCT/SERVICES OR EIGHT MILLION DOLLARS (\$8,000,000.) WHICHEVER IS GREATER. THE PARTIES FURTHER AGREE THAT THE CONTRACTOR SHALL REMAIN LIABLE FOR ALL DIRECT DAMAGES UP TO (3) THREE TIMES THE COST OF THE PURCHASE EVENT FOR SERVICE ENGAGEMENTS VALUED AT TWO MILLION DOLLARS (\$2,000,000.) OR LESS.

Section 19

PAYMENT DUE DATE. Payments for Deliverables (for purposes of this Agreement, shall include any Licensed Programs and or Custom Deliverables) will be due on the thirtieth (30th) calendar 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) for Custom Deliverables only, the date the State accepts the Deliverable as defined in the acceptance criteria contained in the applicable Statement of Work. The date the State issues a warrant (the State's equivalent to a check) in payment of an invoice will be considered the date payment is made. Without diminishing the Contractor's right to timely payment, the payment will be overdue only if it is not received by the thirtieth (30th) day after the payment's due date. If the State has not issued payment by then, interest will begin to accrue under Ohio Revised Code Section §126.30.

Section 20

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

- (1) Name and address of the Contractor as designated in this Contract.
- (2) The Contractor's Federal tax identification number as designated in this Contract.
- (3) The Contractor's invoice remittance address as designated in this Contract.
- (4) The purchase order number authorizing the delivery of products or services.
- (5) A description of what the Contractor delivered, including, as applicable, the time period, serial number, unit price, quantity, and total price of the products and services. If the invoice is for a lease, the Contractor must also include the payment number (e.g., 1 of 36).

If an authorized dealer has fulfilled the purchase order, then the dealer's information should be supplied in lieu of the Contractor's information. If an Invoice does not meet this section's requirements or if the Contractor fails to give proper notice of a price increase (see the next section), the State will send the Contractor written notice with the improper invoice to the address designated for receipt of purchase orders within fifteen (15) calendar days after receipt of the invoice. The notice will contain a description of the defect or impropriety and any additional information the Contractor needs to correct the invoice.

If such notification has been sent, the payment due date will be thirty (30) days after the State receives a proper invoice and has accepted the Contractor's product or service.

Section 21

OHIO PAYMENT CARD. Participating state agencies purchasing supplies from the Contract may use the Ohio Payment Card. Such purchases may not exceed \$1,000 unless the Office of Budget & Management has approved the agency to exceed this limit. In the event that OBM increases the dollar limit for payment cards for all state agencies, notice of such increase will be posted on the State Procurement Website. Participating state agencies are required to use the Ohio Payment Card in accordance with the Ohio, Office



of Budget and Management's current guidelines for the Ohio Payment Card and the participating agency's approved plan filed with the Office of Budget of Management. Contractor may process a payment in the payment card network only upon delivery and acceptance of the supplies or services ordered. For partial deliveries or performance, Contractor may process a payment for the amount delivered or completed only and not for the entire amount ordered by the participating agency. Upon completion of the delivery of remaining supplies or services, Contractor may process a payment request in the payment card network for the remainder of the order. Contractor will receive payment through its merchant bank within the time frame agreed upon between Contractor and its merchant bank. The Contractor should expect normal processing fees from its merchant bank for payment card transaction which may not be passed on to the agency making the purchase.

Section 22

NOTIFICATION OF PRICE INCREASES. If this Contract permits any price increases, notification of such must be given to the Deputy Director of the Division of Computer and Information Services and to the purchase order "bill to" address contained in the applicable purchase order(s) for any orders affected by the increase (e.g., existing leases, licenses, or annual maintenance programs). The Contractor must give these notices no later than thirty (30) days before the effective date of the price increase. This notification must specify, when applicable, the product serial number, location, current price, increased price, and applicable purchase order number.

Section 23

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

Section 24

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

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

The parties' obligation to maintain the confidentiality of the Confidential Information will not apply where such: (1) was already in the possession of the receiving party before disclosure by the disclosing party, and was received by the receiving party without obligation of confidence; (2) is independently developed by the receiving party, provided documentary evidence exists to support the independent development; (3) is or becomes publicly available without breach of this Contract; (4) is rightfully received by the receiving party from a third party without obligation of confidence; (5) is disclosed by the receiving party with the written consent of the disclosing party; or (6) is released under a valid order of a court of competent jurisdiction, provided that the receiving party (a) notifies the disclosing party of the order immediately upon receipt of it and (b) makes a reasonable effort to obtain a protective order from the issuing court or agency limiting



disclosure and use of the Confidential Information solely for the purposes intended to be served by the original order of production. The receiving party will return all originals of any Confidential Information and destroy any copies it has made for its own internal use on termination or expiration of this Contract or as requested by the disclosing party.

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

Section 25

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

Section 26

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

Section 27

LEASES/FINANCING. The State may elect to obtain equipment and software on a finance/lease basis subject to the terms of the State of Ohio, OFFICE OF Information Technology, Master Financing Agreement -- Revised September 2001, when the parties execute that agreement.

Section 28

CANCELLATION. The State or the Contractor may cancel this Contract without cause and on thirty (30) days written notice. But, in the case of any lease of goods or services or any license of software or other intangible property entered into before the effective date of the termination, the State will have the right to continue such lease or license after termination on the same terms.

Section 29

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

Section 30

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

SECTION 31

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

SECTION 32

DRUG FREE WORKPLACE. The Contractor will make a good faith effort to ensure that none of its employees are under the influence of or possess illegal drugs or alcohol or abuse prescription drugs while they are on State property.

SECTION 33

OHIO ETHICS AND ELECTIONS LAW. The Contractor certifies that it is currently in compliance and will continue to adhere to the requirements of the Ohio ethics law, Ohio Revised Code Section §102.04. The Contractor affirms that, as applicable to the Contractor, no party listed in Division (I) or (J) of Section



3517.13 of the Ohio Revised Code or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of \$1,000.00 to the Governor or to his campaign committees.

Section 34

PUBLICITY. The Contractor will not advertise that it is doing business with the State or use this Contract as a marketing or sales tool without the prior, written consent of the State.

Section 35

CONTROLLING BOARD AUTHORIZATION. The State's obligations under this Contract are subject to the Ohio Controlling Board's continuing authorization to use GSA schedule contracts and negotiate state term contracts. If the Ohio Controlling Board fails to authorize or withdraws its authorization for this program, this Contract will terminate, and the Contractor may not take any more orders under this Contract. The Controlling Board's withdrawal of its authorization will not affect existing licenses, leases, warranty commitments, and maintenance obligations.

Section 36

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

Section 37

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

Section 38

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

Section 39

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

Section 40

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

Section 41

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

Section 42

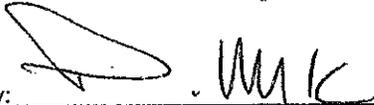
LAW. This Contract is governed by and will be construed under Ohio law, and venue for any dispute will be with the appropriate court in Franklin County, Ohio.



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

THE CONTRACTOR
COMPUTER ASSOCIATES INTERNATIONAL, INC.

STATE OF OHIO,
OFFICE OF INFORMATION TECHNOLOGY,
INVESTMENT AND GOVERNANCE DIVISION

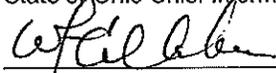
By: 

By: 

Dorothy Urbancik
Manager, Contracts

Director, Office of Information Technology
State of Ohio Chief Information Officer

Title: _____

By: 

Deputy, State of Ohio Chief Information Officer

Date: 12/12/05

Date: 12/21/05

Revised: 11/22/05 CA Legal



annual usage and maintenance fee ("UMF"). The calculation of a commercial list price O1 OTF is described below.

Designated CPU Pricing

Calculating a commercial list price O1 Designated CPU Product License Fee

Formula:
 $One-Time\ Fee = Base\ License\ Fee * Tier\ Price\ Multiplier\ Factor$

1. Determine the Base License Fee and Price Table Reference for the product by looking up the product in the Mainframe Products section of the Software Fee Schedule under the LICENSE FEES and REFERENCE columns.
2. Determine the CPU Tier Group (such as DD or EE) for the CPU model on which the product will be installed by looking up the CPU model in the Machine Classification section of this Schedule.
3. Using the Tier Price Multiplier Factor Tables below, determine the Tier Price Multiplier Factor (or "Multiplier") for the applicable Tier Group by matching the Tier Group with the Table reference. (For example, for ACF2 MVS, with a Table Reference of 45, to be installed on a Group EE machine, the Multiplier is 1.20.)
4. Calculate the One-Time Fee by multiplying the Base License Fee by the Multiplier, then apply the respective GSA discount. (For example, for ACF2 MVS to be installed on a Group EE machine, the Base License Fee is \$65,070 and the Multiplier is 1.20, so the One-Time Fee is \$65,070 times 1.20, or \$78,084.)
5. GSA Price: Apply the O1 Mainframe Products Discount of 35% to the commercial One-Time Fee.

Pricing Multiplier Factor Tables

The tier pricing multiplier factor is the number by which you must multiply the Base License Fee to determine the O1 One-Time Fee for a product on the designated CPU. That factor is determined in accordance with the following tables:

Table Ref Code	10	20	30	40	50	60
10	1.00	1.00	1.00	1.00	1.00	1.00
44	0.60	0.80	1.00	1.40	1.60	1.90
45	0.40	0.60	0.70	1.00	1.20	1.40
54	0.40	0.90	1.00	1.40	1.60	1.90
55	0.80	0.80	0.90	1.00	1.30	1.40
64	0.60	1.00	1.00	1.40	1.60	1.90
65	0.60	0.70	0.80	1.00	1.20	1.40
74	0.50	0.90	1.00	1.40	1.60	1.90
75	0.80	0.80	0.90	1.00	1.40	1.40
85	0.40	0.80	0.90	1.00	1.40	1.40
95	0.75	0.75	0.85	1.00	1.40	1.40

Table Ref Code	70	80	90	100	110
10	1.00	1.00	1.00	1.00	1.00
44	2.50	3.30	4.00	5.00	(2)
45	1.80	2.40	2.90	3.50	(1)
54	2.50	3.30	4.00	5.00	(2)
55	1.80	2.40	2.90	3.50	(1)
64	2.50	3.30	4.00	5.00	(2)
65	1.80	2.40	2.90	3.50	(1)
74	2.50	3.30	4.00	5.00	(2)
75	1.80	2.40	2.90	3.50	(1)
85	1.80	2.40	2.90	3.50	(1)
95	1.80	2.40	2.90	3.50	(1)

For CPUs rated at greater than 400 MIPS, the Price Multiplier Factor is calculated as follows:

MIPS Range	
Up To	401
400	800
Pricing Multiplier Factor Formula	
(1)	3.5
(2)	5.0
	$3.5 + (MIPS - 400) * 0.008$
	$5.0 + (MIPS - 400) * 0.01125$

MIPS Range	
801	Greater Than
1200	1200
Pricing Multiplier Factor Formula	
(1)	6.7
(2)	9.5
	$6.7 + (MIPS - 800) * 0.0072$
	$9.58 + (MIPS - 1200) * 0.0065$
	$13.5 + (MIPS - 1200) * 0.009$

VTAPE Pricing

Pricing for VTape is based on the number of Virtual Tape Devices (VTDs) to be licensed. The Base License Fee of \$4,300.00 reflected in the Mainframe Products section of the Software Fee Schedule is the price per VTD. To calculate the O1 One-Time Fee, multiply the number of VTDs to be licensed by the Base License Fee, then apply the O1 GSA discount of 35%

Usage and Maintenance Fees

The UMF is the annual usage and maintenance fee payable under all licenses on an O1, O2, O3 or O9 payment option plan after expiration of the initial one, two or three year term during which the fees for usage and maintenance are included in the one-time fee or annual fee as applicable. After expiration of the initial term, payment of the annual UMF gives the Government the right to continue using the product and to receive maintenance services. Without payment of the UMF, the license will terminate and the Government may not retain the product after expiration of the initial term.

Calculating GSA UMF

Formula:
 $One-Time\ Fee\ for\ an\ O1\ License * UMF\ \% (less\ 2\ point\ GSA\ discount)$



Multiply the One-Time Fee for an O1 license for the product by the UMF % for the product listed in the Mainframe Products section of the Software Fee Schedule in the UMF% RATE column less a 2 point reduction to UMF % for the GSA discount.

Pay Option Plan Descriptions

In addition to a P0 license, CA may make other pay options available as an accommodation to the licensee and at CA's sole discretion. Thus, CA's remaining pay options for the Mainframe Products are:

- O2: Two equal annual payments inclusive of all charges for usage and maintenance for a two-year period. Thereafter, continued usage and maintenance is subject to payment of the then-prevailing annual UMF.
O3: Three equal annual payments inclusive of all charges for usage and maintenance for a three-year period. Thereafter, continued usage and maintenance is subject to payment of the then-prevailing annual UMF.
O9: A single payment inclusive of all charges for usage and maintenance for a three-year period. Thereafter, continued usage and maintenance is subject to payment of the then-prevailing annual UMF.
H0: A single payment for a one-month term, inclusive of all charges for usage and maintenance for the one-month period. Thereafter, the license will be renewed on the same terms and conditions, but subject to the then prevailing H0 license fee.
H1: A single payment for a one-year term, inclusive of all charges for usage and maintenance for the one-year period. Thereafter, the license will be renewed on the same terms and conditions, but subject to the then prevailing H1 license fee.
H2: Two equal annual payments, inclusive of all charges for usage and maintenance for the two-year period. Thereafter, the license will be renewed on the same terms and conditions, but subject to the then prevailing H2 license fee.
H3: Three equal annual payments, inclusive of all charges for usage and maintenance for the three-year period. Thereafter, the license will be renewed on the same terms and conditions, but subject to the then prevailing H3 license fee.
G0: A single payment for a limited purpose such as services, upgrade, maintenance reinstatement, transfer fee, etc. without effecting any change in any existing license except as specifically set forth. Supplemental maintenance fees may apply and will be invoiced separately.

To determine the applicable installment payment for a pay option other than O1, calculate the one-time fee for an O1 license (as explained above) and multiply that O1 one-time fee by the Pay Option Factor for the applicable pay option in accordance with the following table, then apply the respective GSA discount. The result will be the one-time, annual or monthly installment(s) for the agreed term. The correct factor for the O9 payment option is dependent upon the CA maintenance rate for the product.

For example: Assuming the O1 license fee is \$100,000 and the client wishes to purchase an O3 license; the calculation would be as follows:

\$100,000 (O1 fee) X .5100 (Pay Option Factor) X 3 (Annual Frequency) = \$153,000.

For Mainframe Products:

Table with 4 columns: Pay Option, Pay Option Factor, Installment Frequency, GSA Discount. Rows include O1, O2, O3, O9 (Maint. Rate up to 15%), O9 (Maint. Rate 16-20%), H0, H1, H2, H3, and G0.

Conversion of an H-Pay Option Plan to O-Pay Option License

PRODUCTS UNDER AN H0 PAY OPTION PLAN. During the first three months of the initial term of an H0 pay option plan, the Government can convert a product licensed under an H0 pay option plan to an O-pay option plan upon payment of the applicable first annual installment for the O-pay option for the product, less a credit of up to a maximum of 80% of the aggregate of the payments actually made by the Government during the initial term of such H0 license, provided that the net amount to be paid for the first annual installment of the O-pay option is at least 50% of the agreed annual installment payment, and if, after application of this credit, the payment due for the first year of the O-pay option would be less than 50% of that year's agreed installment of the O-pay option fee, then the balance of the credit not applied against the first year's installment payment due under the O-pay option may be applied against subsequent installment payment(s) of the agreed O-pay option fee during the initial term of the license.

PRODUCTS UNDER AN H1, H2 OR H3 PAY OPTION PLAN. During the initial term of the applicable H-pay option plan, the Government can convert a product licensed under the H-pay option plan to an O-pay option plan upon payment of the applicable first annual installment for the O-pay option for the product, less a credit of up to a maximum of 20% of the aggregate of the license fee payments actually made by the Government during the initial term, provided that the net amount to be paid for the first annual installment of the O-pay option is at least 50% of the agreed annual installment payment, and if, after application of this credit, the payment due for the first year of the O-pay option would be less than 50% of that year's agreed installment of the O-pay option fee, then the balance of the credit not applied against the first year's installment due under the O-pay option may be applied against subsequent installment payment(s) of the agreed O-pay option fee during the initial term of the license. MIPS Based Licenses

Under a MIPS based license, the licensee may use the software on any number of CPUs or within any Sysplex environment, subject only to the agreed Licensed MIPS Capacity. Computer Programs operating in a Parallel Sysplex environment must be licensed on a MIPS basis. The total MIPS of the Parallel Sysplex environment must be accounted for within the Licensed MIPS Capacity. The MIPS based license is especially suitable for Government users that seek a high degree of flexibility in adapting to changing environments and requirements.

Special conditions applicable to a MIPS based license include:



The license fee includes usage and maintenance of the Computer Programs during the agreed initial term. Thereafter, the UMF is determined annually based on then-prevailing MIPS based prices.

The MIPS rating of each CPU is based on CA's schedule.

The licensee must enroll in either CA's eSupport or Star-TCC.

All previous licenses for the Computer Programs are canceled.

Contracted payment obligations under those previous licenses must be satisfied.

The total number of MIPS licensed may exceed those actually installed in order to allow for reasonable growth.

MIPS based licensing is generally not available for third party, facility management, service bureau or similar usage.

The Extended Usage Fee (applicable only to multiple sites) is calculated by multiplying the number of sites exceeding one site that have the VSE or VM Computer Program installed by the published O1 license fee applicable to tier Group BB for each Computer Program, then apply the respective GSA discount.

MIPS Based Conversion

Existing CPU or site licenses may be converted to MIPS based licenses if the Computer Program is under active maintenance services in the name and for the benefit of the current licensee.

MIPS Based Expansion

The Licensed MIPS Capacity and the authorized sites under a MIPS based license can be expanded by payment of a supplemental license fee (as well as a UMF adjustment), calculated as follows:

FOR MVS PRODUCTS. Additional MIPS may be added in multiples of 10 MIPS, with the license fee adjustment for the additional MIPS calculated by multiplying the desired incremental number of MIPS by .4% (0.004) times the published O1 license fee applicable to tier Group HH for the Computer Program, then apply the respective GSA discount. The UMF adjustment is calculated by multiplying the license fee for the additional MIPS by the UMF rate for the Computer Program. The UMF is prorated for the year of the MIPS increase and charged annually thereafter through the term of the agreement.

If additional sites are added, the license fee adjustment for the additional sites is calculated by multiplying the desired number of additional sites by the published O1 license fee applicable to tier Group CC for the Computer Program, then apply the respective GSA discount.

FOR VSE AND VM PRODUCTS. Additional MIPS may be added in multiples of 5 MIPS, with the license fee adjustment for the additional MIPS calculated by multiplying the desired incremental number of MIPS by 2% (0.02) times the published O1 license fee applicable to tier Group DD for the Computer Program. The UMF adjustment is calculated by multiplying the license fee for the additional MIPS by the UMF rate for the Computer Program, then apply the respective GSA discount. The UMF is prorated for the year of the MIPS increase and charged annually thereafter through the term of the agreement.

If additional sites are added, the license fee adjustment for the additional sites is calculated by multiplying the desired number of additional sites by the published license fee applicable to tier Group BB for the Computer Program, then apply the respective GSA discount.

GSA discounts should be applied to the aforementioned expansion calculations. GSA discounts for CPU expansions are consistent with the GSA discounts applicable to the original pay option.

MIPS Based Pricing Calculations

MIPS based license fees may be calculated using the alternative methods described below to determine the lowest fee applicable to a particular configuration and environment.

NEW LICENSES

a. **NEW LICENSES - ANY OPERATING SYSTEM (500 MIPS MINIMUM).** The license fee for a MIPS based license for mainframe software generally (regardless of operating system) is calculated by multiplying the aggregate MIPS for the license (rounded to the next greater multiple of 100 MIPS) by 0.4% (0.004), and multiplying that factor by the published O1 license fee applicable to tier group HH for each Computer Program, then apply the respective GSA discount.

b. **NEW LICENSES - MVS PRODUCTS (120 MIPS MINIMUM).** For MVS products, the MIPS based license fee consists of the sum of the "Base MIPS Fee" and the "Extended Usage Fee."

The Base MIPS Fee is calculated by multiplying the total number of MVS MIPS (rounded to the next greater multiple of 10 MIPS) by 0.9% (0.009) and multiplying that factor by the published O1 license fee applicable to tier Group EE for each Computer Program.

The Extended Usage Fee (applicable only to multiple sites) is calculated by multiplying the number of sites exceeding one site that have the MVS Computer Program installed, by the published O1 license fee applicable to tier Group CC for each Computer Program, then apply the respective GSA discount.

c. **NEW LICENSES - VSE AND VM PRODUCTS (60 MIPS MINIMUM).** For VSE and VM products, the MIPS based license fee consists of the sum of the "Base MIPS Fee" and "Extended Usage Fee."

The Base MIPS Fee is calculated by multiplying the total number of VSE/VM MIPS (rounded to the next greater multiple of 5 MIPS) by 1.7% (0.017) and multiplying that factor by the published O1 license fee applicable to tier Group DD for each Computer Program, then apply the respective GSA discount.

General CA Policies for Mainframe Products

This section describes general policies, including definitions of certain terms CA applies as appropriate.

PRICING FOR ADDITIONAL CPUs

The Government may license a Computer Program for use on additional designated CPUs at a single installation at an additional



discount, provided that the Government already has a license to run at least one copy of the Computer Program on a CPU on the highest CPU group at the installation. Provided that the first CPU has been upgraded to or is licensed (under certain pay options) for use on the highest CPU group installed at the installation, the license fee, and any subsequent usage and maintenance fee, for each additional CPU shall be 78% of the then-prevailing license fee, and 60% of the then prevailing usage and maintenance fee respectively, applicable to the additional CPU. The reduced license fees and reduced usage and maintenance fees for the second and additional CPUs at the same installation will only apply during the time that the license for usage and maintenance for the Computer Program on the highest CPU group is current and in effect.

PARALLEL SYSPLEX, MSF, VSF AND LINUX.

Certain technology offered by IBM, Amdahl and Hitachi allows for coupling and/or partitioning of a CPU into various configurations. Computer Programs operating in a Parallel Sysplex environment must be licensed on a MIPS basis. The total MIPS of the Parallel Sysplex must be accounted for within the Licensed MIPS Capacity.

Computer Programs operating in a non-Parallel Sysplex environment, including an LPAR, VPAR, VIF, VM, MSF or VSF environment can be licensed either on a designated CPU or MIPS basis, but all MIPS on all activated processors within a CPU must be licensed, regardless of the partitioning or configuration of processors within the CPU.

In the event that a CPU is configured with the Integrated Facility for Linux ("IFL"), the MIPS dedicated to such a Physical Partition (defined as a manufacturer-designated portion of a CPU or processor which is physically separate and distinct from all other portions of the CPU or processor) will not be included in the license for any mainframe products provided that the Physical Partition is: a) running solely the Linux operating system; and b) not executing any Computer Program.

Upgrades of Designated CPU Licenses

Computer Programs licensed for use on designated CPUs may be upgraded to a higher tier group at any time during the term of the agreement. The expiration date of the term of the license or the usage and maintenance period shall continue to apply to the license for use on a replacement CPU in the upgraded tier group, and annual usage and maintenance fees shall be separately adjusted on a pro rata basis for the balance of the then-current period. The fee for such an upgrade shall be determined as follows:

If the previously authorized license is under Option O1, the one-time upgrade fee shall be the then-prevailing difference between the O1 one-time fee applicable to the previously authorized group and the O1 one-time fee applicable to the upgraded group. Thereafter, the annual UMF shall be at the rate applicable to the upgraded license.

If the previously authorized license is under Option O2 or O3, the upgrade fee shall be the then-prevailing difference between the O1 one-time fee applicable to the previously authorized group and the O1 one-time fee applicable to the upgraded group, plus in each year of the term following the upgrade, a UMF equal to the difference between the annual UMF for the previously authorized group and the annual UMF for the upgraded group. Upon expiration of the term, the annual UMF shall be at the rate applicable to the upgraded license.

If the previously authorized license is under Option O9, the one-time upgrade fee shall be the then-prevailing difference between the O1 one-time fee applicable to the previously authorized group and the O1 one-time fee applicable to the upgraded group, plus for each full year remaining in the term following the upgrade, a

UMF equal to the difference between the annual UMF for the previously authorized group and the annual UMF for the upgraded group. Upon expiration of the term, the annual UMF shall be at the rate applicable to the upgraded license.

If the previously authorized license is under Option H0, the monthly payments subsequent to the occurrence of the upgrade shall be adjusted to the rate applicable to the upgraded license.

If the previously authorized license is under Option H1, H2 or H3, the annual upgrade fee shall be the then-prevailing difference between the annual payment applicable to the previously authorized group and the annual payment applicable to the upgraded group, based on the respective Options, and prorated for the year of the upgrade. Upon renewal, annual payments shall be at the rate applicable to the upgraded license.

GSA discounts should be applied to the aforementioned upgrade calculations. GSA discounts for upgrades are consistent with the GSA discounts applicable to the original pay option.

PRODUCT DEMONSTRATION

When the Government requests a demonstration of a Computer Program, whether at CA's facilities or a Government site, the following terms and conditions apply:

The government will issue a \$0 Delivery Order that lists the Computer Programs that will be installed and demonstrated for the Government evaluation. The Delivery Order must specify the following:

- List of Computer Programs to be evaluated along with installation information.
Demonstration Period Start and End Dates.

Provided that the Government informs CA during the demonstration period of their intent not to purchase the Computer Programs, the Government is under no obligation to license the Computer Programs.

Upon completion of the demonstration period, the Government must license the Computer Programs or return to CA all documents and materials delivered to the Government and certify in writing that all copies or partial copies of the Computer Programs (including backup copies) have either been returned or completely destroyed and are no longer being used by the Government.

During the demonstration period, the Government agrees to keep all documents, materials and information delivered or provided by The Contractor strictly confidential and that the Government will not copy or disclose the same or use the same for any purpose other than the contemplated demonstration of the Product.

Guarantees/Warranties as described in software licensing terms and conditions section herein shall apply.

Title to the Computer Program(s) will at all times, remain with the Contractor and the Government acknowledges that the Computer Programs(s) constitutes copyrighted trade secret and proprietary property of the Contractor.

Product demonstration rights are not assignable or transferable to any third party without the prior written consent of the Contractor.

PRODUCT EVALUATIONS

On occasion the Government will want to evaluate computer Programs(s) prior to licensing the respective Computer Programs.



Computer Associates

Product Evaluations are subject to the following terms and conditions:

The Government will issue a \$0 Delivery Order. The Delivery Order must specify the following:

List of Computer Programs to be evaluated along with installation information.
Evaluation Period Start and End Dates.

At any time prior to the expiration of the Evaluation period, the Government may terminate this license upon written notice to the Contractor and upon return to the Contractor of the Computer Program(s) and all related documentation; provided, however, that Licensee shall continue to be bound by the provisions of this GSA Schedule relating to the confidentiality of the Computer Program(s) as set forth in this GSA Schedule.

If the Government fails to provide the Contractor with such written notice of termination within the period set forth above, then the license for the Computer Program(s) shall be in full force and effect in accordance with the licensing provisions of this Schedule and the Government shall pay to the Contractor the respective licensee fees described herein.

Guarantees/Warranties as described in software licensing terms and conditions section herein shall apply.

Title to the Computer Program(s) will at all times, remain with the Contractor and the Government acknowledges that the Computer Programs(s) constitutes copyrighted trade secret and proprietary property of the Contractor.

Product evaluation rights are not assignable or transferable to any third party without the prior written consent of the Contractor.

Amendment to State Term Contract Renewal

EFFECTIVE June 30, 2014

BETWEEN

CA, INC., ("CA")

And

STATE OF OHIO ("Licensee" or "Customer")

Effective June 30, 2014, the State Term Contract Renewal is amended as follows:

1. Regarding the **Executive Order 2011-12K Affirmation and Disclosure**, the parties acknowledge and agree that CA is a world-wide Software Vendor, similar to many other large IT Companies currently conducting business with the State of OHIO. It is understood and agreed that as part of CA's Software Support offering CA offers some of our customers 24X7 Support. In doing so, certain CA Employees reside in and may provide telephone support from the following locations:

- Hyderabad, India
- London, UK
- Paris, France
- Darmstadt, Germany
- Barcelona, Spain
- Tokyo, Japan
- Sydney, Australia

2. The following changes are hereby incorporated into the State Term Schedule dated December 21, 2005,

Section 15, INDEMNITY is deleted in its entirety and replaced with the following language:

15.1 The Contractor will indemnify, defend and/or, at its option, settle any third party claims that the State's use of Contractor furnished software licensed or purchased by the State under this Contract infringes any U.S.patent or copyright within the jurisdictions where the State is authorized to use the Contractor furnished software at the time of delivery. The Contractor may, at its option and expense either: (i) procure for the State the right to continue to use the Contractor furnished software; (ii) repair, modify or replace the Contractor furnished software so that it is no longer infringing; or (iii) provide a pro-rated refund of the fees paid for the Contractor furnished software that gave rise to the indemnity calculated against the remainder of the Term from the date it is established that CONTRACTOR is notified of the third Party claim. If the CONTRACTOR offering is CONTRACTOR software, and is licensed on a perpetual basis, an amortization schedule of three (3) years shall be used for the basis of the refund calculation.

15.2 The Contractor will have no liability: (i) if the allegation of infringement is a result of a modification of the Contractor furnished software except a modification by the Contractor, (ii) if the Contractor furnished software is not being used in accordance with the Contractor's specifications, related documentation and guidelines, (iii) if the alleged infringement would be

avoided or otherwise eliminated by the use of a Contractor-published update or patch that the Contractor made available to the State, (iv) or if the alleged infringement is a result of use of the Contractor furnished software in combination with any third Party product, or (v) if the applicable fees due for the specific Purchase Order have not been paid. . The indemnifications contained herein shall not apply and the Contractor will have no liability in relation to any Contractor furnished software produced by the Contractor at the specific direction of the State. THE FOREGOING PROVISIONS STATE THE ENTIRE LIABILITY AND OBLIGATIONS OF THE CONTRACTOR REGARDING CLAIMS OF INFRINGEMENT, AND THE EXCLUSIVE REMEDY AVAILABLE TO THE STATE WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OR MISAPPROPRIATION OF ANY INTELLECTUAL PROPERTY OR OTHER PROPRIETARY RIGHTS.

15.3 Contractor must indemnify the State against all damages, fees, (including reasonable attorney's fees) fines, judgments, costs and expenses finally awarded as a result of a third Party action alleging a bodily injury or death that arises under the Contract, provided that such liabilities are the proximate result of the negligence or intentional tortious conduct on the part of the Contractor.

15.4 Reserved.

15.5 The above indemnities are contingent upon: (i) the State providing prompt notice of any claim of infringement and assistance in the defense thereof, (ii) the Contractor's right, to control the defense or settlement of any such claim, provided that the settlement does not require a payment or admission of liability on the part of the State, and (iii) the State not taking any actions or failing to take actions that hinder the defense or settlement process as reasonably directed by the Contractor.

Section 17, Additional Offerings, delete that paragraph in its entirety and replace it with the following language:

"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."

Section 18, Limitation of Liability, is hereby deleted in its entirety and replaced with the following language;

"THE CONTRACTOR SHALL REMAIN LIABLE FOR ALL DIRECT DAMAGES DUE TO THE CONTRACTOR'S FAULT OR NEGLIGENCE UP TO THREE (3) TIMES THE COST OF THE PRODUCT/SERVICES OR UP TO \$4,000,000, WHICHEVER IS LESS. THE PARTIES FURTHER AGREE THAT THE CONTRACTOR SHALL REMAIN LIABLE FOR ALL DIRECT DAMAGES UP TO (3) THREE TIMES THE COST OF THE PURCHASE EVENT FOR SERVICE ENGAGEMENTS VALUED AT \$500,000 OR LESS. FOR ANY INCIDENCE OF DAMAGE TO TANGIBLE PERSONAL PROPERTY, DEATH OR BODILY INJURY TO ANY THIRD PARTY CAUSED BY CA'S NEGLIGENCE, SUCH LIABILITY SHALL BE UNLIMITED. THE LIMITS ON LIABILITY SET FORTH HEREIN DO NOT APPLY TO BREACH OF TITLE, INFRINGEMENT OF CONTRACTOR'S INTELLECTUAL PROPERTY RIGHTS OR CONFIDENTIALITY"

Term, It is understood and agreed that the term of this State Term Contract Renewal shall be for a period of one (1) year from the effective date set forth herein.

TO SHOW THEIR AGREEMENT, the parties have executed this Amendment on the date(s) shown below.

Contractor

State of Ohio

CA, INC.

By: Lisa Kiefer

Name: Lisa Kiefer

Title: Principal Sales Accounting

Date: 7/24/14

Department of Administrative Services
Office of Procurement Services

By: [Signature]

Name: Robert Blair

Title: Director

Date: July 30, 2014