

**STATE OF OHIO
DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE TERM SCHEDULE**

THIS CONTRACT is between the STATE OF OHIO, OFFICE OF INFORMATION TECHNOLOGY ("OIT"), ON BEHALF OF THE STATE OF OHIO ("State"), with offices at 30 East Broad Street, Columbus, Ohio 43215 and Unisys Corporation ("Contractor") with offices at Unisys Way, Blue Bell, PA 19424.

BACKGROUND

The State recognizes that it is sometimes advantageous to do business with some manufacturers under a State term contract rather than through a competitive bidding or proposal process. In such cases, the State will enter into a contract with the manufacturer provided that the manufacturer offers its goods and ancillary services at the same prices that the manufacturer offers those goods and services under its competitively bid contract with the Commonwealth of Massachusetts for IT Hardware (ITC16a) Computers, Mobile Equipment, Servers, Storage and Services (the "Massachusetts Contract").

The State also recognizes that some manufacturers work primarily through dealers for various reasons, including offering customers better support through dealers that have a local presence in the service area. Because of this, the State may sometimes agree to work directly with a manufacturer's dealers. But, if the Contractor is not the manufacturer of the goods or services under this contract, the Contractor warrants and represents that it has the right to resell such products as of the date of this Agreement. If at any time during this agreement, Contractor's right to resell such products or software licenses terminates, Contractor shall immediately remove such Products from this Agreement. Contractor shall indemnify the State in accordance with this Agreement for any third party claims arising out of an absence of this right in whole or in part.

Contractor will make support services on Unisys enterprise class server and payment systems hardware and software available for five (5) years from the announced end of sales date pursuant to Contractor's Master Maintenance Agreements with the State. Contractor further agrees that it will provide the State with at least 90 days advance written notice prior to terminating support for Products for which the State has purchased Unisys support services under the Master Maintenance Agreements between the State of Ohio, Department of Administrative Services and Unisys Corporation.

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

TERMS & CONDITIONS

CERTIFICATION OF ACCURACY. The Contractor hereby certifies the following:

(1) The Contractor's prices under this Contract as described in Exhibit I are Contractor's state and local government pricing offered to the Commonwealth of Massachusetts under Contractor's Massachusetts Contract as of the effective date of this Contract. In the event of any renewal of this Contract beyond the initial term described herein, or the submission of any updates to Contractor's prices after the effective date of this Contract, Contractor's prices offered as part of such renewal or update will be the same prices which it offers to the Commonwealth of Massachusetts under the Massachusetts Contract as of the date of such renewal or update.

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

The Contractor further represents and warrants that all future updates to Contractor's Price List will conform to Contractor's certifications above as of the date of such submissions. .

ECONOMIC PRICE ADJUSTMENT. Exhibit I sets forth Contractor's rates for services and a link to Contractor's U.S. Public Sector Price List identifying the products that are available under the Massachusetts Contract and this Contract. To maintain pricing that is the same as the Commonwealth of Massachusetts, the Contractor will use the same automated processes to update the price list for Ohio as it uses in Massachusetts. That is, the price list is automated to update Ohio's contract electronically without intervention. As list prices change up or down, the agreed upon discounts apply for term of this Contract. As new products are added or outdated products deleted, the system updates the pricelist for this Contract accordingly. The Contractor will work with the State to establish a reporting process and to provide an agreed upon report at agreed-upon intervals that will provide a record of all updates to price list during the applicable reporting period.

At the State's request, the Contractor will meet with the Ohio Office of Information Technology on a quarterly basis to review pricing of Unisys products and the process for submitting updates under this Contract and work with the State to make adjustments to this process as needed. The State may renegotiate pricing under this Contract and remove product(s) from this Contract by providing 30 days advance written notice to the Contractor indicating which product(s) the Contractor must remove.

DELIVERABLES. Attached as Exhibit I is the Contractor's price list for the products and services that the Contractor may provide to the State under this Contract. For convenience, those goods and services are referred to as "Deliverables" under this Contract. The Contractor may not provide any other products or services under this Contract without an amendment to this Contract. Also, the Contractor may not charge any other prices for these Deliverables other than the prices on the Exhibit I, although It is understood that Contractor is free to offer greater discounts for individual transactions and that customers may seek them and explore whether other contractors authorized for the products and services offered hereunder offer better discounts or prices. If Exhibit I contains or incorporates by reference any terms or conditions other than a description of the scope of license for software, product/service description, and product/service prices, they are excluded from this Contract and are of no effect.

The Contractor's price list described and incorporated by reference in Exhibit I is identified as the following commercial price list(s): Unisys U.S. Public Sector Price List under the Massachusetts Contract.

SERVICES. Services provided hereunder will fall within one of the following categories:

- (1) Product services (which include without limitation engineering services, per call services, standard installation services, and other standard services detailed in Exhibit I).

Fixed prices are available for certain catalog style services as set forth in Exhibit I. For Non-catalog style services, the services are available at the labor rates specified in Exhibit I.

- (2) "Professional Services", consisting of all other services offered hereunder based upon the rates set forth in Exhibit I, and which may include without limitation technology assessments, custom installation and configuration services, custom education/training services, consulting, business process planning and design, systems integration, project management, conversion , and consulting services.

"Professional Services" will be available at the labor rates specified in Exhibit I.

A firm, fixed price quote may be requested by the customer for services unless it is not possible at the time of placing the order to estimate accurately the extent or duration of the work to anticipate cost with any reasonable degree of confidence.

Firm Fixed Price Orders. When a firm fixed price order is requested, a mutually agreed statement of work shall be attached to the Order that sets forth the specific services, deliverables and any assumptions relative to the work. The firm fixed price for such Services shall be based

upon the rates in Exhibit I, based upon the mix of labor categories and level of effort anticipated at the time of Order for the project and must include any travel costs or other incidental costs related to the performance of the services ordered unless the Order provides for separate reimbursement of travel costs in accordance with Section 126-1-02 of the Ohio Administrative Code.

Labor/Time and materials Orders: When it is not possible at the time the order is placed for the parties to estimate accurately the extent or duration of the work to anticipate cost with any reasonable degree of certainty, the Order shall set forth the number of hours of service, labor category (as set forth in Exhibit I) and applicable rate from Exhibit I and such services will be provided on a labor-hour/time and materials basis not to exceed the ceiling hours and amount set forth in the Order. Any travel for which reimbursement is sought must comply with Section 126-1-02 of the Ohio Administrative Code.

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

LEASES/FINANCING. The State may elect to obtain equipment and software on a finance/lease basis when offered by Contractor subject to the terms of the State of Ohio, Department of Administrative Services, Master Financing Agreement -- Revised September 2001, when the parties execute that agreement.

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

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

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

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

- (1) Workers' compensation insurance, as required by Ohio law or the laws of any other state where work under this Contract will be done. The Contractor will also maintain employer's liability insurance with at least a \$1,000,000.00 limit.
- (2) Personal injury, bodily injury, and property damage liability insurance, including automobile coverage, with personal injury and bodily injury of not less than \$1,000,000.00 combined single limit, and property damage of at least \$500,000.00 for any one (1) occurrence.

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

CONTRACT COMPLIANCE. The participating state agency and/or political subdivision that utilize this State Term Schedule will be responsible for the administration of the Contract and will monitor the Contractor's performance and compliance with the terms, conditions and specifications of the Contract. If an agency observes any infraction(s), such shall be documented and conveyed to the Contractor for immediate correction. If the Contractor fails to rectify the infraction(s), the agency will notify the State through 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).

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 30 calendar days after notice has been given. Contractor shall, at the Contractor's option, 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 the product is recalled to actual removal. Contractor will bear all costs associated with the removal and proper disposal of the affected product. Failure to reimburse the purchase price or provide equivalent replacement product will be considered a default.

TERMINATION. The State may terminate this Contract or any order under this Contract if the Contractor defaults in meeting its obligations and fails to cure its default within the time allowed by this Contract, or if a petition in bankruptcy has been filed by or against the Contractor. The State may also terminate this Contract or any order if the Contractor violates any law or regulation while performing under this Contract, or it appears to the State that the Contractor's performance is substantially endangered through no fault of the State and Contractor fails to provide a written assurance of performance within ten (10) days of a written request therefor that is reasonably acceptable to 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. Subject to the limitation of liability set forth herein, 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, subject to the limitation of liability set forth herein, 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 or services performed before the termination. Such compensation will be the Contractor's exclusive remedy in the case of termination for convenience and will be available to the Contractor only once the Contractor has submitted a proper invoice for such, with the invoice reflecting the amount determined by the State to be owing to the Contractor.

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

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

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

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

(A) Return goods, when due to Contractor error (i.e. over-shipment, defective merchandise, unapproved substitution, etc.) shall be returned to the Contractor, at the Contractor's expense within 30 calendar days of delivery. The Contractor shall make arrangements to remove the return goods from the ordering agency premises within seven (7) calendar days after notification. The Contractor shall not apply any restocking or other charges to the ordering agency. At the option of the ordering agency, replacement items may be accepted. In the event that replacement items are being shipped, Contractor will notify the ordering agency of the anticipated shipment date for the replacement product within seven (7) days of notification, which shipment date may not be more than 30 days after notification. Failure of the Contractor to arrange for return of the items within the specified time will result in the items being deemed as abandoned property and the ordering agency will dispose of accordingly.

(B) Return goods of regular catalog stock merchandise, when due to agency error (i.e. over purchase, discontinued use, inventory reduction, etc.) will be accepted by the Contractor if notice is given by the agency within 30 calendar days of delivery. All items to be returned must be unused and in their original containers and in suitable condition for resale. The ordering agency will be responsible for all transportation costs associated with both the original shipment of items to the agency and the subsequent return of the items to the location designated by the Contractor. The Contractor may also assess a reasonable restocking fee and (if applicable) a re-configuration fee associated with the return of the items to the location designated by the Contractor. The ordering agency will remain responsible for any return transportation costs, any services ordered and rendered in connection with the product and will also be responsible for paying Contractor for any de-installation costs. Return of regular stock catalog merchandise, following acceptance (in accordance with this Contract) when delivery and acceptance has occurred in accordance with this Contract will be at the sole discretion and option of the Contractor.

FORCE MAJEURE. If the State or Contractor is unable to perform any part its obligations under this Contract by reason of force majeure, the party will be excused from its obligations, to the extent that its performance is prevented by force majeure, for the duration of the event. The party must remedy with all reasonable dispatch the cause preventing it from carrying out its obligations under this Contract. The term "force majeure" means without limitation: acts of God; such as epidemics; lightening; earthquakes; fires; storms; hurricanes; tornadoes; floods; washouts; droughts; any other severe weather; explosions; arrests;

restraint of government and people; war; strikes; and other like events; or any other cause that could not be reasonably foreseen in the exercise of ordinary care, and that is beyond the reasonable control of the party.

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

OWNERSHIP OF DELIVERABLES.

Contractor's Deliverables under this Contract will fall within the following categories:

- (a) "Pre-existing Materials" are pre-existing tools, utilities, routines, templates, processes, techniques, models, methodologies, frameworks, software, documentation, diagrams, schematics, blueprints and other Contractor knowledge capital, including any enhancements and/or modifications thereto developed during the course of Services, any of which are reduced to tangible form and supplied as a deliverable hereunder.
- (b) "Custom Materials" are tools, utilities, routines, templates, processes, techniques, models, methodologies, frameworks, software, documentation, diagrams, schematics, blueprints and all other items that are originally developed during the course of the Services and supplied as a deliverable hereunder.

Except as expressly provided for in an order, the parties' rights in deliverables supplied by Contractor shall be as follows:

- (1) Pre-existing Materials. Contractor owns and shall continue to own all Pre-existing Materials supplied to the State under this Contract. Pre-existing Materials consisting of commercial software listed in Exhibit I or modifications thereto are licensed to the State subject to the License in Commercial Material terms set forth in this Contract. For other pre-existing Materials delivered hereunder, and upon final payment, the State shall have a perpetual, non-transferable, paid-up right and license to use, copy, modify and prepare derivative works of the Pre-existing Materials for purposes of its internal business subject to the confidentiality terms set forth herein.
- (2) Custom Materials. Upon final payment, the State shall become, together with Contractor, a joint owner of all intellectual property rights pertaining to the Custom Materials, whether individually developed by Contractor or jointly with the State. Each party shall have the right to use the Custom Materials in its business and the right to modify, enhance, and improve any Custom Materials for its business use, including the right to license others to use, without in either case any obligation to account to the other. Neither party shall sell its ownership interest in such intellectual capital to a third party without first giving the other party a first right of refusal to purchase such interest. To the extent that any Custom Material contains any Confidential Information of a party, the other party's rights shall be subject to the confidentiality terms set forth herein.

SPECIFIC CHANGES. The State and the Contractor agree:

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.

Any term licenses available under Exhibit I must be so-designated, and are subject to the terms concerning the State's right to renew the license as set forth in the sections of this Contract entitled Upgrades and License in Commercial Material.

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

Those terms and conditions of the Contractor's various contractual documents submitted with the Contractor's offering documentation, including the Massachusetts Contract, will not apply to this Contract and will be of no force or effect with respect to any Orders under this Contract.

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 payable 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
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.

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

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

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

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

Contractor must forward the check to the following address:

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

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

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

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

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

- (1) The location(s) where all services will be performed: Unisys Professional Services under this Contract will be performed in Ohio or otherwise within the borders of the United States except as expressly approved in writing by the State. Unisys is a global corporation with offices, development centers and a broad network of suppliers located around the world, and certain Product Services such as engineering /development for standard products may be normally performed in other locations, depending on the product and the service requested and the location of the development center. To the best of our knowledge and belief, and based on the Unisys products that the State has installed today, Unisys engineering/development services (if any) performed for the State hereunder are also performed within the United States. For customers taking advantage of Unisys 24X7 support offerings, 1-800 service calls placed outside of normal business hours may sometimes be answered by Unisys help desk personnel outside of the United States. Notwithstanding, all dispatch service for warranty/ service warranty that Unisys provides under this Contract will be performed in the United States.
- (2) The location(s) where any state data applicable to the contract will be maintained or made available: The State's data which Unisys has access to under this Contract will be made available only to personnel within the United States and will not be made available outside the United States without the State's prior approval.
- (3) The principal location of business for the contractor and all subcontractors: Unisys Corporation's has its corporate headquarters/principal place of business is in Blue Bell, Pennsylvania and operates local Ohio offices in Westerville (Columbus), Brecksville (Cleveland), Holland (Toledo) and Cincinnati.

Upon the State's request on an order by order basis, Unisys will confirm the location of the specific services being ordered, but no such location may be outside the US without prior written approval from the State except as noted in (1) above that do not involve the transmission of any state data outside the United States.

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

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

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

- (1) Be provided with reasonable care and skill in accordance with the requirements of this Contract.
- (2) as to Deliverables, the State will be indemnified as provided in this Contract against claims that the Deliverables infringe on the intellectual property rights of any third party as provided in the indemnification sections of this Contract.

- (3) All warranties are in accordance with Contractors standard business practices;
- (4) That the Deliverables hereunder will conform to their product specifications and user documentation as detailed in the Software and Equipment Warranties, below.

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 laws and regulations applicable to its business, including those of the State regarding conduct on any premises under the State's control.
- (4) The Contractor has good and marketable title to any goods delivered under this Contract and which title passes to the State.
- (5) The Contractor has the right and ability to grant the license granted in any Deliverable in which title does not pass to the State.

If any work of the Contractor or any Deliverable fails to comply with these warranties, and the Contractor is so notified in writing, the Contractor will correct such failure with all due speed or will refund the amount of the compensation paid for the Deliverable. The Contractor will be liable for any direct damages to the State based on breach of these warranties, subject to the Limitation of Liability provisions of this Contract.

SOFTWARE WARRANTY.

Custom Software

If Exhibit I includes work to develop custom software as a Deliverable, then, on delivery and for 90 days after the date of acceptance of any Deliverable that includes custom software, the Contractor warrants that:

- (1) The software will operate on the computer(s) for which the software is intended in the manner described in the relevant software documentation.
- (2) The software will conform to specifications mutually agreed to by the parties.
- (3) The Contractor will deliver and maintain relevant and complete software documentation, commentary, and source code, but if the custom software consists of modifications to Contractor's or its licensor's pre-existing software, Contractor shall only be obligated to deliver such documentation, commentary and source code that is generally made available by Contractor or its licensors to customers.
- (4) The source code language used to code the software is readily available in the commercial market, widely used and accepted for the type of programming involved, and support programming in the language is reasonably available in the open market; and
- (5) The software and all warranty service will be provided in a professional, timely, and efficient manner.

Commercial Software

"Commercial Software" or "Software" is the machine readable (object code) version of the computer programs listed from time to time on the pricelist, and any copies, updates to, or upgrades thereof that are available by Contractor for license by the State.

For Commercial Software provided hereunder, Contractor warrants that 1) the media on which the Software is furnished shall be free from defects in materials and workmanship under normal use for a period of one (1) year from the date of delivery, (2) that the Software (excluding any renewals or re-licenses) will, under normal use, conform substantially to the then-current published specifications for ninety (90) days or such longer period as may be specified in Exhibit I, from delivery. This warranty extends solely to the State as the original licensee. The State's sole and exclusive remedy and the entire liability of Contractor and its suppliers under this warranty will be, at Contractor's sole option and expense:

(1) Repair or provision of a workaround or correction for material errors in Unisys Software that prevent use in a production environment, (2) replacement of the Software, or (3) refund of the license fee upon (at Contractor's option) destruction of the Software or a return of the Software to Contractor, all provided that the State notifies Contractor in writing of any such defects during the warranty period.

Where Contractor elects to repair or provide a workaround for material errors in the Software, Contractor shall notify the State within a period of ten (10) days of the estimated time frame to make the corrections. This warranty does not extend to non-conformities resulting from accident, misuse, disaster, or alterations or modifications not provided or authorized by Contractor.

EQUIPMENT WARRANTY. With respect to any electrical equipment, mechanical device, computer hardware, telecommunications hardware, or other type of physical machinery identified in the Price List and provided to the State hereunder ("Equipment"), the following warranties apply. The Contractor warrants that the Equipment fully complies with all government environmental and safety requirements applicable to the Equipment at the time of delivery. The Contractor also warrants for the warranty period described in the next paragraph that the Equipment will perform substantially in accordance with its user manuals, technical materials, and related writings published by the manufacturer with respect to such Equipment. If Contractor's specifications provide that the Equipment will perform a certain function or is intended for a particular use, it is warranted to be capable of performing the stated function/use. The foregoing warranty will not apply to Equipment that is modified or damaged after title passes to the State.

This warranty applies only to the State as the original purchaser of the Equipment. The State's sole and exclusive remedy and the entire liability of Contractor and its suppliers under this warranty will be, at Contractor's sole option and expense, for Contractor to do one of the following after receipt of written notice that any Equipment does not meet the above warranties:

- (1) Cause the Equipment to perform substantially in accordance with the user manuals, technical materials, and related writings published by the manufacturer with respect to the Equipment, or
- (2) Repair or replace the items of Equipment within a commercially reasonable time following receipt of written notice of non-conformance with this warranty, or
- (3) If neither (1) nor (2) are commercially practical, then grant the State a refund equal to the amount the State paid for the Equipment.

For all Equipment, the warranty period will be the one (1) year after acceptance for Unisys branded Equipment and ninety (90) days after acceptance for non-Unisys Equipment. In the case of non Unisys branded Equipment, the Contractor additionally must pass through to Customer any warranties for the purchased non-Unisys Equipment that may be available from the third party manufacturer,

Contractor shall receive good and marketable title in any Equipment returned under this warranty. This warranty does not extend to non-conformities or damage caused by normal wear and tear or resulting from accident, misuse, or disaster after title passes to the State. Nor does it apply to alterations or modifications not provided or authorized by Contractor.

GENERAL EXCLUSION OF WARRANTIES. THE CONTRACTOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, OTHER THAN THOSE EXPRESS WARRANTIES CONTAINED IN THIS CONTRACT. THE

IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY EXCLUDED.

CONTRACTOR'S WARRANTIES WILL NOT APPLY AND CONTRACTOR WILL NOT BE RESPONSIBLE FOR LOSS OR DAMAGE IF AN ATTACHMENT OR ALTERATION OF PRODUCTS BY A PARTY OTHER THAN CONTRACTOR DIRECTLY OR INDIRECTLY RESULTS IN: (A) ANY MALFUNCTION, NONPERFORMANCE OR DEGRADATION OF PERFORMANCE OF PRODUCTS, OR (B) PERSONAL INJURY OR DAMAGE TO PROPERTY; OR (C) LOSS OR DAMAGE TO CUSTOMER DATA. CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR BACKING UP ALL CUSTOMER DATA UNLESS OTHERWISE AGREED TO IN WRITING BY THE PARTIES, AND CONTRACTOR SHALL HAVE NO RESPONSIBILITY FOR LOSS OR DAMAGE TO CUSTOMER DATA WHERE SUCH LOSS OR DAMAGE WOULD NOT HAVE OCCURRED BUT FOR CUSTOMER'S FAILURE TO ADEQUATELY BACK UP SUCH DATA.

INDEMNITY. The Contractor will indemnify the State against all claims for damages or expense resulting from bodily injury to any person (including injury resulting in death) or damage to real and tangible, personal property (not including lost data) arising out of the performance of this Contract, provided that such bodily injury or property damage is due to the negligence of the Contractor, its employees, agents, or subcontractors to the extent not caused by the negligence of State or any of its employees. The Contractor will also defend and indemnify the State against any claim of infringement of a copyright, patent, trademark, or trade secret that is enforceable in the US and is based on the State's proper use of any Deliverable under this Contract. Contractor will indemnify the State against final judgments entered in such a suit by a court of competent jurisdiction and against settlements arising out of such a claim, provided that the State notifies the Contractor promptly in writing of the claim or threat thereof and upon consultation with the office of the State's Attorney General gives the Contractor authority for the defense and settlement thereof and provides Unisys with the reasonably necessary information and assistance relating to the claim. The State will have the right to participate in the defense of any such claim, but may do so at its own expense.

This obligation of indemnification will not apply and the Contractor will have no liability where the State has modified the Deliverable and the claim of infringement is based on the modification, or for third party infringement claims based upon the combination, operation, or use of any Deliverable supplied hereunder with equipment, devices, or software not supplied by Contractor (this exclusion shall not limit the Contractor's obligation under this indemnity with respect to third party infringement claims based solely on the Deliverable itself); or Unisys' compliance with the State's designs, specifications, or instructions. Any request to modify a Deliverables in compliance with the State's design, specifications, or instructions must be pursuant to a written statement of work signed by both parties and subject to this Contract. Notwithstanding any other provisions hereof, the Contractor will not be liable for any claim based on State's use of the Deliverables as shipped after Unisys has informed the State of modifications or changes in the Deliverables required to avoid such claims and offered to implement those modifications or changes, if such claim would have been avoided by implementation of Unisys suggestions.

If a successful claim of infringement is made, or 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:

- (a) Modify the Deliverable so that it is no longer infringing,
- (b) Replace the Deliverable with an equivalent or better item so that it becomes non-infringing
- (c) Acquire the right for the State to use the infringing Deliverable as it was intended for the State to use under this Contract; or
- d) Neither of the foregoing alternatives is reasonably available, immediately remove the Deliverable and refund the fee the State paid for the Deliverable and the fee originally paid to the Contractor for any other Deliverable that requires the availability of the infringing Deliverable for it to be useful to the State.

The foregoing indemnification obligations are conditioned upon the State: (1) promptly notifying the Contractor of any written claim, loss or demand for which the Contractor is responsible under this Section,

(2) cooperating with the Contractor as reasonably required, (3) granting the Contractor the authority and right to defend or settle the claim, upon consultation with the office of the State's Attorney General, and (4) not at any time admitting liability in respect of the whole or any part of the claim or agreeing to settle or dispose of the claim without Contractor's written consent.

THE FOREGOING STATES THE ENTIRE OBLIGATION OF THE CONTRACTOR AND ITS SUPPLIERS WITH RESPECT TO INFRINGEMENT OF PROPRIETARY RIGHTS, AND THE CONTRACTOR DISCLAIMS ALL WARRANTIES OF NON-INFRINGEMENT WITH RESPECT TO THE DELIVERABLES.

LICENSE IN COMMERCIAL MATERIAL

Subject to the terms and conditions of this Agreement, Contractor grants to the State a non-exclusive, non-transferable license to use the Software for the State's internal business use. The license granted herein shall be for use of the Software in object code format only and solely as provided in this Section below.

The State License Terms. Contractor either licenses Software directly or distributes Software that is licensed by another party. In either case, the State does not obtain ownership of Software.

Where Unisys distributes a Software product with a separate license and such Product is accepted by the State, the State's use of the Software shall be governed by the license terms of the third party license. All other terms of this Agreement relating to the Software shall be unaffected. Except as provided above, Contractor licenses each purchased copy of the Software and documentation on a personal, non-exclusive and non-transferable basis for the State's internal use in the United States but not as a service bureau, nor for outsourcing, nor for facilities management. Contractor licenses the Software solely for the State's use on a single machine unless the ordered Contractor license plan provides otherwise. Where the Unisys license plan selected specifies a maximum number of users, the Software is licensed only for use by the number of individuals specified, regardless of whether any individual user is using the Software at any given time. The State may use the Software temporarily on a backup machine provided the Software is used on only one (1) machine at a time and the State removes the Software from the backup machine promptly after each temporary use.

The State will not copy Software or documentation except to make a reasonable number of copies for archival, backup, disaster recover and image management purposes. Any such copies must bear all the legends and notices of the original item. Notwithstanding the State's rights to make a reasonable number of back up copies, the State is only permitted to run or use the number of copies of the licensed Software for which the State has paid the applicable license fee. No license is granted to the State to use any Contractor proprietary Software to assess, test, or develop any hardware products or device handler software, operating system software or hardware diagnostic software that will be marketed by the State or others for compensation. The State may develop other software programs and may test fully-developed, commercially-available third party hardware products or software programs where such testing is solely intended for the State's internal evaluation of the fitness of such product or program for the State's own internal data processing purposes. Upon notice to the State, Contractor may audit the State's use of the Software to determine the State's compliance with this license provided Contractor complies with the State's customary security rules and does not unreasonably interfere with the State's permitted use, and in such event, the State agrees to provide relevant information and reasonable facilities.

For ease of service, Contractor may store proprietary and confidential diagnostic tools, software, and documentation, whether in printed or electronic form, (collectively called "Tools") at the State's site or within a Product provided that the Contractor shall mark such Tools as Unisys proprietary tools and/or notify the State that such Tools are being stored at the State's site or within a Product. These Tools may be pre-loaded on the State's equipment or embedded in a Product before delivery. Contractor does not license these Tools to the State. Contractor does not give the State or anyone else permission to access, monitor, use, copy, distribute, or change these Tools. Contractor acknowledges that during routine system back-ups, the State may not easily avoid copying software Tools and, to this extent, the copies are permitted provided the State protects these Tools as Contractor Confidential Information and the State does not remove any proprietary markings. Contractor may remove these Tools at will and the State gives Contractor permission

and access to the State's site to do so provided that Contractor's access to and use of such tools will not involve any surreptitious entry or retrieval of the State's data.

Federal Government Use of Software. The Commercial Software and any accompanying documentation are commercial items that have been developed entirely at private expense. They are delivered and licensed as commercial computer software and commercial software documentation within the meaning of the applicable acquisition regulation(s). This license shall prescribe exclusively the Government's use and disclosure of the Software and documentation.

Limitations. Except as otherwise expressly provided under this Agreement, the State shall have no right, and the State specifically agrees not to:

- (a) Transfer or sublicense its license to any other person, or use the Software on unauthorized or secondhand Unisys equipment; or
- (b) Make error corrections to or otherwise modify or adapt the Software nor create derivative works based upon the Software, or to permit third parties to do the same;
- (c) Copy, in whole or in part, decompile, decrypt, reverse engineer, disassemble or otherwise reduce the Software to human-readable form.

To the extent required by law, at the State's request, Contractor shall provide the State with the interface information needed to achieve interoperability between the Software and another independently created program, on payment of Contractor's applicable fee. The State shall observe strict obligations of confidentiality with respect to such information.

Upgrades and Additional Copies. For purposes of this Agreement, Software shall include (and the terms and conditions of this Agreement shall apply to) any upgrades, updates, bug fixes or modified versions (collectively, "Upgrades") or backup copies of the Software licensed or provided to the State by Contractor or an authorized distributor for which the State has paid the applicable license fees. The State may make one backup copy for archival and disaster recovery purposes only, provided that the State affixes to such copy all copyright, confidentiality, and proprietary notices that appear on the original.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS SOFTWARE LICENSE: THE STATE HAS NO LICENSE OR RIGHT TO USE ANY SUCH ADDITIONAL COPIES OR UPGRADES UNLESS THE STATE, AT THE TIME OF ACQUIRING SUCH COPY OR UPGRADE, ALREADY HOLDS A VALID LICENSE TO THE ORIGINAL SOFTWARE; (2) USE OF UPGRADES WILL BE SUBJECT TO THE SAME LICENSE TERMS AND RESTRICTIONS AS THE ORIGINAL SOFTWARE.

Term and Termination. The software license is effective until terminated. The State may terminate this license at any time by destroying all copies of Software including any documentation. The State's license rights under this software license may be terminated upon written notice from Contractor if the State fails to comply with any provision of this software license. Upon termination, the State must destroy all copies of Software in its possession or control.

For Software licensed on other than a perpetual basis, the State shall have the option to renew its license to the Software as provided for in the section of the Contract entitled Upgrades. If, at the time the term license expires, this State Term Schedule is not in effect, Unisys agrees that the license shall continue in effect according to the same license terms as the original for a period of up to ninety (90) days to allow the State to complete the processes necessary to place an order with Unisys to renew the Software license. Notwithstanding the termination of this Contract, the same license and other applicable terms shall apply to any renewals of Software licenses as were applicable to the original license.

ACCEPTANCE. The acceptance procedure for Deliverables will be an informal review by the agency acquiring the Deliverables to ensure that each Deliverable meets the warranties in this Contract. The State will have up to 30 calendar days after delivery of any hardware or commercial software Deliverables to do this. Where a Statement of Work for Services to be performed under this Contract sets out a Services Deliverable subject to client acceptance—the State shall have a period of thirty (30) calendar days (to review each services deliverable following delivery for conformance with agreed upon requirements. The parties

may set forth detailed acceptance terms and criteria consistent with these terms in a Statement of Work on a project by project basis. Catalog services and services performed on a time and materials basis or which have no defined deliverables (e.g. consulting) set forth in a Statement of Work shall be accepted as performed, but subject to the warranties set forth in this Contract. The State will not be required to issue a formal letter of acceptance, and passage of 30 calendar days will imply acceptance, though the State will issue a notice of noncompliance if a Deliverables does not meet the warranties in this Contract. If the State issues a letter of noncompliance, then the Contractor will have thirty (30) calendar days to correct the problems listed in the noncompliance letter. If the Contractor fails to do so, the Contractor will be in default without a cure period. If the State has issued a noncompliance letter, the Deliverable will not be accepted until the State issues a letter of acceptance indicating that each problem noted in the noncompliance letters has been cured. If the problems have been fixed during the thirty (30) calendar day period, the State will issue the acceptance letter within fifteen (15) calendar days after all defects have been fixed.

PASSAGE OF TITLE. Title to any Deliverable will pass to the State only on acceptance of the Deliverable. All risk of loss (excluding loss caused by the State/purchasing agency's negligence) will remain with the Contractor until title to the Deliverable passes to the State.

MAINTENANCE.

With respect to Unisys products and third party products covered by Unisys support services, product maintenance and support shall be available pursuant to the provisions set forth in the Master Maintenance Agreements for Hardware and Software between the State of Ohio, Department of Administrative Services and Unisys Corporation.

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

- (1) The Contractor's (or third parties) standard upgrade or migration fee.
- (2) The upgrade or migration fee in Exhibit I.
- (3) For upgrades and migrations, and if neither of the foregoing alternatives are available, the difference between the license fee originally paid and the then-current license fee for the license or version of the Commercial Software that the State seeks to acquire. This will not apply to Commercial Software for PCs and PC-based server software with a license fee of less than \$5,000.00, unless the Contractor or third-party licensor makes upgrade packages available for the Commercial Software to other customers. If such items are offered, the State will be entitled to the most favorable license fee which is made generally available to other similarly situated most favored customers or dealers, as appropriate.

For any Commercial Software offered on an extended term plan ("ETP") basis, and after the initial license period, the State will have the right to renew its license after the initial term in exchange for a license fee that is based on the lesser of the following:

- (1) The Contractor's (or third parties) standard renewal fee.
- (2) The license fees in Exhibit I.

UNISYS "SERVICE WARRANTY". In addition to Unisys product warranty set forth in the section entitled "EQUIPMENT WARRANTY", Contractor provides a service (the "Service Warranty") for eligible equipment under which Contractor will provide parts and labor necessary to restore the equipment to proper working

order that has failed due to normal wear and tear. Service warranty begins on the date Contractor installs the equipment, or if the equipment is installed by others, 10 days after receipt. The duration of the Service Warranty (if applicable) and specific information concerning the level of coverage provided is identified in Exhibit I for eligible items of Equipment. Service Warranty is separate from the product warranty set forth in the EQUIPMENT WARRANTY section of the Contract. Neither Service Warranty nor the equipment warranty is a substitute for maintenance. However, the State may elect, for a Service Warranty upgrade fee, to upgrade their Service Warranty for eligible items of equipment to a higher level of support during the Service Warranty period provided the equipment is enrolled in Unisys support before or during the Service Warranty Period.

PRINCIPAL PERIOD OF SERVICE WARRANTY (GENERAL). This section applies if software or Equipment will be a Deliverable under this Contract. Service Warranty (where applicable) will be available nine (9) working hours per weekday, between 8:00 a.m. and 5:00 p.m. Eastern Standard Time. Travel time and expenses related to the provision of on-site Service Warranty (where applicable) will not be considered billable.

SERVICE WARRANTY ACCESS (GENERAL). The section applies if any software or Equipment will be a Deliverable under this Contract. The State will provide the Contractor with reasonable access to the Deliverable to perform warranty service. All warranty service that requires the Deliverable to be inoperable must be performed outside the State's customary working hours except as otherwise approved by the State or when the Deliverable is already inoperable.

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

In doing so, the Contractor warrants that:

- (1) The dealer has been given a copy of this Contract, and a duly authorized representative of the dealer has agreed, in writing, to be bound by the terms and conditions in this Contract.
- (2) Such agreement specifically provides that it is for the benefit of the State as well as the Contractor.
- (3) The Contractor agrees to remain liable under this Contract for the services of any dealer to perform and any breach of the dealer under this Contract.
- (4) Payments under this Contract for the services of any dealer may be made directly to that dealer, and the Contractor will look solely to the dealer for any payments due the Contractor once the State has paid the dealer.
- (5) To the extent that there is any liability to the State arising from doing business with a dealer that has not signed the agreement required under this section with the Contractor, the Contractor would indemnify the State for such liability

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

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

1. THE LIMITATION IN PARAGRAPH 3, BELOW, 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 (3) THREE TIMES THE COST OF THE PRODUCT/SERVICES THAT ARE THE SUBJECT OF THE CLAIM OR (\$8,000,000.) EIGHT MILLION DOLLARS 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 (\$2,000,000.) TWO MILLION DOLLARS OR LESS.

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

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

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

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

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

OHIO PAYMENT CARD. Participating state agencies purchasing Deliverables covered by this Contract may use the Ohio Payment Card for purchases under this Contract. Such purchases may not exceed \$1,000 unless the Office of Budget & Management and Contractor 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 Deliverables ordered in accordance with this Contract. 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 Deliverables, Contractor may process a payment request in the payment card network for the remainder of the order. Contractor will receive payment through its merchant bank within the time frame agreed upon between Contractor and its merchant bank. The Contractor should expect normal processing fees from its merchant bank for payment card transaction which may not be passed on to the agency making the purchase.

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

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

CONFIDENTIALITY. The State may disclose to the Contractor written material or oral or other information that the State treats as confidential ("Confidential Information"). Title to the Confidential Information and all related materials and documentation the State delivers to the Contractor will remain with the State. The Contractor agrees to treat such Confidential Information as secret if it is so marked, otherwise identified as such, or when, by its very nature, it deals with matters that, if generally known, would be damaging to the best interests of the public, other contractors or potential contractors with the State, or individuals or organizations about whom the State keeps information. Contractor shall disclose such Confidential Information only to (a) its authorized employees who are involved in the use of the Confidential Information in accordance with the terms of this Contract and (b) its authorized consultants who are involved in the use of the Confidential Information in accordance with the terms of this Contract and have agreed in writing to be bound by terms consistent with the provisions of this Contract .

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

The parties' obligation to maintain the confidentiality of the Confidential Information will not apply where such: (1) was already in the possession of the Receiving Party before disclosure by the Disclosing Party, and was received by the Receiving Party without obligation of confidence; (2) is independently developed

by the Receiving Party, provided documentary evidence exists to support the independent development; (3) is or becomes publicly available without breach of this Contract; (4) is rightfully received by the Receiving Party from a third party without obligation of confidence; (5) is disclosed by the Receiving Party with the written consent of the Disclosing Party; or (6) is released under a valid order of a court or governmental agency, provided that the Receiving Party (a) notifies the Disclosing Party of the order promptly upon receipt of it so the Disclosing Party may seek a protective order and (b) if prompt notice cannot be so given, makes a reasonable effort to obtain a protective order from the issuing court or agency limiting disclosure and use of the Confidential Information solely for the purposes intended to be served by the original order of production. The Receiving Party will return all originals of any Confidential Information and destroy any copies it has made for its own internal use on termination or expiration of this Contract or as requested by the Disclosing Party.

The parties agree that the disclosure of the Confidential Information of the Disclosing Party in a manner inconsistent with the terms of this provision may cause the Disclosing Party irreparable damage for which remedies other than injunctive relief may be inadequate, and each Receiving Party agrees that in the event of a breach of the Receiving Party's obligations hereunder, the Disclosing Party shall be entitled to 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.

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

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

CONTRACT RENEWAL. The initial term of this Contract shall commence on the date signed by both parties below and continue through June 30, 2007. This Contract may be renewed solely at the discretion of OIT for a period of one month. Any further renewals will be by agreement any number of times for any period of time. The cumulative time of all renewals may not exceed two years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SUBCONTRACTING. The State through 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 services being provided, the Contractor shall supplement its list of subcontractors or joint venture business partners. The State through OIT, Contract Management, reserves the right to reject any subcontractor submitted by the Contractor. If Contractor uses subcontractors for the performance of services hereunder, Contractor will be solely responsible for the performance of any subcontracted services to the same extent as if it had performed the work itself.

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, this Contract is effective as of the later of July 1, 2005 or the date of signature by the State.

THE CONTRACTOR

STATE OF OHIO,
OFFICE OF INFORMATION TECHNOLOGY

By: Lara C Novino

Mary F. Carroll / wfc

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

Date: Lara C. Novino

Date: 10-25-05

Unisys Contracts Manager

Wf Carroll

(215) 986 6614

10/13/05