

**STATE OF OHIO  
DEPARTMENT OF ADMINISTRATIVE SERVICES  
SOFTWARE  
MASTER MAINTENANCE AGREEMENT-FISCAL YEAR  
2012 and 2013**

**THIS CONTRACT** is between the State of Ohio, Department of Administrative Services ("DAS"), General Services Division, Office of State Purchasing, located 4200 Surface Road, Columbus, Ohio, 43228 ("Customer"), and Burroughs Payment Systems, Inc, ("Contractor"), located at 41100 Plymouth Road, Plymouth, Michigan, 48170.

This Contract establishes terms and conditions under which a State agency (including any board, instrumentality or other political body of the State) may acquire the Contractor's support services ("Support Services") described herein. This Contract may also be relied on by Ohio political subdivisions, including Ohio cities and counties ("Political Subdivisions"). As used herein, the term "Customer" refers to the State where the ordering entity is any agency of the State, or the local Political Subdivision, whichever entity is listed in the applicable Support Services Schedule, a sample of which is attached hereto and incorporated herein as Attachment A. 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's 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 on behalf of a Political Subdivision 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.

**DEFINITIONS**

The following terms will have the meanings described below whenever they are used in this Contract:

- A. "Software" is software listed on Attachment A, which may include equipment operating system software, word processing software, utilities, drivers, communication software and other manufacturer software options that are integrated with Contractor's systems. "Software" does not include compilers, development software or applications unless listed on Attachment A.
- B. An "Error" is a malfunction in the Software, excluding all external factors, that prevents the Software from conforming to applicable manufacturer's specifications.
- C. An "Update" is a software release that manufacturer has made generally to all customers and that replaces or modifies a prior software release to correct errors or omissions.
- D. An "Upgrade" is a software release that the manufacturer has made generally available to all customers and that replaces or modifies a prior software release to correct errors or omissions.
- E. The term of this Contract is from **July 1, 2012** ("Commencement Date") to **June 30, 2013** ("Expiration Date").

**1. MAINTENANCE SERVICE RESPONSIBILITIES OF CONTRACTOR**

For charges stated on any applicable Support Services schedule (the "Charges"), Contractor will furnish the following Support Services (also referred to herein as the "Maintenance" or "maintenance service"). The following represents a summary of available Support Services, which are further described in Attachment B and, when ordered, will be provided under the terms and conditions of this Contract.

- A. Contractor will provide maintenance services to those sites designated by Customer in the applicable Support Services Schedule during the applicable contract term specified in such schedule. Individual Customers may designate a shorter or longer term of coverage for a particular item or items of Software on any Support Services Schedule than the current Contract Term, provided that in no event may the term be extended beyond a biennium budget period.
- B. Support Center Services. Contractor will provide reasonable technical telephone, electronic or voice assistance concerning the use of the Software, identifying Software errors and advising of any known detours as described in Attachment B.

- C. Updates and Maintenance Releases. From time to time Contractor may modify or enhance the Software by creating Error corrections or maintenance releases in the form of Updates to the Software. In such case, and subject to Attachment B, Contractor shall provide the Customer one copy of every new Update of the Software listed in the applicable schedules, including all associated modifications, enhancements and documentation.
- D. Contractor will diagnose and provide corrections or detours/workarounds for errors or replace the Software to address material programming errors attributable to Contractor in a reasonably expeditious manner after notification that a Software correction is required.
- E. Contractor will provide Maintenance for the then-current release and the immediately preceding release of the Software. Contractor will provide maintenance support for the immediately preceding release for at least six months after a new version is released. Support for releases prior to the current release of third party Software shall be subject to availability of support for the prior release from the third party manufacturer as part of such third party's standard support plan. After this period Contractor may cancel the Maintenance Services for the immediately preceding release of the Software on sixty (60) days written notice.
- F. Limitations and Exclusions. Contractor Support Services under this Contract do not include:
  - 1. Making specification changes.
  - 2. Repairing damage or malfunctions necessitated by:
    - (i) Intentional abuse or negligence of Customer;
    - (ii) Improper, excessive, extraordinary or abnormal operation;
    - (iii) Acts of third parties;
    - (iv) Alteration of the Software by Customer or a third party;
    - (v) Design, manufacture, materials, and workmanship related to non Burroughs products and services or product(s) for which Contractor has discontinued engineering support.

2. **SERVICE AVAILABILITY PERIOD**

- A. The time and days during which the Customer may notify Contractor that the Software is inoperative and during which Contractor will perform the contracted Support Services is based on the services level ("Service Level") selected in the Support Services Schedule. Specific Service Levels are specified in Attachment B.
- B. Although the parties separate Hardware Master Maintenance Contract sets forth the terms for the maintenance of Equipment, orders for Equipment and Software Maintenance, when relating to support for a particular system configuration, shall be made on the same Support Services Schedule. Additionally, all hardware and software products within a system configuration must be enrolled under the same Service Level specified on the applicable Support Schedule.
- C. Repairs and replacements necessitated by any of the items excluded from coverage hereunder will be undertaken by Contractor only on Customer's written approval of estimated additional charges, Customer's Contract to pay the actual charges, and Customer's issuance of a purchase order.
- D. Subject to Section 1.E above, annual maintenance will continue to be available for a minimum of five years after the announced end of sales date for Burroughs Payment Systems products under the terms and conditions of this Contract and Contractor's then current support plan descriptions. The Customer will have the right to participate in the Contractor's annual maintenance program for all supported products by giving the Contractor annual notice of its intent to do so or by paying the annual fee for the maintenance on or before the due date for the annual payment, but in no event more than sixty (60) days after the due date for the annual payment unless the Customer pays interest on the late payment in accord with the applicable provisions of the Ohio Revised Code. If the Customer fails to pay the annual maintenance fee or materially breaches this Contract, then, unless otherwise agreed, the Customer may not continue to participate in the maintenance program. The Contractor will bill the Customer annually (unless otherwise designated in the applicable Support Services Schedule) for maintenance at the Contractor's then-current rates for maintenance, subject to the limitation on increases provided below.
- E. During the Contract term, the annual maintenance per unit fee will not increase from year to year by more than ten percent over the prior year's annual maintenance per unit fee.

3. **RESPONSIBILITIES OF CUSTOMER**

- A. Customer will provide Contractor's personnel reasonable access to the Software at mutually agreed upon times during the contracted hours of coverage to perform maintenance services. Customer will also provide adequate working space and facilities, including heat, light, ventilation, electric current and outlets and the like for use by Contractor personnel. All such facilities will be within a reasonable distance from the Software to be serviced and will be provided at no charge to Contractor.
- B. Customer will not perform, attempt to perform, nor cause to be performed, maintenance or repair to the Software during the term of this Contract except simple daily or weekly preventive maintenance on the Software as allowed or reasonably required by Contractor. Customer, at Contractor's request, will maintain the service reports issued by Contractor. Customer, at its own expense, will establish and maintain an environment consistent with the specifications furnished by Contractor for the Software.
- C. Customer must give Contractor prior written notice of any proposed changes (including alterations or attachments to equipment, software, components, boards and subassemblies) to the Software covered by a Contractor warranty or Support Services plan. Contractor has no obligation to provide maintenance Support Services for any product changed by Customer without notifying Contractor.
- D. Customer will (i) follow Contractor's procedures and instructions for operation maintenance and obtaining services; (ii) provide a memory dump and additional data in machine readable form if requested; (iii) reproduce suspected errors or malfunctions in Software; and (iv) install available Updates (error corrections and maintenance releases) authorized by the manufacturer on a current basis.

4. **PAYMENT DUE DATE**

- A. Contractor will invoice Customer annually in advance (or quarterly or monthly if so designated on the applicable Support Services Schedule) during the term hereof for the unit amount for the Software specified in each Support Services Schedule. If the Commencement Date does not fall on the first day of the month, the amount of the payment will be prorated based on the number of service days remaining in that month. As used in this section, "Commencement Date" means the effective date of the start of the ordered Support Services in the applicable Support Services Schedule provided that Customer has issued a corresponding purchase order, which references this Agreement. Contractor will have no obligation to perform the Support Services until receipt of such purchase order.
- B. Payments under this Contract will be due on the 30<sup>th</sup> calendar day after the later of:
  - 1. The date of actual receipt of a proper invoice in the office designated to receive the invoice, or
  - 2. As applicable, for non-repetitive charges, the date the Service is delivered in accordance with the Contract. In the event a non-repetitive service, for Software enrolled under Support Services hereunder, is not performed in accordance with the contracted service and must be re-performed, Customer shall have no obligation to pay for the re-performance of the service.
- C. The date of the warrant is issued in payment will be considered the date payment is made.

5. **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 DAS. 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:

Department of Administrative Services  
Office of State Purchasing  
4200 Surface Road  
Columbus, Ohio 43228 - 1395

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.

6. **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 DAS.

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 Master Maintenance Agreement Number, report amount(s), and reporting period covered.

Contractor must forward the check to the following address:

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

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.

7. **GENERAL WARRANTIES**

The Contractor warrants that the recommendations, guidance, and performance of the Contractor under this Contract will: (1) be in accordance with sound professional standards and the requirements of this Contract and; (2) be the work of solely of the Contractor or if Contractor uses subcontractors Contractor will be solely responsible for the performance of any subcontracted services to the same extent as if it had performed the work itself; and (3) no Software will infringe on the intellectual property rights of any third party.

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 the contemplated services; (3) the Contractor will observe and abide by all applicable laws and regulations, including those of the Customer regarding conduct on any premises under the Customer's control; (4) the Contractor has good and marketable title to any goods delivered under this Contract and in which title passes to the Customer; (5) the Contractor has the right and ability to grant the license granted in any Software in which title does not pass to the Customer; (6) the Contractor further warrants that the Software (i.e., replacement Software and Updates provided hereunder) is merchantable and fit for its intended use as further described in and subject to the express warranties in Section 8.

The warranty set forth in subsection (1) of the first paragraph of this Section 7 is a one-year warranty. The warranty set forth in subsection (6) of the second paragraph of this Section 7 is a ninety day warranty. All other warranties in this Section 7 will be continuing warranties. If any portion of the Software delivered hereunder (i.e., replacement Software or Updates) 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 Support Services relating to the Software or Updates that are not in compliance with the foregoing warranties. The Contractor will also indemnify the Customer for any direct damages and claims by third parties based on a breach of these warranties. This obligation of indemnification will not apply where the Customer has modified or misused the Software and the claim is based on the modification or misuse.

8. **SOFTWARE WARRANTY**

On delivery and for ninety (90) days thereafter, the Contractor warrants as to all Software Deliverables provided under this Contract that: (a) the Software Deliverable will operate on the computer(s) for which the Software Deliverable is intended in the manner described in the relevant Software documentation, ; (b) the Software Deliverable provided hereunder will conform with applicable Contractor specifications; (c) the Contractor will deliver and maintain relevant and complete Software Deliverable documentation, commentary, and where generally made available for license to maintenance customers, source code; and (d) the Software maintenance will be provided in a professional, timely, and efficient manner.

9. **SOFTWARE MAINTENANCE**

During the applicable period of maintenance specified in the Support Services Schedule, the Contractor will diagnose and provide Customer workarounds or corrections for any material programming errors that are attributable to the Contractor within a reasonable period of time, provided that the Customer notifies the Contractor, either orally or in writing, of a problem with the Software and provides sufficient information for the Contractor to identify the problem. With respect to software for which Contractor and/or the manufacturer has discontinued engineering support in accordance with this Contract, Contractor will continue to provide all of the contracted services elements described in Attachment B with the exception of User Communication Service and Software On-Call Support. Discontinuation of engineering support shall be subject to Section 2.D of this Contract.

The Contractor's response to a programming error will depend upon the severity of the problem and the contracted Service Level.

10. **PRINCIPAL PERIOD OF MAINTENANCE**

Maintenance will be available for enrolled Software during the Service Availability Period as specified in Section 2 and subject to the terms of this Contract. Depending on the Service Level contracted by the Customer, travel time and expenses related to remedial and preventive maintenance will not be considered billable but will be included in the Contractor's firm, fixed Fee for the Support Services.

11. **MAINTENANCE ACCESS**

The Contractor will keep the Software in good operating condition during the applicable annual maintenance period during which the Customer contracts for continued maintenance and the Customer will provide the Contractor with reasonable access to the Software to perform maintenance. All maintenance that requires the Software to be inoperable must be performed outside the Customer's customary working hours except when the Software is already inoperable. Maintenance Services performed outside of the Customer's working hours may be subject to an additional charge, depending on the Service Level selected. Preventative or scheduled maintenance will be performed at mutually agreeable times, within the parameters of the manufacturer's published schedule.

12. **INTEREST ON OVERDUE PAYMENTS**

Section 126.30 of the Ohio Revised Code (the "Code") is applicable to this Contract and requires payment of interest on overdue payments for all proper invoices. The interest charge will be at the rate of interest on overdue payments for all proper invoices. The interest charge will be at the rate per calendar month, which equals one-twelfth of the rate per annum prescribed by Section 5703.47 of the Code.

13. **INVOICE REQUIREMENTS**

Invoices must be submitted in an original and three copies to the office designated in the purchase order "bill to address" to receive invoices. A proper invoice must include the following information and/or attached documentation:

- A. Name and address of business concern as designated in this Contract.
- B. Federal Tax Identification Number of business concern as designated in this Contract.
- C. Invoice remittance address as designated in this Contract.

- D. The purchase order number authorizing the delivery of equipment, materials, supplies or services.
- E. Description including time period, serial number when applicable, unit price, quantity and total price of equipment, materials, supplies or services actually delivered or rendered as specified in the purchase order. If the invoice is for lease purchase, the payment number, e.g., 1 of 36 must also be indicated.

14. **IMPROPER INVOICES**

If an invoice fails to comply with any of the requirements set forth in Section 13 above, a written notification and the improper invoice will be sent to the Contractor at the address designated for receipt of purchase orders within 15 calendar days after receipt of the invoice. The notice will contain a description of the defect or impropriety and any additional information necessary to correct the defect or impropriety. If such notification has been sent, the required payment date will be thirty (30) days after receipt of a proper invoice.

15. **NON-APPROPRIATION OF FUNDS**

Customer's funds are contingent on the availability of lawful appropriations by the Ohio General Assembly. If the Ohio Assembly fails at any time to continue funding for the payments due hereunder, this Contract will terminate as of the date that the funding expires without further obligation of the Customer. Since the current General Assembly cannot commit a future General Assembly to expenditure, if any term of this Contract crosses a State Biennium, this Contract will automatically expire at the end of the current biennium, which is June 30, 2013. The State, however, may renew this Contract in the next biennium, by issuing written notice to the Contractor of the decision to do so. The expiration and renewal procedure will also apply to the end of any subsequent biennium.

16. **OBM CERTIFICATION**

This Contract is subject to Section 126.07 of the Code, which provides, in part, that orders under this Contract will not be valid unless the Director of the Office of Budget and Management first certifies that there is a balance in the appropriation not already obligated to pay existing obligations.

17. **NOTIFICATION OF PRICE INCREASE**

Notice of any price increases for Maintenance or other charges, as allowed by this Contract, must be submitted to the purchase order bill to address no later than sixty (60) 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 purchase order number.

18. **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 tangible, personal property (not including lost data) arising out of the performance of this Contract, providing such bodily injury or property damage is due to the negligence of the Contractor, its employees, agents, or subcontractors and occurs without negligence on the part of the State or any of its employees. The Contractor will also defend and indemnify the State against any claim of infringement of a U.S. copyright, or an existing U.S. patent, trademark, or misappropriation of a trade secret based on the State's proper use of any Deliverable (i.e., replacement Software or Updates) 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 Contractor promptly in writing of the claim or threat thereof and upon consultation with the office of the State's Attorney General gives Contractor authority for, the defense and settlement thereof and provides Contractor with the necessary information and assistance relating to the claim. The defense of any claim by Contractor shall be subject to the Ohio Attorney General's right to appoint counsel and approve settlements. Subject to the foregoing approvals, Customer shall have the right to participate in the defense of any such claim at its own expense and Contractor shall have the sole responsibility for the defense or settlement of any such claim.

This obligation of indemnification will not apply, and 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 Product supplied hereunder with equipment, devices, or software not supplied by Contractor (this exclusion shall not limit Contractor's obligation under this indemnity with respect to third party infringement claims based solely on the Product itself); or Contractor's compliance with the State's designs, specifications or instructions. Any request to modify Contractor's Products in compliance with the State's design, specifications, or instructions shall be pursuant to a written statement of work signed by both parties and subject to this agreement between the parties. Notwithstanding any other provisions hereof, Contractor shall not be liable for any claim based on State's use of the Products as shipped after Contractor has informed the State of modifications or changes in the Products required to avoid such claims and offered to implement those modifications or changes, if such claim would have been avoided by implementation of Contractor's suggestions.

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 that is non-infringing.
- (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) If none of the foregoing alternatives is reasonably available, immediately remove the Deliverable and refund the fee the State paid for the Deliverable and the fee paid to Contractor for any other Deliverable that requires the availability of the infringing Deliverable for it to be useful to the State, as depreciated or amortized by an equal annual amount over the lifetime of the Products mutually agreed to by the State and Contractor.

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 and approval by 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 CONTRACTOR AND ITS SUPPLIERS WITH RESPECT TO INFRINGEMENT OF PROPRIETARY RIGHTS AND CONTRACTOR DISCLAIMS, ALL WARRANTIES OF NON-INFRINGEMENT WITH RESPECT TO THE PRODUCTS.

**19. CONFIDENTIALITY**

The State may disclose to the Contractor written material or oral or other information that the State treats as confidential ("Confidential Information"). Title to the Confidential Information and all related materials and documentation the State delivers to the Contractor will remain with the State. The Contractor agrees to treat such Confidential Information as secret if it is so marked, otherwise identified as such, or when, by its very nature, it deals with matters that, if generally known, would be damaging to the best interests of the public, other contractors or potential contractors with the State, or individuals or organizations about whom the State keeps information. The Contractor agrees to use Confidential Information solely to perform under this Contract and 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 and disclose the Confidential Information only to the extent so ordered. The Receiving

Party will return all originals of any Confidential Information and destroy any copies it has made for its own internal use on termination or expiration of this Contract or as requested by the Disclosing Party.

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

**20. CONFIDENTIALITY AGREEMENTS.**

When the Contractor performs services under this Contract that require the Contractor's and its subcontractors' personnel to access facilities, data, or systems that the State in its sole discretion deems sensitive, the State may require the Contractor's and its subcontractors' personnel with such access to sign an individual confidentiality agreement and policy acknowledgements, and have a background check performed before accessing those facilities, data, or systems. Each State agency, board, and commission may require a different confidentiality agreement or acknowledgement, and the Contractor's and its subcontractors' personnel may be required to sign a different confidentiality agreement or acknowledgement for each agency. The Contractor must immediately replace any of its or its subcontractors' personnel who refuse to sign a required confidentiality agreement or acknowledgment or have a background check performed.

**21. 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 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 HAD BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.
3. THE CONTRACTOR SHALL REMAIN LIABLE FOR ALL DIRECT DAMAGES TO THE EXTENT DUE TO THE CONTRACTOR'S FAULT OR NEGLIGENCE IN AN AMOUNT EQUAL TO THE ACTUAL DIRECT DAMAGES SUFFERED BY THE STATE OR ONE MILLION DOLLARS (\$1,000,000) WHICHEVER IS GREATER.

**22. DELIVERIES**

All deliveries shall be F.O.B. Destination.

**23. HEADINGS**

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

**24. ASSIGNMENT**

Neither party will assign this Contract without the written consent of the other party.

**25. TAXES**

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

**26. EXCUSABLE DELAY (FORCE MAJEURE)**

Neither party to this Contract will be responsible for failure to perform service due to causes beyond its control, including, but not limited to, work stoppages, fires, floods, civil disobediences, riots, rebellions acts of God and similar occurrences.

**27. ENTIRE CONTRACT**

This contract document (including the attachments expressly incorporated herein) contains the entire Contract between Contractor and Customer relating to maintenance service on the Software and supersedes any other Contracts, written or oral.

**28. NOTICES**

All notices, requests and other communications pursuant to this Contract will, unless otherwise provided herein, be in writing and will deemed to have been duly given on the date of service, if served personally, or three days after mailing, if mailed by first class mail, postage prepaid, to the address of the parties set forth in the attached Support Services Schedule. Any notice to

Contractor pursuant to the indemnification provisions of this Contract shall be provided to: Burroughs Payment Systems, Inc. Office of the General Counsel, 41100 Plymouth Road, Plymouth, MI 48170.

29. **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 to the extent that such does not create an absurdity.

30. **EQUAL EMPLOYMENT OPPORTUNITY**

The Contractor will comply with all state and federal laws regarding equal employment opportunity and fair labor and employment practices, including Ohio Revised Code Section 125.111 and all related Executive Orders.

Before a contract can be awarded or renewed, an Affirmative Action Program Verification Form must be submitted to the Department of Administrative Services Equal Opportunity Division to comply with the affirmative action requirements. Affirmative Action Verification Forms and approved Affirmative Action Plans can be found by going to the Ohio Business Gateway at: <http://business.ohio.gov/efiling/>

31. **DRUG FREE WORKPLACE** Contractor agrees to comply with all applicable state and Federal laws regarding drug-free workplace. Contractor will make a good faith effort to ensure its employees, while working on state property, will not possess or be under the influence of illegal drugs or alcohol or abuse prescription drugs in any way.

32. **OHIO ETHICS LAW AND LIMITS ON POLITICAL CONTRIBUTIONS.**

All Contractors who are actively doing business with the State or who are seeking to do business with the State are responsible to review and comply with all relevant provisions of O.R.C. Sections 102.01 to 102.09.

The Contractor, by signature affixed on this document, hereby certifies that, to the best of its knowledge and belief, all applicable parties listed in Division (I) or (J) of O.R.C. Section 3517.13 are in full compliance with Divisions (I) and (J) of O.R.C. Section 3517.13.

If the Contractor accepts a Contract and/or purchase order issued under the Contract without proper certification, the Department of Administrative Services shall deem the Contractor in breach and the Contractor will be subject to all legal remedies available to the Department of Administrative Services up to and including debarment from doing business with the State.

**Additional Information regarding Contribution Restrictions is available on the Office of Budget & Management's website at: [www.obm.ohio.gov](http://www.obm.ohio.gov).**

33. **SECURITY & SAFETY RULES.** When using or possessing State data or accessing State networks and systems, the Contractor must comply with all applicable State rules, policies, and regulations regarding data security and integrity. And when on any property owned or controlled by the State, the Contractor must comply with all security and safety rules, regulations, and policies applicable to people on those premises. All such rules, policies and regulations are provided in the following link: <http://das.ohio.gov/Divisions/DirectorsOffice/EmployeesServices/DASPolicies/tabid/463/Default.aspx>

34. **LAW AND VENUE.** This Contract is governed by and will be construed under Ohio law, and venue for all disputes will lie exclusively with the appropriate court in Franklin County, Ohio.

35. **UNRESOLVED FINDINGS.** The Contractor represents that it is not subject to an unresolved finding for recovery under Code § 9.24. If this representation proves false when the parties sign this Contract, the Contract will be void. Additionally, if this representation proves false on the date of any renewal or extension of the Contract, the renewal or extension will be void.

36. **DECLARATION OF MATERIAL ASSISTANCE.** The Contractor represents and warrants that it has not provided any material assistance, as that term is defined in ORC Section 2909.33(C), to an organization that is identified by, and included on, the United States Department of State Terrorist Exclusion List and that it has truthfully answered "no" to every question on the DMA form. The Contractor further represents and warrants that it has provided or shall provide the DMA form through the Ohio Business Gateway at <http://business.ohio.gov/efiling/> prior to execution of this Contract. If these representations and warranties are found to be false, this Contract shall be void and the Contractor shall immediately repay to the State any funds paid under this Contract.

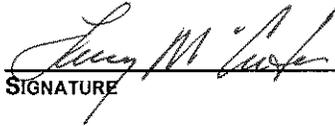
37. **ANTITRUST.** The State and the Contractor recognize that, in actual economic practice, overcharges resulting from antitrust violations are usually borne by the State. The Contractor therefore assigns to the State all state and federal antitrust claims and causes of action that the Contractor has or acquires relating to the goods and services acquired under this Contract.
38. **Governing the Expenditure of Public Funds on Offshore Services (EO 2011-12K).** The Contractor affirms to have read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of this Contract. Notwithstanding any other terms of this Contract, the State reserves the right to recover any funds paid for services the Contractor performs outside of the United States for which it did not receive a waiver. The State does not waive any other rights and remedies provided the State in this Contract.

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

**TO SHOW THEIR AGREEMENT,** the parties have executed this Contract. This Contract becomes effective either on the 1st day of July 2012, or in the alternative on the date of signature by the State.

**ACCEPTED BY:**

**CONTRACTOR  
BURROUGHS PAYMENT SYSTEMS, INC.**

  
SIGNATURE

**LARRY McCARTER**  
PRINTED NAME

**VICE PRESIDENT & GENERAL MANAGER CUSTOMER SERVICES**  
Title

**JUNE 28, 2012**  
Date

**larry.mccarter@burroughs.com**  
Email Address

**ACCEPTED BY:**

**THE STATE OF OHIO,  
DEPARTMENT OF ADMINISTRATIVE SERVICES  
GENERAL SERVICES DIVISION  
4200 SURFACE ROAD,  
COLUMBUS, OHIO. 43228-1395**

  
SIGNATURE

**ROBERT BLAIR**  
DIRECTOR

**7-10-12**  
Date

ATTACHMENT A

SEE ATTACHED SUPPORT SERVICES SCHEDULE



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List of Products Applicable to this Agreement

Level	Product style	Description (Include vendor name and model if non Burroughs Payment Systems product)	Quantity	Monthly Service Warranty Upgrade		Monthly Support Services	
				Period	Unit charge	Total charge	Unit charge
				Page subtotal - Upgrade charges		Page subtotal - Monthly charges	
				\$	0	\$	0

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This Addendum amends the agreement referenced above by the Agreement Number (the "Agreement"), and applies to: (a) all orders for Support Services accepted with this Addendum or subsequently accepted under the Agreement, and (b) existing orders for Support Services under the Agreement upon expiration of the then-current term. Only definitions, descriptions and levels of this Addendum will apply to these Services. The terms of this Addendum will control over any contradictions with terms of the Agreement. Except as defined in this Addendum, all capitalized terms shall have the meaning used in the Agreement.

**Section A. Definitions and General Terms and Conditions**

**Principal Period of Maintenance ("PPM")** means 8:00 AM to 5:00 PM, Client's local time, Monday through Friday excluding Burroughs designated holidays.

**7 X 24** means seven (7) days per week, twenty-four (24) hours per day including Burroughs designated holidays.

**Next Business Day (NBD) Service** means Burroughs will make every reasonable effort to respond to Client's request for on-site Support Services received during a PPM no later than the close of business of the next PPM.

**4 Hour Response (4HR)** means that if Client is located within a Primary Service City, Burroughs will make every reasonable effort to respond to Client's requests for on-site Support Services within four (4) hours. Response is measured, during the Client's contracted hours of coverage, from the time that Burroughs receives the request for service from Client until Burroughs arrives at Client's site.

**2 Hour Response (2HR)** means that if Client is located within a Primary Service City, Burroughs will make every reasonable effort to respond to the Client's request for on-site Support Services within two (2) hours. Response is measured from the time that Burroughs receives the request for service from Client until Burroughs arrives at Client's site.

**Off Hours** means all contracted hours of Support Services other than the PPM.

**Primary Service City** means an area that includes a 50-mile (80-kilometer in Canada) radius from the center of a Burroughs designated Primary Service City. If Burroughs moves its Primary service City or Client relocates its site so that Client's site is no longer within a 50-mile (80-kilometer in Canada) radius from the center of a Burroughs Primary Service City, Burroughs reserves the right to adjust 2HR and 4HR or to change the contracted Service Level.

**Product** is equipment, Software, Software maintenance releases and updates, and documentation (including manuals and education materials but not maintenance materials or tools) provided by Burroughs pursuant to this Agreement.

**Failed Unit** means a unit of equipment enrolled under Support Services, which is identified by Client as not in working order and deemed eligible by Burroughs for exchange.

**Client Replaceable Unit (CRU)** means a component or other non-critical plug-in assembly delivered to the Client on the next business day for Client's personnel to affix the repair/replacement.

**Exchange Unit** means new, repaired, or previously used equipment in working order that Burroughs conveys to Client as a replacement for a Failed Unit. The Failed Unit will become the property of Burroughs upon Client's receipt of the Exchange Unit or, if later, upon receipt of the Failed Unit by Burroughs. Client warrants that title to the Failed Unit and Burroughs

warrants that title to the Exchange Unit will be free and clear of all claims, liens, and encumbrances including security interests.

**Service Levels** mean various groupings of the Services Elements described in Section B.

**Installation Date** means the date Burroughs completes installation (as determined by Burroughs) or, if equipment or software is to be installed by the Client, the tenth day following shipment.

**Invoicing Options** means various billing intervals for services provided to Client. Burroughs will bill Client for Support Services in advance on an annual basis. For Clients who have an invoice total of monthly charges greater than \$1,000 the Client may select as an option, quarterly billing. For Clients who have an invoice total of monthly charges greater than \$2,500, the Client may select, as an option, quarterly or monthly billing. Burroughs will bill Clients using its standard invoicing formats. Custom invoicing options and formats and payment periods may be available from Burroughs for an additional charge.

**Initial Term of Services** means that unless specified otherwise on the Schedule or in the Agreement, the Initial Term for Support Services will be twelve (12) months and will start on the later of the Installation Date of the applicable Products or the date Burroughs accepts an order for Support Services ("Commencement Date of Service"). Except as specified in Section C of this Addendum, Products subsequently added to a system already enrolled under Support Services must be enrolled at the same Service Level as the system to which it is attached. Unless otherwise specified on the Schedule, the Initial Term of Support Services for Products subsequently enrolled under Support Services will end with the applicable term of Support Services for those previously enrolled Products and, for purposes of changes to Support Services charges, will be deemed to have the same anniversary of the Commencement Date of Services as those previously enrolled Products. Following the Initial Term, Support Services will continue on an annual renewal basis at Burroughs then-current list prices until terminated or canceled according to the terms of the Agreement. Burroughs may increase Support Services charges on each anniversary of the Commencement Date of Service upon ninety (90) days prior written notice to Client.

Burroughs may charge Client time and material rates for service on Products that are not identified by the manufacturer's style and model number on the Schedule or for service on enrolled Products that are outside the scope of the contracted services. Burroughs may modify Service Elements, Service Plans or discontinue Support Services for Products upon at least ninety (90) days prior notice via written notification. If Client does not want to continue receiving the Support Services under such changed terms, Client may end contracted Support Services by giving Burroughs written notice no later than thirty (30) days prior to the end of this ninety (90) day period and Burroughs will refund any unearned payments for the Support Services.

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## Section B. Description of Service Elements

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**Equipment On-Call Remedial Maintenance** includes on-site repair or Exchange Unit service of equipment, at Burroughs option, if a problem remains unresolved after Client has utilized Support Center Services as prescribed. Replacements for certain failed components such as keyboards, mice, and other non-critical plug-in assemblies designated by Burroughs as Client Replaceable may, at Burroughs option, be shipped directly to Client for Client installation. Should Client elect to have the Burroughs Customer Infrastructure Representative visit the site to install such components, additional charges may apply.

**Mail-In Service** allows Client, at its expense and risk, to ship a Failed Unit to the Burroughs designated location. Within seven (7) business days of receipt, Burroughs will, at its option, either repair the Failed Unit or give Client an Exchange Unit.

**Advance Exchange Service** allows Client to notify Burroughs of a Failed Unit enrolled in Support Services. Upon notification, Burroughs will ship an Exchange Unit to the Client using a next day delivery service. Client will install the Exchange Unit and shall ship the Failed Unit to Burroughs within fourteen (14) days after Client's receipt of the Exchange Unit. Client agrees to pay Burroughs an additional fee, as determined by Burroughs, if Client fails to return Failed Unit within fourteen (14) days of Client's receipt of Exchange Unit. Advance Exchange Service is limited to selected equipment.

**Equipment Maintenance Parts** are parts required for Product repairs made by Burroughs personnel. NBD, 2HR and 4HR do not apply to Parts availability.

**Essential Engineering Changes** are changes released by Burroughs for safety purposes or changes Burroughs determines are essential to the performance of equipment. Changes will be installed at a mutually acceptable time during the applicable hours of contracted coverage. For non Burroughs equipment, Burroughs will install Essential Engineering Changes (a) based upon the availability of required materials at no cost to Burroughs, and (b) at current hourly labor charges.

**Electronic Call Home Support** allows Burroughs Support Centers to receive system data via the Internet from Client and perform remote failure analysis. Client will supply the equipment, software, and communication facilities to use the Electronic Call Home Support capabilities of the Product as outlined in the Burroughs product support plan. If Client does not permit Burroughs to use Electronic Call Home Support as defined in the Product's support plan, Client agrees to pay additional charges for Support Services as determined by Burroughs. Electronic Call Home Support is limited to selected products.

**Equipment Preventive Maintenance**, including the installation of engineering changes deemed appropriate by Burroughs, will be performed at Client's location according to the manufacturer's recommendations at a mutually acceptable time during the applicable hours of contracted coverage.

**Support Center Service** provides assistance by electronic or voice communication during the PPM on operating the Products, identifying Product errors or malfunctions and advising on known detours, reporting software problems via a User Communication Form (UCF), and determining the need for on-call remedial service. Support Center Services during Off Hours consist of expediting response to network down and system emergencies.

### Services Not Included in Support Services

Support Services do not include: (a) repair of failures due to manufacturer's design or other defects; (b) repair of failures due to abuse, accidents,

neglect, or improper use, including damage to LCD screens or other Laptop Computer components; (c) repair of failures due to external factors (including failure or fluctuation of electrical power or air conditioning, fire, or flood); (d) repair of failures due to excessive use, wear, and tear, which is in excess of manufacturer's recommended duty cycle; (e) refurbishment including restorations due to obsolescence (when parts for Equipment are not readily available on commercially reasonable terms) or end of life cycle failures including phosphorus "burn in" or "low intensity" characteristics of failures including phosphorus "burn in" or "low intensity" characteristics of monitors; (f) repair of machines not identified as Equipment; (g) the loading of software, software configurations or any data files; and (h) the backup of any data files.

If Burroughs determines Equipment requires refurbishment rather than repair, Burroughs will notify Client and remove the Equipment from Support Services.

Client may ask Burroughs to do the refurbishment on an hourly billable service basis and Burroughs may provide refurbishment of Equipment subject to the availability of parts, manufacturer's support, and trained personnel.

**User Communication Service** provides for reporting of suspected Product errors or malfunctions or suggested new feature changes. Burroughs will make reasonable efforts to provide detours or corrections for Burroughs Products or non Burroughs Products if available to Burroughs at no additional charge from the vendor. Client will install all error corrections. User Communication Service and UCF submissions are available only for Products for which Burroughs is then currently providing development center support (also called engineering support).

**Software Maintenance Release Service** provides error corrections and maintenance releases that Burroughs develops or provides for currently supported Software level(s). Burroughs licenses these releases only for use on the designated computer system(s) under the applicable license agreement. Client will install all applicable error corrections and maintenance releases. Certain software products may require Burroughs Subscription Service in order to receive Software Maintenance Release Service.

**Electronic Support Service** provides Client with access to an Internet web site to place Product service requests, to obtain information on known errors and corrections, and to receive information on Burroughs products and services.

**Software On-Call Support** provides software support at the Client's site if Burroughs determines that a Software Product problem remains unresolved and on-site assistance is required, after Client has used Support Center Services as prescribed. Desktop and selected non Burroughs software Products are not eligible for Software On-Call Support.

**Systems Operations Review** provides an annual meeting, at a time mutually agreed to between Burroughs and Client, to conduct a computer systems operation review. Client is responsible for scheduling the meeting. This service applies to systems designated by Burroughs as enterprise servers or mainframes.

**Support Center Response Commitment** (available only during the PPM) provides electronic or voice response by Burroughs to Client's declared emergencies no later than one (1) hour after receipt of Client's request for service at the Support Center designated by Burroughs.

## Section C. Service Level Descriptions

The following describes the six Service Levels and the Service Elements included in each of the Service Levels. **Not all Service Elements and Service Levels are available for all Products. Refer to Descriptions of Service Elements for additional details.** Individual Service Elements contained in a higher Service Level than contracted are provided at Client request, as available, at then-current Burroughs conditions and charges. All hardware and software Products within a system configuration must be enrolled under the same Service Level except for desktop and network products and application software. All Client Replaceable Units are shipped to the Client to arrive the next business day regardless of the service level subscribed.

Service Elements	Service Levels – Hardware Support Services					
	1 <i>Mail-In</i>	2 <i>Advanced Exchange</i>	3 <i>Standard PPM</i>	4 <i>Standard PPM</i>	5 <i>Business Critical 7X24</i>	6 <i>Business Critical 7X24</i>
Equipment On-Call Remedial Maintenance Service			NBD*	4HR	4HR	2HR
Mail-In Service	X					
Advance Exchange Service		X				
Equipment Maintenance Parts	X	X	X	X	X	X
Essential Engineering Changes	X	X	X	X	X	X
Electronic Call Home Support			X	X	X	X
Equipment Preventive Maintenance			X	X	X	X

\*Note: CRU maintenance plans are required.

Service Elements	Service Levels – Software Support Services					
	1	2	3	4	5	6
Support Center Service	X	X	X	X	X	X
User Communication Service	X	X	X	X	X	X
Software Maintenance Release Service	X	X	X	X	X	X
Electronic Support Service	X	X	X	X	X	X
Software On-Call Support (7/24)					X	X
Systems Operations Review					X	X
Support Center Response Commitment						X

## Section D. Other Provisions

### 1. - Client Responsibilities

The parties agree that: (a) Client will use the Products according to the manufacturers' instructions in the proper environment; (b) Client will back up information stored or processed by Products on computer-readable media that Client can easily restore if the information is lost or damaged from any cause; (c) Client is responsible for any results produced by the Products and Services; and (d) Client will comply with all applicable government export control laws and regulations. If Burroughs is providing maintenance Support Services, Client will: (a) maintain the proper operating environment for Products; (b) provide adequate working and storage space for use by Burroughs personnel near the equipment; (c) provide Burroughs access to the equipment and sufficient computer time, subject only to Client's security rules; (d) follow Burroughs procedures and instructions for operator maintenance and obtaining services; (e) provide a memory dump and additional data in machine readable form if requested; (f) reproduce suspected errors or malfunctions in Software; and (g) install available error corrections and maintenance releases authorized by the manufacturer on a current basis.

### 2. - Diagnostic Tools

For ease of service, Burroughs may store proprietary and confidential diagnostic tools, software, and documentation, whether in printed or electronic form, (collectively called "Tools") at Client's site or within a Product. These Tools may be pre-loaded on Client's equipment or embedded in a Product before delivery. Burroughs does not license these Tools to Client. Burroughs does not give Client or anyone else permission to access, monitor, use, copy, distribute, or change these Tools. Burroughs acknowledges that during routine system back-ups, Client may not easily avoid copying software Tools and, to this extent, the copies are permitted provided Client protects these Tools as Burroughs confidential information (and uses the same standard of care to protect the Tools as it uses to protect its own confidential information) and Client does not remove any proprietary markings. Burroughs may remove these Tools at will and Client gives Burroughs permission and access to Client's site to do so.

### 3. - Services Warranties

Burroughs has the ability to perform the Services and Burroughs will provide suitable resources to perform the work according to the description of Services, including any ordered maintenance Service plan. All Services exclude damage repair or correction of defects or errors related to: (a) supplies not obtained from Burroughs, and (b) design, manufacture, materials or workmanship related to non Burroughs products and services, or Product(s) for which Burroughs has discontinued engineering support; and (c) unauthorized alterations or attachments; and (d) intentional damage caused by non Burroughs personnel. In addition, Services exclude replacement of supplies expended during normal operation (including batteries, ink and other consumables).

#### **4. - No Other Warranties**

Except as described in this Agreement or an Order, Burroughs makes no other warranties. **TO THE EXTENT PERMITTED BY LAW, BURROUGHS DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE FOR PRODUCTS AND SERVICES.** Burroughs warranties extend solely to Client. The following language relates only to Products subject to federal or state consumer warranty laws: If the disclaimer of implied warranties does not apply to Client, Burroughs limits the length of these warranties to the applicable Burroughs warranty period. Some states do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to Client. This warranty gives Client specific legal rights, and Client may also have other rights, which vary from state to state.

#### **5. - Maintenance Service Description**

According to the service plan ordered by Client, Burroughs will, with respect to covered equipment and Software, use commercially reasonable efforts to:

(a) diagnose and repair equipment that does not work according to the manufacturer's specification because of normal wear and tear, provided the equipment is in good working order at the start of the Burroughs services, properly configured at the minimum hardware and software levels designated by Burroughs, and Client complies with the manufacturer's instructions for the proper use, care, supplies, and environment for the equipment.

(b) diagnose and provide to Client workarounds or corrections for (i) material defects in the currently-supported version(s) of Burroughs proprietary Software that prevent Client's use of this Software in a production environment; and (ii) non Burroughs Software where the manufacturer makes such support available to Burroughs for Client's benefit under a valid license.

Client must give Burroughs prior written notice of any proposed changes (including alterations or attachments to equipment, Software, components, boards or subassemblies) to Products covered by a Burroughs warranty or enrolled in a Burroughs Service plan. Burroughs has no obligation to provide maintenance Support Services for modified equipment or Software. Burroughs may agree to maintain, support or correct such modified Products for an additional charge.

STANDARD AFFIRMATION AND DISCLOSURE FORM

EXECUTIVE ORDER 2011-12K

Governing the Expenditure of Public Funds on Offshore Services

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

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

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

1. Principal location of business of Contractor:

41100 Plymouth Road  
(Address)

Plymouth, MI 48170  
(City, State, Zip)

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

Not Applicable  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

2. Location where services will be performed by Contractor:

41100 Plymouth Road  
(Address)

Plymouth, MI 48170  
(City, State, Zip)

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

Not Applicable  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

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

Not Applicable  
(Address) \_\_\_\_\_  
(Address, City, State, Zip)

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

Not Applicable  
(Name) \_\_\_\_\_  
(Address, City, State, Zip)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

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

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

By:   
Contractor

Print Name: Larry McCarter

Title: Vice President & General Manager Customer Services

Date: June 28, 2012

STATE OF OHIO  
DEPARTMENT OF ADMINISTRATIVE SERVICES  
HARDWARE  
MASTER MAINTENANCE AGREEMENT-FISCAL YEARS  
2012 and 2013

**THIS CONTRACT** is between the State of Ohio, Department of Administrative Services ("DAS"), General Services Division, Office of State Purchasing, located 4200 Surface Road, Columbus, Ohio, 43228 ("Customer"), and Burroughs Payment Systems, Inc. ("Contractor"), located at 41100 Plymouth Road, Plymouth, Michigan, 48170.

This Contract establishes terms and conditions under which a State agency (including any board, instrumentality or other political body of the State) may acquire the Contractor's support services ("Support Services") described herein. This Contract may also be relied on by Ohio political subdivisions, including Ohio cities and counties ("Political Subdivisions"). As used herein, the term "Customer" refers to the State where the ordering entity is any agency of the State, or the local Political Subdivision, whichever entity is listed in the applicable Support Services Schedule, a sample of which is attached hereto and incorporated herein as Attachment A. 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's 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 on behalf of a Political Subdivision 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.

Contractor agrees to provide the remedial and preventative maintenance (also referred to as "Services", "Support Services" or "Maintenance") described in this Master Maintenance Agreement (the "Contract") for the equipment listed on any Support Services Schedule (the "Equipment") signed by Contractor and Customer, and the Customer, on behalf of the agency listed on any Support Services Schedule, agrees to purchase such maintenance, subject to the terms and conditions in this Contract.

1. **TERM**

The term of the Contract starts on July 1, 2012 and ends on the last day of June, 2013. Customer and Contractor may designate a shorter term of coverage for a particular item or items of Equipment on any Support Services Schedule. Customer and Contractor may also agree in writing to extend this Contract. In no event may the term be extended beyond a biennium budget period unless both parties affirmatively renew this Contract in writing.

2. **DESCRIPTION OF MAINTENANCE**

Except as otherwise provided in this Contract, the maintenance under this Contract will consist of the following basic services as further described in the Burroughs Support Services Addendum attached hereto and incorporated herein as Attachment B:

A. Remedial Maintenance Calls: During the regular business hours of 8:00 a.m. to 5:00 p.m. When requested by Customer, remedial maintenance service will be done as promptly as practicable to correct malfunctions of the Equipment and to make repairs necessary to restore the Equipment to good operating condition, including the replacement of unserviceable parts. At other times, subject to the availability of Contractor personnel, and when requested by Customer, emergency remedial service will be rendered as promptly as practicable at the then-current hourly rates of Contractor. Remedial maintenance will be performed in accordance with the contracted Service Level set forth in the applicable Support Services Schedule. Specific Service Levels are defined in Attachment B.

B. Preventative Maintenance Inspections: At such times during the contracted hours of coverage, as may be mutually convenient for Customer and Contractor, reasonable, periodic inspections of the Equipment will be carried out by Contractor without charge for the purpose of testing, cleaning, lubricating and adjusting the Equipment, checking its performance, replacing unserviceable parts and taking such other actions as may be deemed necessary by Contractor to maintain the Equipment in good operating condition. Preventative maintenance

service will be provided in accordance with the manufacturer's recommendation and may be performed concurrently with remedial services.

All parts furnished by Contractor, except those excluded in Section 3, must be provided on an exchange basis, and must be new or warranted equivalent to new in performance when used in the Equipment. All parts removed for replacement will become the property of Contractor.

Although the parties separate Software Master Maintenance Agreement sets forth the terms for the maintenance and support of Software, orders for Equipment and Software maintenance, when relating to support for a particular system configuration, shall be made on the same Support Services Schedule/order. Additionally, all hardware and software products within a system configuration, and eligible for Contractor's maintenance Support Services, must be enrolled under the same Service Level.

**3. LIMITATIONS AND EXCLUSIONS:**

In addition to the exclusions set forth in Attachment B, maintenance under this Contract will not include:

- A. Furnishing ribbons, tapes, platens, power rolls, type elements or other accessories, supplies or consumable items;
- B. Making specification changes;
- C. Performing services connected with relocation of the Equipment;
- D. Adding or removing accessories, attachments or other devices or altering the Equipment;
- E. Repairing damage or malfunctions or replacing of parts necessitated by:
  - (i) Intentional abuse or negligence of Customer;
  - (ii) Use of operating supplies or other consumable items not meeting the Equipment manufacturer's specifications;
  - (iii) Improper, excessive, extraordinary or abnormal operation of the Equipment;
  - (iv) Acts of third parties;
  - (v) Alteration of the Equipment by Customer or a third party;
  - (vi) Malfunction of parts not furnished by the Equipment manufacturer unless Contractor furnished such parts under this Contract;
  - (vii) Installation or attachment to the Equipment of parts or equipment not furnished or approved by the Equipment manufacturer unless such parts or Equipment were furnished by Contractor under this Contract;
  - (viii) Failure of Customer to provide a suitable environment for the Equipment;
- F. Providing electrical work external to any Equipment,
- G. Repairing damage due to floods, fires, loss of air conditioning, electrical shortages or other casualty, unless such damage resulted from Contractor's negligence or failure to perform under the Contract,
- H. Performing services with respect to equipment that is not a part of the Equipment,
- I. Painting or refinishing the Equipment or furnishing material for such, or
- J. Reconditioning the Equipment, except as provided in Section 33 below.

Repairs and replacements necessitated by any of the items excluded from coverage hereunder will be undertaken by Contractor only on Customer's written approval of estimated additional charges, Customer's Contract to pay the actual charges, and Customer's issuance of a purchase order.

**4. RESPONSIBILITIES OF CUSTOMER**

In addition to any other responsibilities set forth in Attachment B, the following shall apply:

- A. Customer will provide Contractor's personnel reasonable access at agreed times and availability to the Equipment to perform maintenance services (including preventive maintenance). Customer will also provide adequate working space and facilities, including heat, light, ventilation, electric current and outlets and the like for use by Contractor personnel. All such facilities will be within a reasonable distance from the Equipment to be serviced and will be provided at no charge to Contractor.
- B. Customer will not perform, attempt to perform, nor cause to be performed, maintenance or repair to the Equipment during the term of this Contract except simple daily or weekly preventive maintenance on the Equipment as allowed or reasonably required by Contractor. Contractor, at Customer's request, will maintain the service reports issued by Contractor. Customer, at its own expense, will establish and maintain an environment consistent with the specifications furnished by Contractor for the Equipment.

5. **PAYMENT DUE DATE**

- A. Contractor will invoice Customer on the first day of each month (or each quarter or each year as designated on the applicable Support Services Schedule) during the term hereof for the unit amount for the Equipment in the Support Services Schedule. If the Commencement Date does not fall on the first day of the month, the amount of the first payment will be prorated based on the number of service days remaining in that month. As used in this section, "Commencement Date" means the effective date of the start of the ordered Support Services in the applicable Support Services Schedule provided that Customer has issued a corresponding purchase order, which references this Agreement. Contractor will have no obligation to perform the Support Services until receipt of such purchase order. Notwithstanding the above, any non-repetitive, hourly, or use charges, if applicable, will be invoiced only as Customer incurs those charges.
- B. Payments under this Contract will be due on the 30<sup>th</sup> calendar day after the later of:
  - 1. The date of actual receipt of a proper invoice in the office designated to receive the invoice, or
  - 2. As applicable, for non-repetitive charges, the date the service is delivered in accordance with the terms of this Contract. In the event a non-repetitive service for Equipment enrolled under Support Services hereunder is not performed in accordance with the contracted services and must be re-performed, Customer shall have no obligation to pay for the re-performance of the service.
- C. The date of the warrant issued in payment will be considered the date payment is made.

6. **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 DAS. 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:

Department of Administrative Services  
Office of State Purchasing

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.

7. **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 DAS.

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 Master Maintenance Agreement Number, report amount(s), and reporting period covered.

Contractor must forward the check to the following address:

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

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.

8. **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 is deemed to be false on the date the parties sign this Contract, this Contract is void *ab initio*.

9. **GENERAL WARRANTIES**

- A. Contractor warrants that it will have good title to, and the right to ship, deliver and install any and all parts supplied by Contractor under this Contract. Contractor further warrants that all such parts will be delivered and installed in good operating condition, free from any defect and free from any security interest or other lien or encumbrance or the like. Contractor warrants that all parts shall be new or certified as new and merchantable and fit for their intended use (meaning such parts will be capable of performing the same function as the part it replaces when used in accordance with the applicable manufacturer's specifications). Where installed by Contractor, Contractor further warrants that all such parts will be installed in a workmanlike manner. Contractor warrants that trained, qualified maintenance personnel will perform all Maintenance Services in a professional and workmanlike manner. By payment of the first amount due under this Contract, Customer represents that it has inspected the Equipment and found it to be in good operating condition as of the Commencement Date of this Contract.
- B. If Contractor fails to comply with these warranties the Contractor shall make all necessary adjustments, repairs and replacements to the Equipment in accordance with the terms of this Contract and replace any parts installed that are defective. The Contractor will correct such failure with all due speed or will refund the amount of the compensation paid for the Maintenance

Services which are not in compliance with the foregoing warranties. Contractor will also indemnify the Customer for any direct damages and claims by third parties based on breach of these warranties.

10. **INTEREST ON OVERDUE PAYMENTS**

Section 126.30 of the Ohio Revised Code (the "Code") applies to this Contract and requires payment of interest on overdue payments for all proper invoices. The interest charge will be at the rate per calendar month that equals one-twelfth of the rate per annum in Section 5703.47 of the Code.

11. **INVOICE REQUIREMENTS**

Invoices must be submitted in an original and three copies of the office designated in the purchase order "bill to address" to receive invoices. A proper invoice must include the following information and/or attached documentation:

- A. Name and address of business concern as designated in this Contract.
- B. Federal Tax Identification Number of Contractor as designated in this Contract.
- C. Invoice remittance address as designated in this Contract.
- D. The purchase order number authorizing the delivery of equipment, materials, supplies or services.
- E. Description including time period, and serial number, when applicable, unit price, quantity and total price of equipment, materials, supplies or services actually delivered or rendered as specified in the purchase order. If the invoice is for lease purchase, the payment number, e.g., 1 of 36 shall also be indicated.

12. **IMPROPER INVOICES**

If an invoice fails to comply with any of the requirements set forth in Section 11 above, a written notification and the improper invoice will be sent to Contractor at 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 necessary to correct the defect or impropriety. If this notice has been sent, the required payment date will be thirty (30) days after receipt of a proper invoice.

13. **NON-APPROPRIATION OF FUNDS**

Customer's funds are contingent on the availability of lawful appropriations by the Ohio General Assembly. If the Ohio General Assembly fails at any time to continue funding for the payments due hereunder, this Contract will terminate as of the date that the funding expires without further obligation of the Customer. Since the current General Assembly cannot commit a future General Assembly to expenditure, if any term of this Contract crosses a State biennium this Contract will automatically expire at the end of the current biennium, which is June 30, 2013. The State, however, may renew this Contract in the next biennium by issuing written notice to the Contractor of the decision to do so. This expiration and renewal procedure will also apply to the end of any subsequent biennium.

14. **OBM CERTIFICATION**

Under Section 126.07 of the Code, orders under this Contract will not be valid until the Director of the Office of Budget and Management first certifies that there is a balance in the appropriation not already obligated to pay existing obligations.

15. **NOTIFICATION OF PRICE INCREASE**

Notification of any price increases, if any are allowed by this Contract, must be submitted to the purchase order bill to address no later than sixty (60) 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 purchase order number. The annual maintenance fee will not increase from year to year by more than ten (10) percent over the prior year's annual maintenance fee.

16. **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 tangible property arising out of the performance of this Contract, to the extent such bodily injury or property damage is due to the negligence of the Contractor, its employees, agents, or subcontractors and occurs without negligence on the part of the State or any of its employees. The Contractor will also defend and indemnify the State against any claim of infringement of a U.S. copyright or an existing U.S. patent, trademark or misappropriation of a trade secret based on the State's proper use of any item of Equipment (i.e., replacement parts or replacement Equipment) 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 Contractor promptly in writing of the claim or threat thereof and upon consultation with the office of the State's Attorney General gives Contractor authority for the defense and settlement thereof and provides Contractor with the necessary information and assistance relating to the claim. The defense of any claim by Contractor shall be subject to the Ohio Attorney General's right to appoint counsel and approve settlements. Subject to the foregoing approvals, Customer shall have the right to participate in the defense of any such claim at its own expense and Contractor shall have the sole responsibility for the defense or settlement of any such claim.

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

The state agrees to give the Contractor notice of any such claim as promptly as possible. 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 Equipment so that is no longer infringing.
- (2) Replace the Equipment with an equivalent or better item that is non-infringing.
- (3) Acquire the right for the State to use the infringing Equipment as it was intended for the State to use under this Contract; or
- (4) If none of the foregoing alternatives is reasonably available, immediately remove the infringing Equipment and refund the fee the State paid for the Equipment and the fee originally paid to Contractor for any other Equipment that requires the availability of the infringing Equipment for it to be useful to the State, as depreciated or amortized by an equal annual amount over the lifetime of the Equipment as mutually agreed to by the State and Contractor.

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 and approval by 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 CONTRACTOR AND THE STATE'S SOLE AND EXCLUSIVE REMEDIES WITH RESPECT TO INFRINGEMENT OF PROPRIETARY RIGHTS AND MISAPPROPRIATION OF TRADE SECRETS.

17. **CONFIDENTIALITY**

The State may disclose to the Contractor written material or oral or other information that the State treats as confidential ("Confidential Information"). Title to the Confidential Information and all related materials and documentation the State delivers to the Contractor will remain with the State. The Contractor agrees to treat such Confidential Information as secret if it is so marked, otherwise identified as such, or when, by its very nature, it deals with matters that, if generally known, would be damaging to the best interests of the public, other contractors or potential contractors with the State, or individuals or organizations about whom the State keeps information. The Contractor agrees to use Confidential Information solely to perform under this Contract and 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 consultations who are involved in the use of the Confidential Information in accordance with the terms of the 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 and disclose the Confidential Information only to the extent so ordered. The Receiving Party will return all originals of any Confidential Information and destroy any copies it has made for its own internal use on termination or expiration of this Contract or as requested by the Disclosing Party.

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

**18. CONFIDENTIALITY AGREEMENTS.**

When the Contractor performs services under this Contract that require the Contractor's and its subcontractors' personnel to access facilities, data, or systems that the State in its sole discretion deems sensitive, the State may require the Contractor's and its subcontractors' personnel with such access to sign an individual confidential agreement and policy acknowledgements, and have a background check performed before accessing those facilities, data, or systems. Each State agency, board, and commission may require a different confidentiality agreement or acknowledgement, and the Contractor's and its subcontractors' personnel may be required to sign a different confidentiality agreement or acknowledgement for each agency. The Contractor must immediately replace any of its or its subcontractors' personnel who refuse to sign a required confidentiality agreement or acknowledgment or have a background check performed.

**19. 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 HEREIN 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 HAD BEEN ADVISED, KNEW, OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.
3. THE CONTRACTOR SHALL REMAIN LIABLE FOR ALL DIRECT DAMAGES TO THE EXTENT DUE TO THE CONTRACTOR'S FAULT OR NEGLIGENCE IN AN AMOUNT EQUAL TO THE ACTUAL DIRECT DAMAGES SUFFERED BY THE STATE OR ONE MILLION DOLLARS (\$1,000,000), WHICHEVER IS GREATER.

20. **DELIVERIES**

All deliveries shall be F.O.B. destination.

21. **HEADINGS**

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

22. **ASSIGNMENT**

Neither party will assign this contract without the written consent of the other party.

23. **TAXES**

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

24. **EXCUSEABLE DELAY (FORCE MAJUERE)**

Neither party to this Contract will be responsible for failure to perform service due to causes beyond its control, including, but not limited to, work stoppages, fires, floods, civil disobediences, riots, rebellions, acts of God and similar occurrences.

25. **ENTIRE CONTRACT**

This contract document (including the attachments expressly incorporated herein) contains the entire Contract between Contractor and Customer relating to maintenance service on the Equipment as of the Commencement Date of this Contract, and supersedes any other prior related proposals, agreements, or communications, written or oral.

26. **NOTICES**

All notices, requests and other communications pursuant to this Contract will, unless otherwise provided herein, be in writing and will be deemed to have been duly given on the date of service, if served personally or 3 days after mailing, if mailed by first class mail, postage prepaid, to the addresses of the parties set forth on the attached Support Services Schedule. Any notice to Contractor pursuant to the indemnification provisions of this Contract shall be provided to: Burroughs Payment Systems, Inc. Office of the General Counsel, 41100 Plymouth Road, Plymouth, MI 48170.

27. **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 to the extent that such does not create an absurdity.

28. **EQUAL EMPLOYMENT OPPORTUNITY**

The Contractor will comply with all state and federal laws regarding equal employment opportunity and fair labor and employment practices, including Ohio Revised Code Section 125.111 and all related Executive Orders.

Before a contract can be awarded or renewed, an Affirmative Action Program Verification Form must be submitted to the Department of Administrative Services Equal Opportunity Division to comply with the

affirmative action requirements. Affirmative Action Verification Forms and approved Affirmative Action Plans can be found by going to the Ohio Business Gateway at: <http://business.ohio.gov/efiling/>

29. **DRUG FREE WORKPLACE**

Contractor agrees to comply with all applicable state and Federal laws regarding drug-free workplace. Contractor will make a good faith effort to ensure that all Contractor employees, while working on state property, will not possess, or be under the influence of illegal drugs or alcohol or abuse prescription drugs in any way.

30. **EQUIPMENT LOCATION**

This Contract is for service of the Equipment at the location in the applicable Support Services SCHEDULE. If any unit of Equipment is moved (which movement will in all instances be at Customer's risk and expense), Customer will so notify Contractor. Contractor may terminate this Contract if, in its discretion, the environmental conditions in which any unit of Equipment is placed are not suitable for satisfactory performance, or if the new location is out of Contractor's ordinary operating area.

31. **RETAINED OWNERSHIP**

Contractor will retain title to all replacement parts and equipment provided by it until such are incorporated into the Equipment, at which time title will pass to the Customer. Contractor will retain title to all tools and all diagnostic, computer program media it uses. In addition, all Contractor test, diagnostic, and verification information and routines (on media owned by Contractor or Customer), maintenance equipment and maintenance materials, information and documentation that are treated as proprietary and confidential by Contractor will be so treated by Customer, and such proprietary and confidential items, whether on the premises of Customer, or accessible by remote inquiry, will remain the property of Contractor and may be removed, or usage thereof discontinued, as applicable, by Contractor at any time, or Customer will destroy the same on written request from Contractor. Customer agrees to treat and protect such proprietary and confidential items in a manner consistent with the maintenance of trade secret rights and to take appropriate action by instruction or Contract with its employees who are permitted access to confidential items.

32. **ADDITIONAL EQUIPMENT AND REMOVAL OF EQUIPMENT**

Additional equipment manufactured by the Contractor of the Equipment and used in conjunction with the Equipment may be included under this Contract on written acceptance by Customer and Contractor at Contractor's then-current rates. At Customer's option, and only if Customer is under a monthly invoicing schedule, Customer may remove an item of Equipment that it has de-installed and removed from use from coverage under the Contract by giving Contractor thirty (30) days advance written notice. Upon expiration of such thirty (30) day period, Customer will not be liable for Support Services charges associated with such item of Equipment.

33. **RECONDITIONING**

If, in Contractor's reasonable opinion, a shop reconditioning of any unit of Equipment is necessary because normal repair or replacement of parts cannot keep such unit in good operating condition, Contractor will submit a cost estimate of needed repairs.

If Customer does not authorize such additional work and agree to pay the proposed charge, Contractor may terminate this Contract with respect to such unit.

34. **OHIO ETHICS LAW AND LIMITS ON POLITICAL CONTRIBUTIONS.**

All Contractors who are actively doing business with the State or who are seeking to do business with the State are responsible to review and comply with all relevant provisions of O.R.C. Sections 102.01 to 102.09.

The Contractor, by signature affixed on this document, hereby certifies that, to the best of its knowledge and belief, all applicable parties listed in Division (I) or (J) of O.R.C. Section 3517.13 are in full compliance with Divisions (I) and (J) of O.R.C. Section 3517.13.

If the Contractor accepts a Contract and/or purchase order issued under the Contract without proper certification, the Department of Administrative Services shall deem the Contractor in breach and the Contractor will be subject to all legal remedies available to the Department of Administrative Services up to and including debarment from doing business with the State.

**Additional information regarding Contribution Restrictions is available on the Office of Budget & Management's website at: [www.obm.ohio.gov](http://www.obm.ohio.gov).**

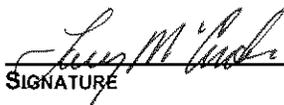
35. **SECURITY & SAFETY RULES.** When using or possessing State data or accessing State networks and systems, the Contractor must comply with all applicable State rules, policies, and regulations regarding data security and integrity. And when on any property owned or controlled by the State, the Contractor must comply with all security and safety rules, regulations, and policies applicable to people on those premises. All such rules, policies and regulations are provided in the following link:: <http://das.ohio.gov/Divisions/DirectorsOffice/EmployeesServices/DASPolicies/tabid/463/Default.aspx>
36. **LAW AND VENUE.** This Contract is governed by and will be construed under Ohio law, and venue for all disputes will lie exclusively with the appropriate court in Franklin County, Ohio.
37. **DECLARATION OF MATERIAL ASSISTANCE.** The Contractor represents and warrants that is has not provided any material assistance, as that term is defined in ORC Section 2909.33(C), to an organization that is identified by, and included on, the United States Department of State Terrorist Exclusion List and that it has truthfully answered "no" to every question on the DMA form. The Contractor further represents and warrants that it has provided or shall provide the DMA form through the Ohio Business Gateway at <http://business.ohio.gov/efiling/> prior to execution of this Contract. If these representations and warranties are found to be false, this Contract shall be void and the Contractor shall immediately repay to the State any funds paid under this Contract.
38. **ANTITRUST.** The State and the Contractor recognize that, in actual economic practice, overcharges resulting from antitrust violations are usually borne by the State. The Contractor therefore assigns to the State all state and federal antitrust claims and causes of action that the Contractor has or acquires relating to the goods and services acquired under this Contract.
39. **Governing the Expenditure of Public Funds on Offshore Services (EO 2011-12K).** The Contractor affirms to have read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of this Contract. Notwithstanding any other terms of this Contract, the State reserves the right to recover any funds paid for services the Contractor performs outside of the United States for which it did not receive a waiver. The State does not waive any other rights and remedies provided the State in this Contract.

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

**TO SHOW THEIR AGREEMENT,** the parties have executed this Contract. This Contract becomes effective either on the 1st day of July 2012, or in the alternative on the date of signature by the State.

ACCEPTED BY:

CONTRACTOR  
BURROUGHS PAYMENT SYSTEMS, INC.

  
SIGNATURE

LARRY McCARTER  
PRINTED NAME

VICE PRESIDENT & GENERAL MANAGER CUSTOMER SERVICES  
Title

JUNE 28, 2012  
Date

Larry.mccarter@burroughs.com  
Email Address

ACCEPTED BY:

THE STATE OF OHIO,  
DEPARTMENT OF ADMINISTRATIVE SERVICES  
GENERAL SERVICES DIVISION  
4200 SURFACE ROAD,  
COLUMBUS, OHIO. 43228-1395

  
SIGNATURE

ROBERT BLAIR  
DIRECTOR

Date 7-10-12

ATTACHMENT A

SEE ATTACHED SUPPORT SERVICES SCHEDULE



Support Services Schedule

Agreement Number

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List of Products Applicable to this Agreement

Level	Product style	Description (Include vendor name and model if non Burroughs Payment Systems product)	Quantity	Monthly Service Warranty Upgrade			Monthly Support Services	
				Period	Unit charge	Total charge	Unit charge	Total charge
				Page subtotal - Upgrade charges			Page subtotal - Monthly charges	
				\$ 0			\$ 0	

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This Addendum amends the agreement referenced above by the Agreement Number (the "Agreement"), and applies to: (a) all orders for Support Services accepted with this Addendum or subsequently accepted under the Agreement, and (b) existing orders for Support Services under the Agreement upon expiration of the then-current term. Only definitions, descriptions and levels of this Addendum will apply to these Services. The terms of this Addendum will control over any contradictions with terms of the Agreement. Except as defined in this Addendum, all capitalized terms shall have the meaning used in the Agreement.

**Section A. Definitions and General Terms and Conditions**

**Principal Period of Maintenance ("PPM")** means 8:00 AM to 5:00 PM, Client's local time, Monday through Friday excluding Burroughs designated holidays.

**7 X 24** means seven (7) days per week, twenty-four (24) hours per day including Burroughs designated holidays.

**Next Business Day (NBD) Service** means Burroughs will make every reasonable effort to respond to Client's request for on-site Support Services received during a PPM no later than the close of business of the next PPM.

**4 Hour Response (4HR)** means that if Client is located within a Primary Service City, Burroughs will make every reasonable effort to respond to Client's requests for on-site Support Services within four (4) hours. Response is measured, during the Client's contracted hours of coverage, from the time that Burroughs receives the request for service from Client until Burroughs arrives at Client's site.

**2 Hour Response (2HR)** means that if Client is located within a Primary Service City, Burroughs will make every reasonable effort to respond to the Client's request for on-site Support Services within two (2) hours. Response is measured from the time that Burroughs receives the request for service from Client until Burroughs arrives at Client's site.

**Off Hours** means all contracted hours of Support Services other than the PPM.

**Primary Service City** means an area that includes a 50-mile (80-kilometer in Canada) radius from the center of a Burroughs designated Primary Service City. If Burroughs moves its Primary service City or Client relocates its site so that Client's site is no longer within a 50-mile (80-kilometer in Canada) radius from the center of a Burroughs Primary Service City, Burroughs reserves the right to adjust 2HR and 4HR or to change the contracted Service Level.

**Product** is equipment, Software, Software maintenance releases and updates, and documentation (including manuals and education materials but not maintenance materials or tools) provided by Burroughs pursuant to this Agreement.

**Failed Unit** means a unit of equipment enrolled under Support Services, which is identified by Client as not in working order and deemed eligible by Burroughs for exchange.

**Client Replaceable Unit (CRU)** means a component or other non-critical plug-in assembly delivered to the Client on the next business day for Client's personnel to affix the repair/replacement.

**Exchange Unit** means new, repaired, or previously used equipment in working order that Burroughs conveys to Client as a replacement for a Failed Unit. The Failed Unit will become the property of Burroughs upon Client's receipt of the Exchange Unit or, if later, upon receipt of the Failed Unit by Burroughs. Client warrants that title to the Failed Unit and Burroughs

warrants that title to the Exchange Unit will be free and clear of all claims, liens, and encumbrances including security interests.

**Service Levels** mean various groupings of the Services Elements described in Section B.

**Installation Date** means the date Burroughs completes installation (as determined by Burroughs) or, if equipment or software is to be installed by the Client, the tenth day following shipment.

**Invoicing Options** means various billing intervals for services provided to Client. Burroughs will bill Client for Support Services in advance on an annual basis. For Clients who have an invoice total of monthly charges greater than \$1,000 the Client may select as an option, quarterly billing. For Clients who have an invoice total of monthly charges greater than \$2,500, the Client may select, as an option, quarterly or monthly billing. Burroughs will bill Clients using its standard invoicing formats. Custom invoicing options and formats and payment periods may be available from Burroughs for an additional charge.

**Initial Term of Services** means that unless specified otherwise on the Schedule or in the Agreement, the Initial Term for Support Services will be twelve (12) months and will start on the later of the Installation Date of the applicable Products or the date Burroughs accepts an order for Support Services ("Commencement Date of Service"). Except as specified in Section C of this Addendum, Products subsequently added to a system already enrolled under Support Services must be enrolled at the same Service Level as the system to which it is attached. Unless otherwise specified on the Schedule, the Initial Term of Support Services for Products subsequently enrolled under Support Services will end with the applicable term of Support Services for those previously enrolled Products and, for purposes of changes to Support Services charges, will be deemed to have the same anniversary of the Commencement Date of Services as those previously enrolled Products. Following the Initial Term, Support Services will continue on an annual renewal basis at Burroughs then-current list prices until terminated or canceled according to the terms of the Agreement. Burroughs may increase Support Services charges on each anniversary of the Commencement Date of Service upon ninety (90) days prior written notice to Client.

Burroughs may charge Client time and material rates for service on Products that are not identified by the manufacturer's style and model number on the Schedule or for service on enrolled Products that are outside the scope of the contracted services. Burroughs may modify Service Elements, Service Plans or discontinue Support Services for Products upon at least ninety (90) days prior notice via written notification. If Client does not want to continue receiving the Support Services under such changed terms, Client may end contracted Support Services by giving Burroughs written notice no later than thirty (30) days prior to the end of this ninety (90) day period and Burroughs will refund any unearned payments for the Support Services.

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## Section B. Description of Service Elements

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**Equipment On-Call Remedial Maintenance** includes on-site repair or Exchange Unit service of equipment, at Burroughs option, if a problem remains unresolved after Client has utilized Support Center Services as prescribed. Replacements for certain failed components such as keyboards, mice, and other non-critical plug-in assemblies designated by Burroughs as Client Replaceable may, at Burroughs option, be shipped directly to Client for Client installation. Should Client elect to have the Burroughs Customer Infrastructure Representative visit the site to install such components, additional charges may apply.

**Mail-In Service** allows Client, at its expense and risk, to ship a Failed Unit to the Burroughs designated location. Within seven (7) business days of receipt, Burroughs will, at its option, either repair the Failed Unit or give Client an Exchange Unit.

**Advance Exchange Service** allows Client to notify Burroughs of a Failed Unit enrolled in Support Services. Upon notification, Burroughs will ship an Exchange Unit to the Client using a next day delivery service. Client will install the Exchange Unit and shall ship the Failed Unit to Burroughs within fourteen (14) days after Client's receipt of the Exchange Unit. Client agrees to pay Burroughs an additional fee, as determined by Burroughs, if Client fails to return Failed Unit within fourteen (14) days of Client's receipt of Exchange Unit. Advance Exchange Service is limited to selected equipment.

**Equipment Maintenance Parts** are parts required for Product repairs made by Burroughs personnel. NBD, 2HR and 4HR do not apply to Parts availability.

**Essential Engineering Changes** are changes released by Burroughs for safety purposes or changes Burroughs determines are essential to the performance of equipment. Changes will be installed at a mutually acceptable time during the applicable hours of contracted coverage. For non Burroughs equipment, Burroughs will install Essential Engineering Changes (a) based upon the availability of required materials at no cost to Burroughs, and (b) at current hourly labor charges.

**Electronic Call Home Support** allows Burroughs Support Centers to receive system data via the Internet from Client and perform remote failure analysis. Client will supply the equipment, software, and communication facilities to use the Electronic Call Home Support capabilities of the Product as outlined in the Burroughs product support plan. If Client does not permit Burroughs to use Electronic Call Home Support as defined in the Product's support plan, Client agrees to pay additional charges for Support Services as determined by Burroughs. Electronic Call Home Support is limited to selected products.

**Equipment Preventive Maintenance**, including the installation of engineering changes deemed appropriate by Burroughs, will be performed at Client's location according to the manufacturer's recommendations at a mutually acceptable time during the applicable hours of contracted coverage.

**Support Center Service** provides assistance by electronic or voice communication during the PPM on operating the Products, identifying Product errors or malfunctions and advising on known detours, reporting software problems via a User Communication Form (UCF), and determining the need for on-call remedial service. Support Center Services during Off Hours consist of expediting response to network down and system emergencies.

### Services Not included in Support Services

Support Services do not include: (a) repair of failures due to manufacturer's design or other defects; (b) repair of failures due to abuse, accidents,

neglect, or improper use, including damage to LCD screens or other Laptop Computer components; (c) repair of failures due to external factors (including failure or fluctuation of electrical power or air conditioning, fire, or flood); (d) repair of failures due to excessive use, wear, and tear, which is in excess of manufacturer's recommended duty cycle; (e) refurbishment including restorations due to obsolescence (when parts for Equipment are not readily available on commercially reasonable terms) or end of life cycle failures including phosphorus "burn in" or "low intensity" characteristics of failures including phosphorus "burn in" or "low intensity" characteristics of monitors; (f) repair of machines not identified as Equipment; (g) the loading of software, software configurations or any data files; and (h) the backup of any data files.

If Burroughs determines Equipment requires refurbishment rather than repair, Burroughs will notify Client and remove the Equipment from Support Services.

Client may ask Burroughs to do the refurbishment on an hourly billable service basis and Burroughs may provide refurbishment of Equipment subject to the availability of parts, manufacturer's support, and trained personnel.

**User Communication Service** provides for reporting of suspected Product errors or malfunctions or suggested new feature changes. Burroughs will make reasonable efforts to provide detours or corrections for Burroughs Products or non Burroughs Products if available to Burroughs at no additional charge from the vendor. Client will install all error corrections. User Communication Service and UCF submissions are available only for Products for which Burroughs is then currently providing development center support (also called engineering support).

**Software Maintenance Release Service** provides error corrections and maintenance releases that Burroughs develops or provides for currently supported Software level(s). Burroughs licenses these releases only for use on the designated computer system(s) under the applicable license agreement. Client will install all applicable error corrections and maintenance releases. Certain software products may require Burroughs Subscription Service in order to receive Software Maintenance Release Service.

**Electronic Support Service** provides Client with access to an Internet web site to place Product service requests, to obtain information on known errors and corrections, and to receive information on Burroughs products and services.

**Software On-Call Support** provides software support at the Client's site if Burroughs determines that a Software Product problem remains unresolved and on-site assistance is required, after Client has used Support Center Services as prescribed. Desktop and selected non Burroughs software Products are not eligible for Software On-Call Support.

**Systems Operations Review** provides an annual meeting, at a time mutually agreed to between Burroughs and Client, to conduct a computer systems operation review. Client is responsible for scheduling the meeting. This service applies to systems designated by Burroughs as enterprise servers or mainframes.

**Support Center Response Commitment** (available only during the PPM) provides electronic or voice response by Burroughs to Client's declared emergencies no later than one (1) hour after receipt of Client's request for service at the Support Center designated by Burroughs.

## Section C. Service Level Descriptions

The following describes the six Service Levels and the Service Elements included in each of the Service Levels. **Not all Service Elements and Service Levels are available for all Products. Refer to Descriptions of Service Elements for additional details.** Individual Service Elements contained in a higher Service Level than contracted are provided at Client request, as available, at then-current Burroughs conditions and charges. All hardware and software Products within a system configuration must be enrolled under the same Service Level except for desktop and network products and application software. All Client Replaceable Units are shipped to the Client to arrive the next business day regardless of the service level subscribed.

Service Elements	Service Levels – Hardware Support Services					
	1 Mail-In	2 Advanced Exchange	3 Standard PPM	4 Standard PPM	5 Business Critical 7X24	6 Business Critical 7X24
Equipment On-Call Remedial Maintenance Service			NBD*	4HR	4HR	2HR
Mail-In Service	X					
Advance Exchange Service		X				
Equipment Maintenance Parts	X	X	X	X	X	X
Essential Engineering Changes	X	X	X	X	X	X
Electronic Call Home Support			X	X	X	X
Equipment Preventive Maintenance			X	X	X	X

\*Note: CRU maintenance plans are required.

Service Elements	Service Levels – Software Support Services					
	1	2	3	4	5	6
Support Center Service	X	X	X	X	X	X
User Communication Service	X	X	X	X	X	X
Software Maintenance Release Service	X	X	X	X	X	X
Electronic Support Service	X	X	X	X	X	X
Software On-Call Support (7/24)					X	X
Systems Operations Review					X	X
Support Center Response Commitment						X

## Section D. Other Provisions

### 1. - Client Responsibilities

The parties agree that: (a) Client will use the Products according to the manufacturers' instructions in the proper environment; (b) Client will back up information stored or processed by Products on computer-readable media that Client can easily restore if the information is lost or damaged from any cause; (c) Client is responsible for any results produced by the Products and Services; and (d) Client will comply with all applicable government export control laws and regulations. If Burroughs is providing maintenance Support Services, Client will: (a) maintain the proper operating environment for Products; (b) provide adequate working and storage space for use by Burroughs personnel near the equipment; (c) provide Burroughs access to the equipment and sufficient computer time, subject only to Client's security rules; (d) follow Burroughs procedures and instructions for operator maintenance and obtaining services; (e) provide a memory dump and additional data in machine readable form if requested; (f) reproduce suspected errors or malfunctions in Software; and (g) install available error corrections and maintenance releases authorized by the manufacturer on a current basis.

### 2. - Diagnostic Tools

For ease of service, Burroughs may store proprietary and confidential diagnostic tools, software, and documentation, whether in printed or electronic form, (collectively called "Tools") at Client's site or within a Product. These Tools may be pre-loaded on Client's equipment or embedded in a Product before delivery. Burroughs does not license these Tools to Client. Burroughs does not give Client or anyone else permission to access, monitor, use, copy, distribute, or change these Tools. Burroughs acknowledges that during routine system back-ups, Client may not easily avoid copying software Tools and, to this extent, the copies are permitted provided Client protects these Tools as Burroughs confidential information (and uses the same standard of care to protect the Tools as it uses to protect its own confidential information) and Client does not remove any proprietary markings. Burroughs may remove these Tools at will and Client gives Burroughs permission and access to Client's site to do so.

### 3. - Services Warranties

Burroughs has the ability to perform the Services and Burroughs will provide suitable resources to perform the work according to the description of Services, including any ordered maintenance Service plan. All Services exclude damage repair or correction of defects or errors related to: (a) supplies not obtained from Burroughs, and (b) design, manufacture, materials or workmanship related to non Burroughs products and services, or Product(s) for which Burroughs has discontinued engineering support; and (c) unauthorized alterations or attachments; and (d) intentional damage caused by non Burroughs personnel. In addition, Services exclude replacement of supplies expended during normal operation (including batteries, ink and other consumables).

#### 4. - No Other Warranties

Except as described in this Agreement or an Order, Burroughs makes no other warranties. **TO THE EXTENT PERMITTED BY LAW, BURROUGHS DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE FOR PRODUCTS AND SERVICES.** Burroughs warranties extend solely to Client. The following language relates only to Products subject to federal or state consumer warranty laws: If the disclaimer of implied warranties does not apply to Client, Burroughs limits the length of these warranties to the applicable Burroughs warranty period. Some states do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to Client. This warranty gives Client specific legal rights, and Client may also have other rights, which vary from state to state.

#### 5. - Maintenance Service Description

According to the service plan ordered by Client, Burroughs will, with respect to covered equipment and Software, use commercially reasonable efforts to:

(a) diagnose and repair equipment that does not work according to the manufacturer's specification because of normal wear and tear, provided the equipment is in good working order at the start of the Burroughs services, properly configured at the minimum hardware and software levels designated by Burroughs, and Client complies with the manufacturer's instructions for the proper use, care, supplies, and environment for the equipment.

(b) diagnose and provide to Client workarounds or corrections for (i) material defects in the currently-supported version(s) of Burroughs proprietary Software that prevent Client's use of this Software in a production environment; and (ii) non Burroughs Software where the manufacturer makes such support available to Burroughs for Client's benefit under a valid license.

Client must give Burroughs prior written notice of any proposed changes (including alterations or attachments to equipment, Software, components, boards or subassemblies) to Products covered by a Burroughs warranty or enrolled in a Burroughs Service plan. Burroughs has no obligation to provide maintenance Support Services for modified equipment or Software. Burroughs may agree to maintain, support or correct such modified Products for an additional charge.

STANDARD AFFIRMATION AND DISCLOSURE FORM

EXECUTIVE ORDER 2011-12K

Governing the Expenditure of Public Funds on Offshore Services

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

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

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

1. Principal location of business of Contractor:

41100 Plymouth Road  
(Address)

Plymouth, MI 48170  
(City, State, Zip)

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

Not Applicable  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

2. Location where services will be performed by Contractor:

Address listed in #1 above & Various State Agencies  
(Address)

Columbus, OH  
(City, State, Zip)

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

Not Applicable  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

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

Not Applicable  
(Address)

\_\_\_\_\_  
(Address, City, State, Zip)

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

Not Applicable

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address, City, State, Zip)

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

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

By:   
Contractor

Print Name: Larry McCarter

Title: Vice President & General Manager Customer Services

Date: June 28, 2012