STATE OF OHIO
DEPARTMENT OF ADMINISTRATIVE SERVICES
SOFTWARE
MASTER MAINTENANCE AGREEMENT-FISCAL YEAR
2018 and 2019

THIS CONTRACT is between the State of Ohio, Department of Administrative Services ("DAS" or the "State"), Office of Information Technology, located 30 East Broad Street, 40th Floor, Columbus, Ohio, 43215 ("Customer"), and Compuware Corporation ("Contractor"), with offices at One Campus Martius, Detroit, Michigan, 48226-5000.

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 and the Equipment's operating system, word processing software, utilities, drivers, communication software and other manufacturer software options that are integrated with Contractor's systems; and any Documentation (hereinafter defined) pertaining to such software. "Software" does not include compilers, development 'software or applications unless listed on Attachment A.

B. "Documentation" means the technical specifications contained in the user and system documentation that are made generally available to Contractor's licensees.

C. An "Error" is a malfunction in the Software, excluding all external factors, that prevents the Software from conforming to applicable manufacturer's specifications.

D. 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.

E. An "Upgrade" is a software release that the manufacturer has made generally available to all customers that include enhancements, options or new features that improve the Software's performance.

F. "Equipment" means the hardware and items other than Software listed on Attachment A.

G. "Product Schedule" means each Contractor ordering document signed by the duly authorized representatives from both parties, which identifies the Software or services ordered by DAS from Contractor and which incorporates the terms and conditions of this Agreement by reference. Any other terms and conditions incorporated on the Product Schedule are void and of no effect unless and to the extent agreed upon in writing by the Parties.

H. The term of this Contract is from **July 1, 2017** ("Commencement Date") to **September 30, 2019** ("Expiration Date").

1. MAINTENANCE SERVICE RESPONSIBILITIES OF CONTRACTOR

For charges stated on any attached schedule (the "Charges"), Contractor will furnish the services set forth in Contractor's Customer Support documentation attached hereto (the "Maintenance."), subject to DAS fulfillment of all applicable obligations as stated on the relevant Product Schedule, including payment obligations. Maintenance shall include the following:

A. Contractor will provide maintenance services to those sites designated by Customer in the attachments during the term of this Contract.

B. Telephone Support. Contractor will provide reasonable technical telephone consultation concerning the use of any updates, enhancements and corrections to all sites.

C. New Releases. From time to time Contractor may modify or enhance the Software by a new release of the Software, which it shall make available to similarly situated licensees at no additional charge. In such case, Contractor shall provide the Customer one copy of every new release of the Software listed in the attached schedules, including all modifications, enhancements and documentation.

D. Contractor will correct errors or replace the Software 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 six (6) months after a new version is released. After this period Contractor may cancel the Maintenance Services for the immediately preceding release of the Software on sixty (60) days written notice.

2. SERVICE AVAILABILITY PERIOD

A. The "Call Window" specified on Contractor's Customer Support documentation attached hereto is the time and days during which the Customer may notify Contractor that the Software is inoperative and during which Contractor will perform the on-site maintenance, excluding Customer holidays.

B. All software on a schedule will have the same Call Window.

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. Annual maintenance will continue to be available for the term set forth in the applicable Product Schedule which automatically expires on June 30, 2019, subject to timely payment of all Maintenance fees. Contractor reserves the right to suspend Maintenance if DAS fails to make timely payments under this Agreement but must provide 30 days written notice to DAS prior to suspending Maintenance.

E. The annual maintenance fee will not increase from year to year by more than ten percent over the prior year's annual maintenance fee.

3. RESPONSIBILITIES OF CUSTOMER

A. Customer will provide Contractor's personnel reasonable access to the Software at mutually agreed upon times 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 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.

4. PAYMENT DUE DATE

A. Contractor will invoice Customer on the first day of each month (or each quarter or each year, or any specific date as designated on the applicable Product Schedule) during the term hereof for the unit amount for the Software specified on Attachment A. 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.

B. , Payments under this Contract will be due on the 30th 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. The date the Service is delivered and accepted.

The date 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 Finance
30 E. Broad Street, 40th Floor
Columbus, Ohio 43215

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

Contractor must forward the check to the following address:

Department of Administrative Services
L-3686
Columbus, OH 43260-3686

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 without any defects; (2) unless otherwise provided in Attachment A, be the work of solely of the Contractor; 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 that 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;

The warranty regarding material defects is a ninety (90) day warranty. All other warranties will be continuing warranties. If any portion of the Software or Hardware 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 such portion of the Software or Hardware.

The Contractor will also indemnify the Customer for any direct damages and claims by third parties based on any intellectual property infringement claim, provided the State (i) gives Contractor prompt written notice of such claim; (ii) permits Contractor to defend and/or settle the claim upon consent of the Ohio Attorney General's Office, and (iii) provides reasonable assistance in defending and/or settling the claim. In the defense or settlement of such claim, Contractor may, at is option (i) obtain for the State the right to continue using the Software; (ii) replace or modify the Software so that it avoids such claim, or if such remedies are not reasonably available, (iii) accept the return of the infringing Software and provide the State with a refund of any license fees paid for the infringing Software pro-rated equally over a sixty (60) month period from the date of delivery of the Software. 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 after the date of acceptance of any Software, the Contractor warrants as to all Software developed under this Contract that: (a) the Software will operate on the computer(s) for which the Software is intended in the manner described in the relevant Software documentation, the Contractor's proposal, and Attachment A; (b) the Software will be free of any material defects under normal use;; and (e) the Software and all maintenance will be provided in a professional, timely, and efficient manner. CONTRACTOR HEREBY DISCLAIMS ALL OTHER WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

9. SOFTWARE MAINTENANCE

During the warranty period, the Contractor will correct any material programming errors that are attributable to the Contractor within a reasonable period of time, (as defined more fully in the Contractor Customer Support documentation), 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.

10. PRINCIPAL PERIOD OF MAINTENANCE

Maintenance will be available during the working hours set forth in the Contractor Customer Support documentation. 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 Project during the warranty period and a part of the annual maintenance fee during later annual maintenance periods.

11. MAINTENANCE ACCESS

The Contractor will keep the Software in good operating condition during the warranty period and any 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. 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 if 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 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 the Contractor as designated in this Contract.

B. Federal Tax Identification Number of the 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, 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.

F. Only labor hours actually worked may be billed by the Contractor.

14. 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 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 or product acceptance, whichever is later.

15. NON-APPROPRIATION OF FUNDS

The State's funds are contingent on the availability of lawful appropriations by the Ohio General Assembly. If the Ohio General Assembly fails to continue funding for any payments due hereunder, the order or orders under this Contract that are affected by the lack of funding will terminate as of the date that the funding expires, and the State will have no further obligation to make any payments with respect to the affected order or orders.

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. 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.

18. INDEMNITY

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

(1) Modify the Deliverable so that is no longer infringing.

(2) Replace the Deliverable with an equivalent or better item.

(3) Acquire the right for the State to use the infringing Deliverable as it was intended for the State to use under this Contract; or

(4) Remove the Deliverable and refund the fee the State paid for the Deliverable and the fee for any other Deliverable that required the availability of the infringing Deliverable for it to be useful to the State.

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 not to disclose any Confidential Information to third parties and to use it solely to perform under 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, source code, object code, metadata, 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. Notwithstanding the foregoing, this provision shall apply without expiration to any trade secrets of Contractor, until such time as Contractor provides written notice to DAS that such information no longer requires protection under this Section 19.

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 immediately upon receipt of it and (b) makes a reasonable effort to obtain a protective order from the issuing court or agency limiting disclosure and use of the Confidential Information solely for the purposes intended to be served by the original order of production. The Receiving Party will return all originals of any Confidential Information and destroy any copies it has made for its own internal use on termination or expiration of this Contract or as requested by the Disclosing Party.

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

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 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.

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. NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOSS OF USE, REVENUES, OR

SAVINGS, EVEN IF THE PARTIES HAD BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

2. EXCEPT FOR THE INDEMNITY OBLIGATIONS PROVIDED IN THIS AGREEMENT, AND PERSONAL INJURY OR PROPERTY DAMAGE CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT BY THE CONTRACTOR, THE ENTIRE LIABILITY OF CONTRACTOR AND DAS'S EXCLUSIVE REMEDY FOR DAMAGES OF ANY CAUSE RELATED TO OR ARISING OUT OF THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRAT, TORT, OR OTHERWISE, WILL NOT (UNLESS OTHERWISE STATED IN THIS AGREEMENT) EXCEED TWO TIMES THE LICENSE FEES PAID BY LICENSEE FOR THE SOFTWARE THAT IS THE SUBJECT MATTER OF SUCH ACTION.

22. TERMINATION / SUSPENSION.

1. **Termination, Effectiveness, Contractor Responsibilities.** The notice of termination for cause will be effective as soon as the Contractor receives the notice, unless otherwise set forth in this Section 22. Upon receipt of the notice of termination, the Contractor must immediately cease all work on the Project, if applicable, and refuse any additional orders and take all steps necessary to minimize the costs the Contractor will incur related to this Contract. The Contractor must immediately prepare a report and deliver such report to the State. The report must detail either the work completed at the time of termination or the orders received and not processed prior to termination, and if applicable, the percentage of the Project's completion, estimated time for delivery of all orders received prior to termination, any costs incurred by the Contractor in doing the Project to date and any deliverables completed or partially completed but not delivered to the State at the time of termination. Any and all work, whether completed or not, must be delivered to the State along with the specified report. The report and any delivered work is subject to approval by the State. However, if delivery in that manner would not be in the State's interest, then the Contractor must propose a suitable alternate form of delivery.

2. **Contract Remedies.**

   a. **Actual Damages.** The Contractor is liable to the State for all actual and direct damages caused by the Contractor's default. The State may buy substitute supplies or services, from a third party, for those that were to be provided by the Contractor. The State may recover the costs associated with acquiring substitute supplies or services, less any expenses or costs saved by the Contractor's default.

   b. **Liquidated Damages**. If actual and direct damages are uncertain or difficult to determine, the State may recover liquidated damages in the amount of 1% of the value of the order, deliverable or milestone that is the subject of the default, for every day that the default is not cured by the Contractor.

   c. **Deduction of Damages from Contract Price.** Upon issuing written notice to the Contractor, the State may deduct all or any part of the damages resulting from the Contractor's default from any part of the Contractor compensation still due on the Contract. In the case of suspension for default, the State will be entitled to all remedies available under this Contract.

3. **Contract Suspension.**

   a. If the Contractor fails to perform any one of the Contractor's obligations under this Contract, the Contractor will be in default and the State may suspend rather than terminate this Contract where the State believes that doing so would better serve the State's interest.

   b.

   c. The notice of suspension whether, with cause, will be effective immediately, on the Contractor's receipt of the notice. The Contractor must immediately prepare a report and deliver such report to the State as is required in the case of termination.

4. **Contract Termination.**

   a. **Termination for Convenience.** The State may terminate this Contract for its convenience after issuing written notice to the Contractor. If the termination is for the convenience of the State, the Contractor will be entitled to compensation for any Deliverable that the Contractor has delivered before the termination. Such compensation will be the Contractor's exclusive remedy in the case of termination for convenience and is available to the

Contractor only after the Contractor has submitted a proper invoice for such, with the invoice reflecting the amount determined by the State to be owing to the Contractor.

b. **Termination for Cause.** If either Contractor or DAS fails to perform any one of its obligations under this Contract, that party will be in default and the other party may terminate this Contract by no less than thirty (30) days prior written notice to the breaching party. The termination will be effective on the date delineated by the terminating party. Further:

1. **Termination for Default.** If the Contractor's default is unable to be cured in a reasonable time, the State may terminate the Contract by written notice to the Contractor.

2. **Termination for Defaults not Remedied.** If the Contractor's default may be cured within a reasonable time, the State will provide written notice to the Contractor specifying the default and the time within which the Contractor must correct the default. If the Contractor fails to cure the specified default within the time required, the State may terminate the Contract. If DAS does not give timely notice of default to the Contractor, the State has not waived any of the State's rights or remedies concerning the default.

3. **Termination for Persistent Default.** Either party may terminate this Contract by written notice to the other party for defaults that are cured, but are persistent. "Persistent" means three or more defaults relating to material obligations under this Agreement. After the party has notified the persistently defaulting party of its third default, that party may terminate this Contract without providing the persistently defaulting party with an opportunity to cure, if the persistently defaulting party defaults for a third time. The three defaults are not required to be related to each other in any way.

4. **Termination for Endangered Performance.** The State may terminate this Contract by written notice to the Contractor if the State determines that the performance of the Contract is endangered through no fault of the State.

5. **Termination for Financial Instability.** The State may terminate this Contract by written notice to the Contractor if a petition in bankruptcy or similar proceeding has been filed by or against the Contractor.

6. **Termination for Delinquency, Violation of Law.** The State may terminate this Contract by written notice, if the State determines that the Contractor is delinquent in its payment of federal, state or local taxes, workers' compensation, insurance premiums, unemployment compensation contributions, child support, court costs or any other obligation owed to a state agency or political subdivision. The State also may cancel this Contract, if the State determines that the Contractor has violated any law during the performance of this Contract. However, the State may not terminate this Contract if the Contractor has entered into a repayment agreement with which the Contractor is current.

7. **Termination for Subcontractor Default.** The State may terminate this Contract for the default of the Contractor or any of its subcontractors. The Contractor will be solely responsible for satisfying any claims of its subcontractors for any suspension or termination and will indemnify the State for any liability to them. Subcontractors will hold the State harmless for any damage caused to them from a suspension or termination. The subcontractors will look solely to the Contractor for any compensation to which they may be entitled.

8. **Termination for Failure to Retain Certification.** Pursuant to Section §123.151 and §123.152 of the Revised Code, the State may certify businesses for participation in state sponsored business assistance programs. After certification is obtained it is the responsibility of the Contractor to maintain certification. If the Contractor is awarded a contract pursuant to a certification program and fails to renew its certification and/or is decertified, the State may immediately cancel the Contract.

23. <u>DELIVERIES</u>

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

24. HEADINGS

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

25. ASSIGNMENT

Neither party will assign this Contract without the written consent of the other party. Notwithstanding the generality of the foregoing, Contractor may assign or transfer this Agreement, in whole or in part, to any affiliate of Contractor; or in relation to any sale of substantially all the assets or voting shares of Contractor with written notice to the State within a reasonable amount of time.

26. TAXES

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

27. 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.

28. ENTIRE CONTRACT

This contract document contains the entire Contract between Contractor and Customer relating to maintenance service on the Software and supersedes any other Contracts, written or oral.

29. 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 Equipment Schedule.

30. 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 effect to the extent that such does not create an absurdity.

31. 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/

Section 125.081 of the Ohio Revised Code requires state agencies to set-aside purchases for MBE and Executive Order 2008-13S encourages use of EDGE businesses. Therefore the state encourages the Contractor to purchase goods and services from Ohio certified Minority Business Enterprises (MBE) and Encouraging Diversity, Growth and Equity (EDGE) vendors.

32. 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.

33. 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 all applicable parties listed in O.R.C. Section 3517.13 are in full compliance with 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.

34. 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.

35. 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.

36. UNRESOLVED FINDINGS

The Contractor warrants that it is not subject to an unresolved finding for recovery under Code § 9.24. If this warranty is deemed to be false on the date the parties sign this Contract, the Contract will is void *ab initio*.

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.

39. REGISTRATION WITH THE SECRETARY OF STATE

By providing a Charter Number and signature within the Certification Offer Letter, the Contractor attests that the Contractor is:

An Ohio corporation that is properly registered with the Ohio Secretary of State; or

A foreign corporation, not incorporated under the laws of the state of Ohio, but is registered with the Ohio Secretary of State pursuant to Ohio Revised Code Sections 1703.01 to 1703.31, as applicable.

Any foreign corporation required to be licensed under O.R.C. § 1703.01-1703.31, which transacts business in the state of Ohio, without being so licensed, or when its license has expired or been canceled, shall forfeit not less than $250.00 nor more than ten thousand dollars. No officer of a foreign corporation (http://codes.ohio.gov/orc/1703.01) shall transact business in the state of Ohio, if such corporation is required by O.R.C. § 1703.01-1803.31 to procure and maintain a license, but has not done so. Whoever violates this is guilty of a misdemeanor of the forth degree. Questions regarding registration should be directed to (614) 466-3910, or visit http://www.sos.state.oh.us

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

40. 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 the State 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 O.R.C. Section 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 the contract 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 Contractor/Worker Acknowledgement prior to commencement of the work, service or deliverable, provided under this contract, shall serve as Contractor's certification that contractor is a "Business entity" as the term is defined in O.R.C. Section 145.037.

41. BOYCOTTING

Pursuant to Ohio Revised Code 9.76 (B) Contractor warrants that Contractor is not boycotting any jurisdiction with whom the State of Ohio can enjoy open trade, including Israel, and will not do so during the contract period.

ACCEPTED BY:

CONTRACTOR

DocuSigned by:
Kiley Lepage
2256578FAE124E4...

SIGNATURE

Kiley Lepage

PRINTED NAME

General Counsel

Title

12/14/2018

Date

Kiley.Lepage@compuware.com

Email Address

ACCEPTED BY:

THE STATE OF OHIO,
DEPARTMENT OF ADMINISTRATIVE SERVICES

SIGNATURE

Robert Blair

ROBERT BLAIR DIRECTOR

1-9-19

Date

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:

One Campus Martius	Detroit, MI 48226
(Address)	(City, State, Zip)

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

(Name)	(Address, City, State, Zip)
N/A	
(Name)	(Address, City, State, Zip)

2. Location where services will be performed by Contractor:

1320 Arthur E. Adams Drive	Columbus, OH 43221-3560
6600 Tussing Road	Reynoldsburg, OH 43068-4004
(Address)	(City, State, Zip)

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

(Name)	(Address, City, State, Zip)
N/A	
(Name)	(Address, City, State, Zip)

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

One Campus Martius	Detroit, MI 48226
(Address)	(Address, City, State, Zip)

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

N/A

(Name)	(Address, City, State, Zip)
N/A	
(Name)	(Address, City, State, Zip)

N/A

(Name) (Address, City, State, Zip)

N/A

(Name) (Address, City, State, Zip)

N/A

(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: Kiley Lepage
Contractor

Print Name: Kiley LePage

Title: VP, General Counsel and Secretary

Date: 12/14/2018