

**AMENDMENT TO THE AGREEMENT
BY AND BETWEEN MCKESSON
AND THE STATE OF OHIO
DEPARTMENT OF ADMINISTRATIVE SERVICES**

This is an Amendment to the Maintenance Services Agreement by and between the State of Ohio, Department of Administrative Services ("ODAS") and McKesson ("Contractor") for software that was purchased from HBOC, which was purchased from IBAX which was purchased from Spectrum Healthcare Solutions dated June 28, 1991. This Amendment becomes a part of the Agreement as if written therein. Any terms and conditions of the Agreement not modified or changed by this Amendment remain in full force and effect. In consideration of the mutual promises and obligations contained in the Agreement and this Amendment, the parties agree to modify the Agreement as follows:

Ethics, Executive Order, Political Contributions. The Independent CONTRACTOR certifies that it is currently in compliance and will continue to adhere to the requirements of the Ohio ethics laws.

The Independent CONTRACTOR hereby certifies that all applicable parties listed in Division (I) or (J) of Ohio Revised Code Section 3517.13 are in full compliance with Divisions (I) and (J) of Ohio Revised Code Section 3517.13.

Unresolved Finding for Recovery. CONTRACTOR warrants that it is not subject to an unresolved finding for recovery under Ohio Revised Code 9.24. If the warranty was false on the date the parties signed this Contract, the contract is void ab initio.

Safety and Security Rules. When accessing State networks and systems, the CONTRACTOR must comply with all applicable 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 applicable to people on those premises.

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/>

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

The CONTRACTOR also must submit a closeout report within 120 days after the expiration of this Contract. The Contract expires on the physical completion of the last, outstanding task or delivery order of the Contract. The closeout report must cover all sales not shown in the final quarterly report and reconcile all errors and credits. If the CONTRACTOR reported all Contract

sales and reconciled all errors and credits on the final quarterly report, then the CONTRACTOR should show zero sales in the closeout report.

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

Contractor's REVENUE SHARE. The CONTRACTOR must remit any amount due as the result of a quarterly or closeout report at the time the quarterly or closeout report is submitted to the Department of Administrative Services. The CONTRACTOR also must pay the revenue share by check. To ensure the payment is credited properly, the CONTRACTOR must identify the check as a "Revenue Share" and include the applicable Master Maintenance number, total report amount, and reporting period covered.

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

Department of Administrative Services
Business Office
30 E. Broad Street, Floor 40
Columbus, OH 43215

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

Independent Contractor Acknowledgement

It is fully understood and agreed that CONTRACTOR is an independent contractor and is not an agent, servant, or employee of the State of Ohio or the Ohio Department of Administrative Services. CONTRACTOR declares that it is engaged as an independent business and has complied with all applicable federal, state, and local laws regarding business permits and licenses of any kind, including but not limited to any insurance coverage, workers' compensation, or unemployment compensation that is required in the normal course of business and will assume all responsibility for any federal, state, municipal or other tax liabilities. Additionally, CONTRACTOR understands that as an independent contractor, it is not a public employee and is not entitled to contributions from DAS to any public employee retirement system.

CONTRACTOR acknowledges and agrees any individual providing personal services under this agreement is not a public employee for purposes of Chapter 145 of the Ohio Revised Code. Unless CONTRACTOR is a "business entity" as that term is defined in ORC. 145.037 ("an entity with five or more employees that is a corporation, association, firm, limited liability company, partnership, sole proprietorship, or other entity engaged in business") CONTRACTOR shall have any individual performing services under this agreement complete and submit to the ordering agency the Independent CONTRACTOR/Worker Acknowledgement found at the following link: <https://www.opers.org/forms-archive/PEDACKN.pdf#zoom=80>

CONTRACTOR's failure to complete and submit the Independent/Worker Acknowledgement prior to commencement of the work, service or deliverable, provided under this agreement, shall serve as CONTRACTOR's certification that contractor is a "Business entity" as the term is defined in ORC Section 145.037.

 Initial if CONTRACTOR is a "business entity" and will not submit the Independent CONTRACTOR/Worker

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, Exhibit III which is incorporated and becomes a part of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Amendment.

CONTRACTOR

STATE OF OHIO, DEPARTMENT OF
ADMINISTRATIVE SERVICES

By: Danielle Abercrombie By: Robert Blair/SAD

Title: Sales Business Analyst Title: Robert Blair/SAD

Date: 8/22/2014 Date: 9/8/14

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:

5995 Windward Parkway
(Address)

Alpharetta GA 30005
(City, State, Zip)

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

N/A
(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

2. Location where services will be performed by Contractor:

(Address)

(City, State, Zip)

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

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

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

(Address)

(Address, City, State, Zip)

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

(Name)

(Address, City, State, Zip)

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

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

By: 
Contractor

Print Name: Denise Abercrombe

Title: Sales Business Analyst

Date: 8/22/004

**MAINTENANCE SERVICE AGREEMENT
BY AND BETWEEN
THE STATE OF OHIO, DEPARTMENT OF ADMINISTRATIVE SERVICES
AND
SPECTRUM HEALTHCARE SOLUTIONS**

This Agreement is made the 28 day of JUNE 19 91, by and between the State of Ohio, Department of Administrative Services, located at 30 East Broad Street, Columbus, Ohio 43215, and Spectrum Healthcare Solutions "Vendor."

* Having purchased a perpetual license for the software listed (in Attachment 1) from IBM and IBM having sold title of same to Spectrum, the State now desires to procure from Spectrum, maintenance for the software purchased and agree as follows:

1. All defined terms used in this Amendment shall have the meaning as set forth below:

"Documentation" means the copies of the user software documentation relating to the Software provided by Spectrum to Customer pursuant to the terms and provisions of this Amendment.

"Effective Date" means the later date specified on the bottom of the face page of this Amendment.

"Software Module" means each of the Software Modules identified in Exhibit 1 to this Amendment.

2. SUPPORT SERVICES

- (a) Spectrum shall take all reasonable steps to correct any Nonconformities ("Corrective Maintenance") and shall provide Enhancements for the Software (collectively "Software Support").
- (b) Corrective Maintenance shall be performed as follows:
- (i) Customer may request Corrective Maintenance by telephone during the Coverage Hours, by telephone or by mail. Coverage hours shall be 24 hours per day, seven days a week. Priority assistance only from 5:00 p.m. to 8:00 a.m. Telephone requests for Support non qualifying as Corrective Maintenance hours result in the Additional Charges as set forth in Exhibit 1.
 - (ii) Customer shall provide Spectrum with all information and reasonable assistance requested by Spectrum to detect, simulate and correct any Nonconformities.
 - (iii) After confirming the existence of a Nonconformity, Spectrum shall provide Customer with revised Software code or an avoidance procedure to correct the Nonconformity.
 - (iv) Spectrum shall provide Corrective Maintenance from its business premises.
- (c) "Enhancements" means modifications to support Federal regulations, IBM control programs (MVS, VSE) and IBM subsystems (CICS, IMS, DLJ).
- (d) Customer will install all Nonconformity corrections and Enhancements with reasonable telephone assistance from Spectrum. All Nonconformity corrections and Enhancements shall be provided in a form and with installation instructions sufficient to permit installation by Customer.
- (e) Spectrum is not required to perform Corrective Maintenance with respect to Nonconformities caused by:
- (i) Customer's modifications to the Software or Third-Party Modifications;
 - (ii) Customer's failure to use Enhancements or Nonconformity corrections;
 - (iii) Misuse of the Software;
 - (iv) Equipment or Third-Party Software malfunctions;
 - (v) Customer's failure to use the version then approved by Spectrum of any software that operates with the Software, including but not limited to, Operating Software;

(v) Hardware problems.

If Customer requests Spectrum to correct the foregoing problems, all corrective services performed by Spectrum shall be deemed Supplemental Services governed by Section 3 of this Agreement.

3. COVERAGE PERIOD; RENEWALS; TERMINATION

- (a) Software Support and the initial term of this Schedule shall commence upon the "Software Support Start Date" specified in Exhibit 1 and shall continue until February 28, 1992. Thereafter, Software Support for all Software Modules shall be renewed for one year periods with the issuance of a valid State Purchase order as long as Spectrum is making Software Support generally available for each Software Module.
- (b) This Agreement may be terminated as follows:
 - (i) Customer may terminate this Agreement without cause providing Customer notifies Spectrum in writing of its desire to terminate at least sixty days prior to desired termination date.
 - (ii) Customer may terminate this Schedule if Spectrum commits a material breach of its obligations under this Agreement and fails to cure or take reasonable steps to cure such breach within ninety days after receiving from Customer written notification of the breach and Customer's intention to terminate if Spectrum fails to correct the breach. If Customer terminates this Agreement as provided in this Section 3(b)(ii), Spectrum shall promptly refund to Customer all charges previously paid by Customer for Software support to be rendered during the balance of the then-current annual coverage period.
 - (iii) If Customer fails to fulfill its responsibilities set forth in Section 4 of this Agreement or pay the Software Support Fees required under Section 3 of this Agreement, Spectrum may terminate this Agreement by notifying Customer in writing of Spectrum's intention to terminate effective no earlier than sixty days after Customer receives such notice; notwithstanding this provision if Customer corrects such failure prior to expiration of said sixty day period termination will be rescinded.

4. PAYMENT TERMS

- (a) Payment Due Date
 - (i) Payments under this Agreement shall be due the 45th calendar day with the initial payment due within 45 days of Customer executing this Amendment and/or
 - a. The date of actual receipt of a proper invoice in the office designated to receive the invoice or
 - b. The date the Service is delivered.
 - (ii) The date the warrant issued in payment shall be considered the date payment is made.
- (b) Interest on Overdue Payment

Section 126.30 of the Ohio Revised Code is applicable to this Agreement and requires payment of interest on overdue payments for all proper invoices for which the required payment date occurs on or after July 1, 1985. The interest charge shall be at the rate per calendar month which equals one-twelfth of the rate per annum prescribed by Section 5703.47 of the Ohio Revised Code. Upon Spectrum's written request, Customer shall provide the applicable interest rate.
- (c) Invoice Requirements
 - (i) Invoices shall be submitted with 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 Agreement.
 - b. Invoice remittance address as designated in this Agreement.

- c. The purchase order number authorizing the delivery of equipment, materials, supplies or services.
- d. Federal Tax Identification Number of business concern as designated in this Agreement.

(d) **Improper Invoices**

If an invoice contains a defect or impropriety and/or it is not a proper invoice as defined in this section, a written notification and the improper invoice shall be sent to the business concern at the address designated for receipt of purchase orders within fifteen calendar days after receipt of the invoice. The notice shall 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 shall be forty five days after receipt of a proper invoice or product acceptance whichever is later.

(e) **Non-Appropriation of Funds**

It is understood that the State'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 Agreement is terminated as of the date that the funding expires without further obligation of the State. Customer is responsible for all charges for products or services rendered provided up to the effective date of termination.

(f) **OBM Certification**

This Agreement is subject to Section 126.07 of the Ohio Revised Code, which provides, in part, that orders under this Agreement shall not be valid and enforceable 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.

(g) **Increase in the Renewal Software Support Fee shall not occur more frequently than once per twelve month period.**

(h) **Spectrum shall not charge for travel, transportation and/or lodging unless such expenses are requested and approved in writing by Customer. All approvals must be made in advance and shall not exceed the rates set forth in the State of Ohio Office of Budget and Management Regulations.**

5. CUSTOMER'S RESPONSIBILITIES

Customer understands that in order to Spectrum to provide Software Support, Customer must:

- (a) Provide, at Customer's expense, the "Electronic Access Capability," if an, specified in Exhibit 1.
- (b) Identify to Spectrum one person and one alternate to serve as Customer's support contact ("Representative"). Only Customer's Representative shall be authorized to request and receive Software Support on behalf of Customer. Customer may change its Representative by written notice to Spectrum; and
- (c) Provide Spectrum with reasonable access to the Software, Equipment and Customer data used by the Software during the times requested by Spectrum. Access to such data shall be used exclusively for Software support purposes and shall be subject to Spectrum's obligations to protect proprietary information set forth in Section 7 of this Agreement. Customer shall cooperate fully with Spectrum's reasonable requests for information, personnel and time necessary to provide Software Support.

6. SUPPLEMENTAL SERVICES

All services, if any performed by Vendor in addition to the Software Support provided by Spectrum under Section 1 ("Supplemental Services") shall entitle Spectrum to additional compensation at its then-current time and materials rates, plus reimbursement for travel expenses, and shall be rendered on a best efforts basis. Line charges for billable problems are based on AT&T long distance dialing rates.

7. CONFIDENTIALITY

Spectrum acknowledges that some the documents, data and information it may be exposed to in the performance of the Contract is of a confidential nature and Spectrum shall make all reasonable efforts to ensure that no such confidential information is disseminated by it or its employees.

8. HEADINGS

The headings used in this Agreement are for convenience only and shall not be used in interpreting this Agreement.

9. GOVERNING LAW

This contract shall be governed by and construed in accordance with the laws of the State of Ohio.

10. FEDERAL IDENTIFICATION NUMBER

Spectrum's Federal Tax Identification Number is 36-3679792.

The terms of this Agreement are agreed to on this 28 day of June, 1991.

LICENSEE: KDN

The State of Ohio
Department of Administrative Services
30 East Broad Street
Columbus, Ohio 43215

For the Licensee:

By: Peter J. McGeach

Name: Peter J. McGeach

Title: Deputy Director

Date: June 28, 1991

LICENSOR:

Spectrum Healthcare Solutions
150 Motor Parkway
Hauppauge, New York 11788

For the Licensor:

By: Frank L. Martin

Name: Frank L. Martin

Title: Director, Sales Administration

Date: June 11, 1991

EXHIBIT 1
SOFTWARE SUPPORT

STATE OF OHIO
COLUMBUS, OHIO

1. Support Fees:

<u>Software Module</u>	<u>Monthly Support Fee</u>
ADS PLUS Release 2	\$1,050/Month \$12,600/Year

2. Coverage Hours:

Twenty-four hours per day, seven days a week. Priority assistance only from 5:00 p.m. to 8:00 a.m. and Vendor holidays.

3. Additional Charges:

Customer is entitled to Corrective Maintenance as defined in Schedule 3. All Customer requests for support not qualifying as Corrective Maintenance shall entitle Vendor to the Additional Charges specified below:

<u>Monday - Friday</u>	<u>Saturday - Sunday</u>
8:00 a.m. to 5:00 p.m.* \$100/hour**	\$120/hour**
5:00 p.m. to 8:00 a.m.* \$120/hour**	\$120/hour**

*Customer local time

**Plus associated line and terminal charges

4. Electronic Access Capability:

In order for Vendor to provide Software Support, Customer must provide one of the following means of Electronic Access to its system: (i) 9600 bps modem or, (ii) via the IBM Information Network. Any line charges will be assessed against Customer.

5. ADS PLUS Support:

•ADS PLUS Releases 1 and 2
All Software defects reported against

6. Assured Support Period:

Effective Date through December 31, 1995.

AMENDMENT

THIS AMENDMENT (the "Amendment") to Maintenance Service Agreement dated June 28, 1991, as amended, (the "Agreement") is effective as of January 1, 2002 (the "Amendment Effective Date") between The State of Ohio, Department of Administrative Services and McKesson Information Solutions Inc., formally known as Spectrum Healthcare Solutions, ("McKesson") (collectively, the "Parties").

WHEREAS, the Parties desire to amend the Agreement as of the Amendment Effective Date on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual exchange of promises set forth herein, McKesson and Customer agree to amend the Agreement as follows:

1. Except as defined herein or otherwise required by the context herein, all capitalized terms used in this Amendment have the meaning set forth in the Agreement.
2. The Agreement is hereby amended by deleting in its entirety Customer's billing address and replacing it with the following address: "The State of Ohio, Department of Administrative Services, 1320 Arthur E. Adams, Columbus, Ohio 43221, Attention: Mike Quick."
3. Except as otherwise modified by this Amendment, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed by their duly authorized representatives.

The State of Ohio, Department of Administrative Services

By: C. Scott Johnson

Name: C. Scott Johnson

Title: Director 1/30/02

McKesson Information Solutions Inc.

By: Deborah Fox

Name: Deborah Fox

Title: VP, Devlop & Support

2/24/02

ADD-ON AMENDMENT

THE STATE OF OHIO, DEPARTMENT OF ADMINISTRATIVE SERVICES
COLUMBUS, OHIO

THIS AMENDMENT between IBAX Healthcare Systems ("IBAX") and The State of Ohio, Department of Administrative Services ("Customer") amends the Maintenance Service Agreement dated June 28, 1991 between Customer and Spectrum Healthcare Solutions (the "Agreement(s)").

WHEREAS, Customer desires to purchase services from IBAX, and IBAX desires to provide such services to Customer, on the terms and conditions set forth below and in the Agreement(s).

NOW THEREFORE, the parties agree as follows:

1. All defined terms used in this Amendment shall have the meaning as defined in the Agreement(s) or if not so defined, as set forth below:

"Contract Term" means from the Effective Date through June 30, 1993.

"Effective Date" means July 1, 1993.

2. The services set forth below and as more fully described on the Exhibits hereto shall become part of the Agreement(s) subject to all of its applicable terms and conditions:

Software Support - ADS

3. The additional services shall be installed, implemented and supported in accordance with the Exhibits.

4. Customer agrees to pay to IBAX the additional amounts specified in Exhibit 1 to Master Agreement on the terms set forth therein. Unless otherwise agreed all amounts are due upon execution.

5. The Agreement(s) shall remain in full force and effect unless specifically amended by this Amendment. In the event of a conflict between this Amendment and any provision of the Agreement(s), the provisions of this Amendment shall apply.

6. In addition to the installation and training fee set forth in this Amendment, Customer agrees to reimburse IBAX for reasonable travel and living expenses incurred by or on behalf of IBAX and its personnel in furnishing the installation services in accordance with the terms of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Amendment.

IBAX HEALTHCARE SYSTEMS

THE STATE OF OHIO
DEPARTMENT OF ADMINISTRATIVE SERVICES

BY: [Signature]

BY: [Signature]

PRINTED NAME: Frank L. Merin

PRINTED NAME: Peter J. McGeach

TITLE: Director, Sales Administration

TITLE: Deputy Director

DATE: MARCH 31, 1993

DATE: March 22, 1993

8930308

**MASTER SERVICE AGREEMENT
BY & BETWEEN
THE STATE OF OHIO, DEPARTMENT OF ADMINISTRATIVE SERVICES
AND
HBO & COMPANY**

THIS AMENDMENT by and between HBO & COMPANY ("HBOC") located at 301 Perimeter Center North, Atlanta, Georgia, 30346, and The State of Ohio, Department of Administrative Services (Customer) located at 30 East Broad Street, Columbus, Ohio 43215 is entered into on the date of signature of the State of Ohio, Department of Administrative Services ("Customer").

Having purchased a perpetual license for software from IBM and IBM having sold title to the same to Spectrum and Spectrum having sold title to the same to IBAX and IBAX having sold title to the same to HBOC, Customer now desires to purchase from HBOC, and HBOC desires to provide such services to Customer, on the terms and conditions set forth in this Agreement.

NOW THEREFORE, the parties agree as follows:

1. All defined terms used in this Amendment shall have the meaning, as set forth below:

"Acceptance Date" means the date occurring as of the expiration of the initial Acceptance Period, upon which each Software Module is deemed accepted by Customer.

"Acceptance Period" means the period of time commencing upon a Software Module's Load Date and continuing thirty (30) days thereafter.

"Contract Term" means from the Effective Date through June 30, 1995.

"Documentation" means the copies of the user documentation relating to the Software provided by IBAX to Customer pursuant to the terms and provisions of this Amendment.

"Effective Date" means July 1, 1994.

"Load Date" means the date on which the machine executable computer code composing a Software Module resides on the Equipment.

"Software Module" means each of the Software Modules identified in Exhibit 1 to this Amendment.

2. The services set forth below and as more fully described in the Attached Schedule and Exhibit, if any, to the Schedule shall become part of the Agreement(s) subject to all of its applicable terms and conditions:

Software Support - ADS

3. The additional services shall be installed, implemented and supported in accordance with the Exhibits.
4. Customer agrees to pay to HBOC the additional amounts specified in Exhibit 1 to Master Agreement on the terms set forth below. Payments under this Agreement shall be due on the 30th calendar day after the later of the date of actual receipt of a proper invoice by Customer or the date the service is delivered and accepted in accordance with this Agreement. The date of the warrant issued in payment shall be considered the date payment is made.

Invoices shall be submitted 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:

- Name and address of business concern as designated in this Agreement;
- Federal Tax Identification Number of business concern as designated in this Agreement;
- Invoice remittance address as designated in this Agreement;
- The purchase order number authorizing the delivery of equipment, materials, supplies or services;
- 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 an invoice contains a defect or impropriety and/or it is not a proper invoice as defined in this section, a written notification and

the improper invoice shall be sent to the business concern at the address designated for receipt of purchase orders within fifteen calendar days after receipt of the invoice. The notice shall 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 shall be thirty days after receipt of a proper invoice or product acceptance whichever is later.

Section 126.30 of the Ohio Revised Code is applicable to this Agreement and requires payment of interest on overdue payments for all proper invoices for which the required payment date occurs on or after July 1, 1985. The interest charge shall be at the rate per calendar month which equals one-twelfth of the rate per annum prescribed by Section 5703.47 of the Ohio Revised Code.

It is understood that 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 Agreement is terminated as of the date that the funding expires without further obligation of the Customer.

In accordance with Section 126.07 of the Ohio Revised Code, orders under this Agreement shall not be valid and enforceable 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, and when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio.

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

5. The Agreement(s) shall remain in full force and effect unless specifically amended by this Amendment. In the event of a conflict between this Amendment and any provision of the Agreement(s), the provisions of this Amendment shall apply.
6. In addition to the installation and training fee set forth in this Amendment, Customer agrees to reimburse HBOC for reasonable travel and living expenses incurred by or on behalf of HBOC and its personnel in furnishing the installation services in accordance with the terms of the Agreement. Any reimbursable expenses as specifically provided in this Agreement, shall be paid with prior approval of Customer and in accordance with the requirements and rates as set forth in Section 126.31 of the Ohio Revised Code and the Office of Budget and Management's Travel Rules set forth in Rule 126-1-02 of the Ohio Administrative Code.
7. HBOC agrees to comply with all applicable state and federal laws regarding drug-free workplace and shall make a good faith effort to ensure that all its employees, while working on state property, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.
8. HBOC by signature on this Agreement certifies that it is currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Sections 102.03 and 102.04 of the Ohio Revised Code and certifies that, as applicable to HBOC, no party listed in Division (I) or (J) of Section 3517.13 of the Ohio Revised Code or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions totalling in excess of \$1,000 to the Governor or to his campaign committees.
9. In carrying out this Agreement, HBOC shall not discriminate against any employee or applicant for employment because of and shall ensure that applicants are hired and that employees are treated during employment without regard to race, religion, color, sex, sexual orientation, national origin, disability, age, or Vietnam-era veteran status. Such action shall include, but not be limited to, the following: Employment, Upgrading, Demotion, or Transfer, Recruitment or Recruitment Advertising; Layoff or Termination; Rates of Pay or other forms of Compensation; and Selection for Training including Apprenticeship. HBOC agrees to post in conspicuous places, available to employees and applicants for employment, notices stating that it complies with all applicable federal and state non-discrimination laws.
10. All deliveries under this Agreement shall be by F.O.B. Destination.
11. Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.
12. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.
13. HBOC acknowledges that some documents, data and information it may be exposed to in the performance of this Agreement is of a confidential nature and HBOC shall make all reasonable efforts to ensure that no such confidential information is disseminated by it or its employees.
14. The headings used in this Agreement are for convenience only and shall not be used in interpreting this Agreement.
15. HBOC's Federal Tax Identification Number is 37-0986839.
16. This Agreement may be renewed annually upon written agreement of the parties or by the issuance of a valid state purchase order.
17. At its own expense, HBOC will defend any suit brought against the State, including, but not limited to its public officials, State employees, and State departments, based on a claim that equipment or software furnished hereunder infringes a United States Patent or Copyright.

or constitutes misuse or misappropriation of a trade secret provided HBOC is given prompt notice in writing of such suit and is given authority and information required for the defense of same. The cost of any such suit, or damages finally awarded against the State in any such suit attributable to such claim, will be borne by HBOC. If principles of governmental or public law are involved, the State may participate in the defense of such action. HBOC will not be responsible for any cost, expense or compromise incurred or made by the State without HBOC's written consent. THE FOREGOING STATES HBOC'S ENTIRE LIABILITY AND THE STATE'S SOLE REMEDIES FOR ANY LOSS OR DAMAGE ARISING FROM INFRINGEMENT.

18. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFIT, EVEN IF EITHER PARTY HAD BEEN ADVISED, KNEW, OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

NOT WITHSTANDING ANY LANGUAGE TO THE CONTRARY, HBOC SHALL BE LIABLE FOR ANY PERSONAL INJURY OR DAMAGE TO REAL PROPERTY OR TANGIBLE PERSONAL PROPERTY, CAUSE BY THE FAULT OR NEGLIGENCE OF HBOC.

19. HBOC agrees that upon written notice to HBOC, Customer may make a non-supported copy of the software licensed under separate agreement to which this support agreement applies to meet Customer's security and disaster recovery needs. Disaster recovery tests shall last 48 hours or less per maintenance year. Written notice shall include the serial number of each CPU that uses the software and the address of the alternative site. The Customer agrees that it will be responsible for actual and direct damages incurred by HBOC arising from or related to access to the licensed software for disaster recovery purposes as awarded by a court of competent jurisdiction or as agreed to by the parties.

"IN WITNESS WHEREOF, the parties hereto have executed this Agreement as the day and year written below.

LICENSOR:

HBO & COMPANY
301 PERIMETER CENTER NORTH
ATLANTA, GEORGIA 30346

For the licensor:

BY: _____

NAME: _____

Title: _____

Date: _____

LICENSEE:

STATE OF OHIO, DEPARTMENT OF
ADMINISTRATIVE SERVICES
30 EAST BROAD STREET
COLUMBUS, OHIO 43215

For the licensee:

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT 1
TO MASTER AGREEMENT
TERMS AND PAYMENT SUMMARY SCHEDULE

THE STATE OF OHIO, DEPARTMENT OF ADMINISTRATIVE SERVICES
COLUMBUS, OHIO

A. PAYMENTS AND TERMS

TOTAL SOFTWARE SUPPORT FEES

\$15,900/per Contract Term

Terms:

Customer shall be invoiced for Software Support provided for the duration of the Contract Term upon the Effective Date. Payment is due upon receipt of invoice in accordance with the terms of the Agreement.

SCHEDULE 3 - SOFTWARE SUPPORT

1. DEFINITIONS

"Enhancements" mean updates, Modification Level Changes and new releases of the Software made generally available without charge to HBOC's other Software customers receiving support similar to the Software Support provided to Customer under this Schedule 3. Application of Software version upgrades are available from HBOC at an additional charge.

All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in Section 1 of the Master Agreement.

2. SUPPORT SERVICES

- (a) HBOC shall take all reasonable steps to correct any Nonconformities ("Corrective Maintenance") and shall provide Enhancements for the Software (collectively "Software Support").
- (b) Corrective Maintenance shall be performed as follows:
 - (i) Customer may request Corrective Maintenance during the Coverage Hours as defined in Exhibit 1 to this Schedule 3, by telephone or by mail. Telephone requests for Corrective Maintenance (1) beyond the Coverage Hours or (2) in excess of the Monthly Support Ceiling, if any, designated in Exhibit 1 to this Schedule 3 shall result in Additional Charges as explained in Exhibit 1 to this Schedule 3.
 - (ii) Customer shall provide HBOC with all information and reasonable assistance requested by HBOC to detect, simulate and correct any Nonconformities.
 - (iii) Within a reasonable time after confirming the existence of a Nonconformity, HBOC shall provide Customer with revised Software code or an avoidance procedure to correct the Nonconformity.
 - (iv) HBOC shall provide Corrective Maintenance from its business premises except that HBOC, at HBOC's expense, will perform Corrective Maintenance at Customer's Facility for all Nonconformities that, in HBOC's reasonable judgment, significantly impair the operation of the Software and that HBOC is unable to correct by performing Corrective Maintenance from HBOC's premises.
 - (v) HBOC shall also perform the Additional Corrective Maintenance services, if any, described in Exhibit 1 to this Schedule 3.
- (c) Customer will install all Nonconformity corrections and Enhancements with reasonable telephone assistance from HBOC. All Nonconformity corrections and Enhancements shall be provided in a form and with installation instructions sufficient to permit installation by Customer.
- (d) HBOC is not required to perform Corrective Maintenance with respect to Nonconformities caused by:
 - (i) Customer's modifications to the Software;
 - (ii) Customer's failure to use Enhancements or Nonconformity corrections;
 - (iii) Misuse of the Software;
 - (iv) Third Party Product malfunctions;
 - (v) Customer's failure to use either of the two most current Releases of the Software then offered by HBOC; or
 - (vi) Customer's failure to use the version then approved by HBOC of any third party software that operates with the Software, including but not limited to, Operating Software.

If Customer requests HBOC to correct the foregoing problems, all corrective services performed by HBOC shall be deemed Supplemental Services governed by Section 6 of this Schedule 3.

3. COVERAGE PERIOD; TERMINATION

- (a) Software Support and the initial term of this Schedule 3 shall commence on a module-by-module basis effective upon the "Support Start Date" specified in Exhibit 1 to this Schedule 3 and, unless provided otherwise in such Exhibit, shall continue until terminated by either party according to the terms and conditions herein. ~~The rates contained herein are valid for the period specified in the Software Support Fees section of Exhibit 1 to Schedule 3. Thereafter this Agreement will remain in effect at the rates and under the terms and conditions in effect at the beginning of subsequent calendar years.~~ Within 90 days of the end of the fiscal year, HBOC will advise Customer in the form of a letter made part of this Agreement, of the new rates and any amended terms and conditions to be in effect for the subsequent calendar year.
- (b) If Customer desires to renew Software Support after a period of noncoverage, Customer shall pay HBOC a reinstatement fee to update the Software. In no event will the reinstatement fee exceed the Support Charges that would have been paid during the period of noncoverage.
- (c) This Schedule 3 may be terminated as follows:
- (i) Customer may terminate this Schedule 3 without cause by notifying HBOC in writing of its desire to terminate this Schedule 3 not less than sixty (60) days prior to the end of a calendar year;
 - (ii) Customer may terminate this Schedule 3 if HBOC commits a material breach of its obligations under this Schedule 3 and fails to cure or take reasonable steps to cure such breach within ninety (90) days after receiving from Customer written notification of the breach and Customer's intention to terminate if HBOC fails to correct the breach. If Customer terminates this Schedule 3 as provided in this Section 3(c)(ii), HBOC shall promptly refund to Customer all charges previously paid by Customer for Software Support to be rendered during the balance of the then-current coverage period. This refund constitutes Customer's sole and exclusive remedy and HBOC's maximum liability for breach of this Schedule 3.
 - (iii) If Customer fails to fulfill its responsibilities set forth in Section 5 of this Schedule 3, pay the Software Support Fees required under Section 4 of this Schedule 3, or, operate either of the two most current Releases of the Software then made available by HBOC, HBOC may (1) terminate this Schedule 3 by notifying Customer in writing of HBOC's intention to terminate this Schedule 3 effective not earlier than sixty (60) days after Customer receives such notice; or (2) suspend Software Support until such failure is corrected. If support is terminated due to nonpayment, customer shall have the option to have support reinstated upon payment of back support fees plus a \$500.00 service charge.
 - (iv) HBOC may terminate this Agreement with twelve (12) months written notification.

4. PAYMENT TERMS

- (a) For Software Support provided during the initial period contemplated under Section 4(a) of this Schedule 3, Customer shall pay a Software Support fee in the amount, at the times and in accordance with the payment terms specified in Section 3 of the Master Agreement and Exhibit 1 thereto. For Software Support provided during subsequent periods contemplated under Section 3(a) of this Schedule 3, Customer shall pay the annual amount of the then-current Software Support fee.
- (b) Increases in the renewal Software Support fee (i) shall not exceed increases generally charged to HBOC's other commercial customers receiving similar software support.

5. CUSTOMER'S RESPONSIBILITIES

Customer understands that in order for HBOC to provide Software Support, Customer must:

- (a) Provide, at Customer's expense, the "Remote Dial-up Capability", if any, specified in Exhibit 1 to this Schedule 3;
- (b) Identify to HBOC one person and one alternate to serve as Customer's support contact ("Representative"). Only Customer's Representative shall be authorized to request and receive Software Support on behalf of Customer. Customer may change its Representative by written notice to HBOC; and
- (c) Provide HBOC with reasonable access to the Software (security and sign-on instructions must be supplied for all options/applications), Equipment and all Customer data used by the Software during the times requested by HBOC. Access to such data shall be used exclusively for Software Support purposes and shall be subject to HBOC's obligations to protect proprietary information set forth in Section 7 of the Master Agreement. Customer shall cooperate fully with HBOC's reasonable requests for information, personnel and time necessary to provide Software Support.

6. SUPPLEMENTAL SERVICES

All services, if any, performed by HBOC in addition to the Software Support provided by HBOC under Section 2 of this Schedule 3 ("Supplemental Services") shall entitle HBOC to additional compensation at its then current time and material rates including reimbursement for travel expenses, and shall be rendered on a best efforts basis. Reimbursement under this section is governed by the terms of Section 5 of the Master Agreement.

7. PROPRIETARY INFORMATION

- (a) Customer acknowledges that the Software Assets constitute valuable confidential and proprietary property belonging to HBOC or to third parties who have granted HBOC the right to distribute such property. Customer promises to take all reasonable steps to preserve the confidential and proprietary nature of the Software Assets.
- (b) Customer agrees that it will not, directly or indirectly, provide access to the Software Assets and Documentation, or any portion thereof, to any person other than employees of Customer whether such access is provided in person or through any computer, network or server, except as specifically authorized herein, and Customer further agrees that it will not temporarily store the Software Assets on any computer, network or server that can be accessed by other than an authorized user of the Software Assets as set forth herein.
- (c) Customer may use the source code, to the extent licensed hereunder, solely to maintain the Software Assets for Customer's internal business purposes.
- (d) To the extent either party's employees are exposed to confidential information belonging to or in the custody of the other party, such persons shall take the same steps to protect such information as they are required to take to protect their employer's confidential information of like kind. Each party shall ensure that its employees, consultants and agents are obligated to it in writing to protect such confidential information; provided, however, that Customer shall not provide access to the Software Assets or any Software Assets Module thereof to its consultants, agents or any other third party without the prior written permission of HBOC. The foregoing does not require either party to protect any information (i) currently in the public domain, (ii) subsequently entering the public domain for any reason other than a party's failure to meet its obligations under this Agreement, (iii) rightfully acquired by a party without obligation of confidentiality or (iv) independently developed by a party without use of the other party's confidential information.
- (e) Customer shall use, copy and disclose the Software Assets only as expressly permitted herein. In no event will Customer reverse assemble or reverse compile the Software for the purpose of revealing the proprietary information contained in the Software.
- (f) Customer will notify HBOC promptly of any violation of HBOC's proprietary rights in the Software Assets of which Customer becomes aware and will assist HBOC as necessary to remedy the violation.
- (g) Customer acknowledges that all work products or ideas developed by HBOC pursuant to this Agreement for Customer which may be subject to patent, copyright, trade secret or other proprietary protection shall be owned by HBOC and licensed to Customer as Software in accordance with the terms and conditions of this Agreement.
- (h) This Agreement shall not prevent HBOC from providing to other customers services and products that are identical or similar to services and products furnished to Customer under this Agreement.
- (i) Upon termination or expiration of this Agreement or any Schedule hereto, each party will cease using and return to the other all proprietary information provided pursuant to this Agreement or such Schedule belonging to the other party then in a party's possession, and thereafter continue to preserve the confidentiality of such information until it ceases to be proprietary to the owner thereof.
- (j) The provisions of this Section 7 shall survive the termination or expiration of this Agreement.

EXHIBIT 1
TO SCHEDULE 3
SOFTWARE SUPPORT

THE STATE OF OHIO, DEPARTMENT OF ADMINISTRATIVE SERVICES
COLUMBUS, OHIO

HBO & COMPANY

<u>Application</u>	<u>Unmodified System Support Cost</u>
ADS	\$15,900
TOTAL	<u>\$15,900/Per Contract Term</u>

Software Support Start Date:

Software Support Services set forth in Schedule 3 shall commence upon delivery of Software code to Customer. In the event Customer is currently receiving Software Support provided under separate agreement with HBOC, Software Support Services provided herein shall commence upon expiration of existing support.

Software Support Fees:

Notwithstanding the provisions of Section 4(a) of Schedule 3, Software Support fees set forth above are based upon Software Support Services provided from the Effective Date of this Agreement through June 3, 1995. Software Support Services provided subsequent to the foregoing period shall be chargeable at HBOC's then current fees.

User Modification Review:

Modified contract holders will be entitled to present their modifications on a non-confidential basis to the HBOC Product Review Committee for possible inclusion in the Series 5000 base system. The forum for this will be a special committee meeting to be held on an as needed basis.

Coverage Hours:

Those hours during which Support Services are made available without additional charge to Customer are: (a) for logging and handling of Priority Levels 1 through 3 support, 8:30 a.m. to 5:00 p.m. (Eastern Standard Time) Monday through Friday; (b) for logging and handling of Priority Level 1 support and logging of Priority Levels 2 and 3 support, twenty-four (24) hours per day, seven (7) days a week ("Coverage Hours").

Handling of Priority Levels 2 and 3 support is available only during the period from 8:30 a.m. to 5:00 p.m. (Eastern Standard Time) Monday through Friday.

Monthly Support Ceiling:

Customer is entitled to Corrective Maintenance as defined in Schedule 3. HBOC shall supply Customer, at no charge, with Enhancements required to comply with applicable Federally mandated changes for inpatient and outpatient Medicare billing regulations. If requested by Customer, state mandated changes for inpatient and outpatient Medicaid or Blue Cross will be incorporated on a time and materials basis. If Customer is under Agreement with HBOC for state regulatory billing support, such changes are provided as part of Customer's Software Support Services. Should Customer desire compliance with the above requirements for any state other than Customer's home state, such requirements will be provided at an additional charge. HBOC will, if requested by Customer, apply Customer's modifications to the new releases of HBOC Software on a Supplemental Services basis. Customer requests for support not qualifying as Corrective Maintenance shall entitle HBOC to the additional charges specified below:

**EXHIBIT 1
TO SCHEDULE 3
SOFTWARE SUPPORT**

BILLABLE RATE

\$130.00/HOURLY RATE *

* Plus associated line and terminal charges

Remote Dial-Up Capability:

Customer is responsible for providing one (1) communication line with a 9600 bps modem.

Note:

HBOC reserves the right to assess additional Software Support fees in the event Customer is utilizing the Software on more than one CPU.

Electronic Access Capability:

In order for IBAX to provide Software Support, Customer must provide one of the following means of Electronic Access to its system: (i) 9600 bps modem or (ii) via the IBM Information Network. Any line charges will be assessed against Customer.

ADS and ADS PLUS Support:

- **ADS PLUS Release 2 and 3**
All Software defects reported against this release will be corrected on Customer's current release level.
- **ADS PLUS Release 1** will be supported until September 1, 1992.
Support is on a best effort basis, if available. Corrections available for defects reported against this releases may require rework by Customer to function correctly on these releases. All work will be billable at IBAX's then current rate on a time and materials basis.
- **ADS Releases 1, 2 or earlier**
Support is on a best effort basis, if available. Corrections available for defects reported against these releases may require rework by Customer to function correctly on these releases. All work will be billable at IBAX's then current rate on a time and materials basis.