



516 E Rutland Street
Covington, LA 70433
985-871-8110

To BCI 12/15/11

Invoice

Date	Invoice #
12/1/2011	15123

Bill To

Ohio Attorney General
AGO/IT
150 E. Gay St., 20th Floor
Columbus, OH 43215
Attn: Diane Walker

P.O. No.	Terms
PO 7998/ Req 7644	

Item	Description	Rate	Serviced	Amount
OffenderWatch St...	Monthly Maintenance Fee - Offender Watch State Program for Dec 2011 Req.Name B120107	33,250.00		33,250.00
<p><i>Don Rahm</i> 12/8/11</p> <p>Approved By <i>DWalker</i> PO# 7998 B 120107 APPROX 12/12/11 CIO Approval <i>Michelle B...</i></p>				
Total				\$33,250.00



516 E Rutland Street
Covington, LA 70433
985-871-8110

To Bank 11/17
Invoice

Date	Invoice #
11/1/2011	14744

Bill To
Ohio Attorney General AGO/IT 150 E. Gay St., 20th Floor Columbus, OH 43215 Attn: Diane Walker

P.O. No.	Terms
PO 7998/ Req 7644	

Item	Description	Rate	Serviced	Amount
OffenderWatch St...	Monthly Maintenance Fee - Offender Watch State Program for November 2011 Req.Name B120107	33,250.00		33,250.00
<div style="display: flex; justify-content: space-between;"> <div> <p><i>11/1</i></p> <p><i>12/2</i></p> </div> <div> <p><i>Approved by: [Signature]</i></p> <p><i>7998 Req. B 120107</i></p> <p><i>AGO 461230</i></p> <p><i>Michelle</i></p> <p><i>BURK</i></p> <p><i>11/14/2011</i></p> <p><i>[Signature]</i></p> <p><i>11/17/11</i></p> </div> <div> <p><i>RECEIVED</i></p> <p><i>OCT 23 2011</i></p> </div> </div>				
Total				\$33,250.00



516 E Rutland Street
Covington, LA 70433
985-871-8110

Invoice

Date	Invoice #
10/1/2011	14639

Bill To

Ohio Attorney General
AGO/IT
150 E. Gay St., 20th Floor
Columbus, OH 43215
Attn: Diane Walker

P.O. No.

Terms

PO 7998/ Req 7644

Item	Description	Rate	Serviced	Amount
OffenderWatch St...	Monthly Maintenance Fee - Offender Watch State Program for October 2011 Req.Name B120107	33,250.00		33,250.00
<div style="text-align: center;"> <p>Approved By <i>[Signature]</i> PO# <i>7998</i> Req. <i>B120107</i> SPRON <i>A60461230</i> CIO Approval <i>[Signature]</i> <i>11/14/2011</i></p> </div> <div style="text-align: right;"> <p><i>[Signature]</i> <i>11/17/11</i></p> </div>				
Total				\$33,250.00



516 E Rutland Street
Covington, LA 70433
985-871-8110

Invoice

Date	Invoice #
9/1/2011	14307

Bill To
Ohio Attorney General AGO/IT 150 E. Gay St., 20th Floor Columbus, OH 43215 Attn: Diane Walker

P.O. No.	Terms
PO 7998/ Req 7644	

Item	Description	Rate	Serviced	Amount
OffenderWatch St...	Monthly Maintenance Fee - Offender Watch State Program for September 2011 Req.Name B120107	33,250.00		33,250.00
<div style="text-align: center;"> <p>Approved By <i>D Walker</i></p> <p>PO# 7998 Req B120107</p> <p>SPRC# 260461230</p> <p>CIO Approval _____</p> </div> <div style="position: absolute; left: 100px; bottom: 100px; transform: rotate(-15deg); border: 1px solid black; padding: 5px;"> <p>RECEIVED</p> <p>SEP 7 - 2011</p> <p>By _____</p> </div> <div style="position: absolute; left: 350px; bottom: 50px;"> <p><i>[Signature]</i></p> <p>9/9/11</p> </div>				
Total				\$33,250.00

To Linda
9/16/11



516 E Rutland Street
Covington, LA 70433
985-871-8110

Invoice

Date	Invoice #
8/1/2011	14187

Bill To

Ohio Attorney General
AGO/IT
150 E. Gay St., 20th Floor
Columbus, OH 43215
Attn: Diane Walker

P.O. No.	Terms
PO 7998/ Req 7644	

Item	Description	Rate	Serviced	Amount
OffenderWatch St...	Monthly Maintenance Fee - Offender Watch State Program for August 2011 Req.Name B120107	33,250.00		33,250.00
Approved By <u>[Signature]</u> PO# <u>7998</u> Req. <u>B120107</u> SPRC# <u>AG0461230</u> CIO Approval <u>[Signature]</u> <u>8/22/11</u>				
Total				33,250.00

To Barry
8/22/11



516 E Rutland Street
Covington, LA 70433
985-871-8110

Invoice

Date	Invoice #
7/1/2011	13897

Bill To

Ohio Attorney General
AGO/IT
150 E. Gay St., 20th Floor
Columbus, OH 43215
Attn: Diane Walker

P.O. No.	Terms
PO# 7998/Req#7644	Net 30

Item	Description	Rate	Serviced	Amount
OffenderWatch St...	Monthly Maintenance Fee - Offender Watch State Program for July 2011 Req. name B120107	33,250.00		33,250.00
<p>Approved By <u>D Walker</u> PO# <u>7998</u> Req <u>B120107</u> SPRC# <u>AGO 46230</u> CIO Approval <u>Michelle Burk</u> <u>8/22/11</u></p> <p><u>8/22/11</u></p>				
Total				\$33,250.00

to Barry 8/22/11

State of Ohio

Purchase Order

Payment Provision: The purchase order number authorizing the delivery of products or services **MUST** be included on the invoice.

Attorney General

Vendor:
0000079671
WATCH SYSTEMS
516 E RUTLAND
COVINGTON LA 70433

Dispatch via Print

Purchase Order	Date	Revision	Page
AG001-0000007998	07/28/2011		1
Payment Terms	Freight Terms	Ship Via	
Net 30	FOB Destination, Prepaid	N/A	
Agency Contact	Phone	Currency	
Steven Raubenolt		USD	

Ship To: Attorney General
Steven Raubenolt
P.O. Box 365
(740) 845-2100
London OH 43140
United States

Bill To: Attorney General
Finance Section
30 East Broad Street 15th Floor
(614) 466-6936
Columbus OH 43215
United States

Line-Sch	Quantity	UOM	ITEM ID	VND ITEM ID	Unit Price	Extended Amt	Due Date
1- 1	12	MO	Consulting eSORN system		33,250	399,000.00	

Schedule Total 399,000.00

Contract ID: 534121

Contract Line: 0

<< Consultant is retained to conduct regularly scheduled site visits to the sheriff offices to work with the Sheriff, administrative staff, deputies and other individuals identified by the sheriff or the AGO staff regarding the sex offender notification and mapping solutions as set forth in Exhibit A, Scope of Work, Statement of Work for the Ohio eSORN system.

Compensation: Consultant shall be compensated for services rendered in the amount of \$399,000.00. Monthly billing shall occur on the first of each month in the amount of \$33,250.00 according to the cost schedule as set forth in Exhibit A, Scope of Work. This Agreement is in effect beginning on July 1, 2011 and concludes on or before June 30, 2012. >>

Item Total 399,000.00

Total PO Amount 399,000.00

The Director of Budget and Management certifies that there is a balance available in the appropriation not already obligated to pay existing obligations in an amount at least equal to the portion of the contract, agreement, obligation resolution or order to be performed in the current fiscal year.

Department Head

Zoe Berry
Chief Financial Officer

By accepting this purchase order, Vendor hereby certifies that it is in full compliance with ORC Section 3517.13 as it relates to campaign finance contributions.

AGREEMENT FOR PURCHASE OF GOODS AND/OR SERVICES

This Agreement is between the Ohio Attorney General, with its principal address of 30 East Broad Street, 17th Floor, Columbus, Ohio 43215-3400 (the "State") and Watch Systems LLC with its address at 516 East Rutland, Covington, LA 70433 ("Contractor"). The parties hereto agree as follows:

WHEREAS, Contractor previously entered into a State Term Schedule, Contract # 534121 ("STS Contract"), with the State of Ohio for the provision of certain goods and/or services;

WHEREAS, the State desires to purchase goods and/or services pursuant to the STS Contract;

WHEREAS, the parties desire that the Terms and Conditions of the STS Contract (the "Terms") shall govern their contractual relationship for the purchase of such goods and/or services;

NOW THEREFORE, the State and Contractor hereby agree as follows:

1. **Goods and/or Services:** Attached hereto as Exhibit A are the products and/or services to be purchased hereunder from Contractor by the State ("the SOW"). Contractor warrants and represents that the products and/or services being purchased hereunder are within the scope of products and/or services that are identified in the STS Contract.

2. **Compensation:** Set forth in Exhibit A is the price to be paid for the products and/or services being purchased hereunder. Contractor must receive a purchase order from the State prior to filling an order or performing any of the SOW. After Contractor receives a purchase order, Contractor shall submit a proper invoice for the SOW as set forth in the Terms. Each invoice shall contain an itemization of the SOW performed, including dates the SOW was performed and total hours worked, the location or address where the SOW was performed, and the sum due at that time pursuant to this Agreement. All invoices shall contain the Contractor's name and address and shall reference the Ohio Attorney General's Office, and list the billing address as 30 E. Broad St., 15th Floor, Attn: Finance, Columbus, Ohio 43215. After receipt and approval by the State of a proper invoice, as defined by Ohio Adm.Code 126-3-01(A)(5), and acceptance of the SOW by the State, payment will be made pursuant to Ohio Adm.Code 126-3-01. Unless otherwise directed by the State, invoices should be directed via email to: invoices@ohioattorneygeneral.gov.

Contractor represents and warrants that the price to be paid for the SOW does not exceed Contractor's price list under the STS Contract and that the SOW is being offered to the State at the most favorable price it has made those products and/or services in the SOW available to any other customer within the year immediately preceding the date of this Agreement. Under no circumstances shall the purchase price to be paid hereunder exceed the amount set forth in Exhibit A unless agreed to in writing by the State.

The payment of the purchase price for the SOW is subject to the appropriation and payment provisions provided in the Terms.

Page 1 of 13
AGO Contract #1994

3. **Incorporation of Terms and Conditions:** Attached hereto as Exhibit B are the Terms and Conditions of the STS Contract which are incorporated herein by reference. The Terms shall govern the rights, duties, and obligations of the parties under this Agreement. If there is a conflict between this Agreement, the SOW and the Terms, the provisions of this Agreement shall control first, then the Terms, and finally the SOW.
4. **Findings for Recovery:** Contractor warrants that it is not subject to an "unresolved" finding for recovery under R.C. 9.24. If this warranty is deemed to be false, this Agreement is void *ab initio* and the Contractor must immediately repay to the State any funds paid under this Agreement.
5. **Campaign Contributions and Ethics Compliance:** Contractor hereby certifies that neither Contractor nor any of Contractor's partners, officers, directors, shareholders nor the spouse of any such person, has made contributions in excess of the limitations specified in R.C. 3517.13. Contractor also represents, warrants, and certifies that it and its employees engaged in the administration or performance of this Agreement are knowledgeable of and understand the Ohio Ethics and Conflicts of Interest laws. Contractor further represents, warrants, and certifies that neither Contractor nor any of its employees will do any act that is inconsistent with such laws.
6. **Compliance With Law:** Contractor, in the execution of duties and obligations hereunder, agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances.
7. **Time for Performance:** The services to be provided or performed hereunder shall be commenced on July 1, 2011 and concluded on or before June 30, 2012.

As the current General Assembly cannot commit a future General Assembly to expenditure, this Agreement will expire no later than June 30, 2012. The State may renew this Agreement on the same terms and conditions by giving written notice prior to expiration and such renewal shall not extend beyond the expiration of the biennium in which the renewal commences.

8. **Termination of Contractor's Services:** The State may, at any time prior to the completion of the SOW, suspend or terminate this Agreement with or without cause by giving written notice to Contractor. In the event that the SOW includes divisible services, the State may, at any time prior to completion of services, by giving written notice to Consultant, suspend or terminate any one or more such portions of the SOW. Contractor, upon receipt of notice of suspension or termination, shall cease work on the suspended or terminated activities under this Agreement, suspend or terminate all subcontracts relating to the suspended or terminated activities, take all necessary or appropriate steps to limit disbursements and minimize costs, and, if requested by the State, furnish a report, as of the date of receipt of notice of suspension or termination, describing the status of the SOW, including, without limitation, results, conclusions resulting there from, and any other matters the State requires.

Contractor shall be paid for services rendered up to the date Contractor received notice of suspension or termination, less any payments previously made, provided Contractor has supported such payments with detailed factual data containing services performed and hours worked. In the event of suspension or termination, any payments made by the State for which Contractor has not rendered services shall be refunded.

In the event this Agreement is terminated prior to the completion of the SOW, Contractor shall deliver to the State all work products and documents which have been prepared by Contractor in

the course of providing the SOW. All such materials shall become, and remain the property of, the State, to be used in such manner and for such purpose as the State may choose.

Contractor agrees to waive any right to, and shall make no claim for, additional compensation against the State by reason of such suspension or termination.

Contractor may terminate this Agreement upon sixty (60) days' prior written notice to the State.

9. **Notices:** All notices to be provided under this Agreement by one party to another shall be made by a) U.S. certified or registered mail, postage prepaid, return receipt requested; b) nationally recognized overnight courier; or c) by personal delivery upon the party to be served the notice to the address first set forth above. Either party may change its address for notices hereunder by sending notice of such change to the other party in the manner set forth above.

IN WITNESS WHEREOF, this Contract is entered into effective as of the date first set forth above.

WATCH SYSTEMS LLC

By: 

Name: Mike Cormaci

Title: President

Date: 6-29-11

OHIO ATTORNEY GENERAL

By: 

Name: Kimberly Murnieks

Title: Chief Operating Officer

Date: 7-7-2011

By: 

Name: Steven Raubenolt

Title: Deputy Superintendent of Identification
and OHLEG

Date: 7/5/11

Approval as to form:

By: 

Name: Eric Godding

Title: Assistant Attorney General,
Business Counsel

Date: 6/27/11

EXHIBIT A
Scope of Work

Statement of Work for the Ohio eSORN

The Attorney General of Ohio (AGO) has implemented the AGO Sex Offender Registration and Notification (SORN) system for all the Sheriffs in the state of Ohio. The AGO previously selected Watch Systems, for the development a sex offender notification and mapping system component of the AGO program. The selected sex offender notification and mapping solution assists in training on community notification practices, validating the offender address, mapping their location and notifying the public. The program shall be actively supported by the vendor by working with all of the sheriff offices in Ohio. The vendor shall conduct regularly scheduled site visits to the sheriff offices to work with the Sheriff, administrative staff, deputies and other individuals identified by the sheriff or the AGO staff.

The following describes the required features of the system:

Deliverables

1) Hosting Site

- a) The vendor shall provide hosting facilities, including all hardware and network services for the notification and mapping system.
- b) The facility shall have basic disaster recovery and fire and power protection.
- c) The vendor shall provide the AGO with an updated description of the hosting facilities and procedures used to support the system within 10 days of the acceptance of this statement of work, including, but not limited to:
 - i) Internet Connectivity
 - (1) The hosting datacenter provides redundant internet access to all points of the infrastructure. Two local carriers, Time Warner Communications and Level 3, are used to provide two separate DS-3 local loops to our long-haul internet providers.
 - (a) Each DS-3 is burstable to 54 megabits per second
 - (2) The TWCC long haul provider is UUNet peering out of Chicago and the L3 long haul provider is Sprint peering out of Atlanta.
 - (3) The facility supports multiple entry points.
 - ii) Firewalls and Access Control
 - (1) The hosting datacenter provides firewall protection to all resources utilizing a Juniper SSG-550. All traffic is implicitly denied except for ports opened for the use of an application. The platform has the ability to do some deep inspection of packets, and is configured on an open-port basis.
 - iii) Load Balancing
 - (1) The hosting datacenter provider's load-balancing through a F5 BigIP 1500 Local Traffic Manager. This load balancer is configured per-application, and can support webchecks and multiple types of load balancing scenarios (ie: round-robin, sticky sessions, etc).
 - iv) Web Servers
 - (1) The hosting datacenter provides a HP Proliant based infrastructure to run the application layer on. The size of the hardware is determined by the application needs, and may also be run in a VMWare virtualized infrastructure as well. We support both Windows and Linux in our environment, and are based on the customers needs.
 - v) Database Servers
 - (1) The hosting datacenter provides a HP Proliant based infrastructure to run the application layer on. The size of the hardware is determined by the application needs, and may also be run in a VMWare virtualized infrastructure as well. We support both Windows and Linux in our environment, and is based on the customers needs. (I think this question is more for Watch than us)
 - vi) Application Servers

- (1) The hosting datacenter provides a HP Proliant based infrastructure to run the application layer on. The size of the hardware is determined by the application needs, and may also be run in a VMWare virtualized infrastructure as well. We support both Windows and Linux in our environment, and is based on the customers needs. (I think this question is more for Watch than us)
 - vii) DNS Servers
 - (1) The hosting datacenter provides DNS through a pair of hardened SLES9SP3 servers running BIND 9.2.x.
 - viii) Other routers, switches and network devices
 - (1) The hosting datacenter provides a redundant pair of Cisco 7604 for internet connectivity, which are in turn connected to the hosted firewall. This firewall is then connected to a Cisco 4506 for all host connectivity.
 - ix) System Management, Alarms and Monitoring
 - (1) The hosting datacenter provides physical up/down status of each machine in the environment, as well as all network infrastructure. The alarming system used is CA's Spectrum and is monitored 24x7x365 by the Appriss Operations Center.
 - x) Power Controls and Uninterruptible Power Supplies
 - (1) The hosting datacenter provides a pair of Liebert 130kVA UPS systems (A/B Bus design) to all machines and networking equipment. These UPS systems have a runtime of approx 30 mins and are backed by a 400 kVa Kohler Generator with a week of fuel on hand.
 - xi) Facilities, Environment, Physical Security
 - (1) The hosting datacenter provides multi-level physical security with security cameras throughout the datacenter. These cameras are linked directly to the card access system and can replay entry/exit videos for all doors surrounding the datacenter, as well as constant recording of all cameras inside the datacenter.
- 2) Mapping.
- a) The system shall include an interactive geographical information system (GIS) that includes street maps and school districts of the entire state and surrounding states (Indiana, Kentucky, Michigan, Pennsylvania and West Virginia).
 - b) The GIS shall be provided as a web service so that the AGO does not need to maintain a local GIS system.
 - c) GIS System will allow the user to identify the corresponding offender by cursing over the icons displayed on the map.
 - (1) Selecting the icon on the map will reveal basic offender information and a thumbnail photograph of the offender.
 - d) The GIS will provide mapping of the offender's residences, work addresses and/or places of employment as well as school addresses the offenders attend as specified
 - e) The system shall allow an investigator the ability to search for offenders within a geographic area.
 - f) Selecting an offender name from the list will result in that offender's record being retrieved and displayed from the SORN database.
 - g) The system shall provide the ability to geo-code a given address for proper placement on the map.
 - h) The user shall be able to search for an offender by any field of the offender record and have the search results displayed as icons on a map.
 - i) The user shall be able to specify what information is displayed on the map for each offender by selecting registration no., name, address, crime, etc.
 - j) The user shall be able to enter an address and a radial range and have all sexual offenders listed as an icon on a single map.
 - k) A "County Offender Density" map will be made upon request and sent via electronic transfer in a PDF format, within 48 hours of the vendor receiving the request that displays offender residences within a specified county for the purpose of communicating the to the public the whereabouts of offenders and to facilitate the recruiting of email enrollments.
 - l) A hard copy version of the map will be made, if requested by the local office that reflects the electronic version. The hard copy map will be at an additional charge to the local office and shall be sent via common carrier at the expense of the local office.

- m) County Offender Density maps shall consist of a map of the county, a legend that contains; Date, Source, Number of Offenders, Square Miles of the county.
- n) The County Offender Density map will have three elements that state the date the map was created, the sources of the data, and when that data was last updated.
- o) The title of the County Offender Density map shall note the County represented the Sheriff name and the URL where citizens go to view more current information and to enroll for email alerts.
- p) Vendor shall work with all 88 counties and the local school boards that maintain the school property and parcel files to make updates to the information to ensure accuracy of information related to the proximity an address represents relative to the school 1,000 foot buffer zone.
- q) Vendor will maintain a system whereby school boundaries can be updated quarterly with new information as available from; local school districts, sheriff's offices and the state department of education.
- r) Maps files will be maintained in normal shape files, are available to AGO for other uses and will be provided in electronic format for use by AGO or other agencies at request of AGO at no additional charge.
- s) Client will have access to Vendor staff for bug fixes on a 24 hour response basis based on normal business hours. Any request that are deemed enhancements and not bug fixes will be subject to a new agreement. Vendor may elect to include enhancements under the maintenance contract if Vendor, at its sole discretion, determines that the enhancement may assist in sales of a future product to its customer base. Any such enhancement must be authorized in advance by the AGO and will be handled through a change order.
- t) School proximity address lookups shall be made available via a dedicated website, branded for the AGO, and maintained by the vendor. The AGO will determine the audience that will have access to this information.
- u) Determining the location based upon an input address/zip code is the primary task of the address scrubber.
- v) The vendor shall ensure that the WatchMap online address verification and location service (address scrubber utility purchased by the AGO in 2004) remains fully implemented and integrated into the AGO's web based eSORN application.
- w) The input address/zip code shall be validated by the AGO's web based eSORN application for compliance with minimum data requirements.
- x) The address/zip code will be passed to the address scrubber, which attempts to locate the address in the geo dictionary.
- y) Based upon specified boundary rules, a properly geo-coded address/zip code will be used as the basis for a search of the system maintained boundary library.
- z) The location information associated with the identified address will be retrieved from the database and returned to the requesting application.
- aa) During the process described, additional information about the address including the Zip + 4 extensions, school district and the county of residence are returned as well.
- bb) The entire process, including the input address, the returned address and the information return are logged for quality control.
- cc) Address scrubber will accept a dedicated "batch" process for scrubbing, normalizing and returning a file of addresses through a dedicated web process.
- dd) Client will supply a unique identification number to each address supplied in the batch file.
- ee) When returning a file the following shall be delivered in a format acceptable to the AGO
- ff) Batch Geocoder
 - i) Vendor will maintain an FTP site for client to upload files to be processed and to download processed files.
 - ii) Client will upload files during off-hours for processing in the early morning.
 - (1) Client is to provide all files by 4:45 AM.
 - (2) Any files posted by client after 4:45 AM may be processed during the next day's cycle or at the vendor's discretion, respecting production hours.
 - iii) Client files should consist of 100,000 records or less per file.
 - iv) Client may provide files larger than 100,000 records per file to vendor for scheduled processing in a mutually agreed upon timeframe.

- v) Client must submit a file consisting of the following fields: ID, Address, City, State, Zip.
 - vi) Vendor will return processed files with the following fields: ID, Address, City, State, Zip, Precision, X Coordinate, Y Coordinate.
 - gg) Batch processor will perform the following functions
 - i) Normalize the address
 - ii) Geocode the address
- 3) 88 Local web sites and Portal Pages
- a) Each Sheriff portal page shall have unique branding for the office
 - b) The vendor shall host each office portal page
 - c) The vendor shall distribute, install, and offer training, in conjunction with the AGO, on the vendor's offender mapping and notification system to all the requesting Sheriff's offices in Ohio.
 - d) The vendor mapping and notification system will remain fully integrated with the AGO's web based eSORN application and database. Any changes requested by the AGO will be processed in a timely manner.
 - e) Each office shall control the offender information made available on the office site
 - f) Each office shall control the basic content of the portal page via a secure user name and password
 - g) Each office shall have print ready artwork for all safety fliers and safety tips as well as replicated PDF's of the same content.
 - h) The vendor will ensure that all websites created for the Sheriffs will remain fully operational.
- 4) Email Registration.
- a) The Sheriff's or the AGO's online registry will allow the public to register to receive email notices on those offenders currently registered as sexual offenders as well as any new offenders moving within the county boundaries.
 - b) The system will capture the address and email address at a minimum for each person wishing to receive an email from the office.
 - c) The email alert system will be in compliance with the Federal CAN SPAM Act.
 - d) The email alert system shall inform the public about email delivery and the registration requirements associated with receiving an email alert.
 - e) The system shall provide an unsubscribe option on each email
 - f) Email notifications are based on the county where the offender resides
 - g) The email will also provide AGO/BSSA approved safety tips for the public.
 - h) Links in the verification email shall point back to the originating website, to the page with the published offender record information..
 - i) Vendor will support registered e-mail notification recipients. Recipients will be directed to contact the vendor for assistance. This will be accomplished in a manner acceptable to AGO.
 - j) Vendor will work under the direction of the AGO to maintain the existing email service.
 - k) The system shall generate an email notification that includes all of the offender description information. The format of the email notification must be acceptable to the AGO.
 - l) The system will send the notification email to all registered residences and businesses within a prescribed radius of the offender address within 24 hours of the record being entered into or modified in the system.
 - m) The email shall contain links back to the appropriate Sheriff's website, to the online offender record and address map and to the AGO eSORN public site.
 - n) All emails will be branded unique to the sheriff's office.
- 5) State Sex Offender Web Page Mapping
- a) The public may enter a residential or business address and will be presented with a list of offenders within a specified radius of the entered address.
 - b) Web based maps will allow for interactive icons and displaying basic offender details and a photo of the selected offender.
 - c) The public user shall be able to search for an offender and have the addresses associated with the resulting search list displayed as icons on a map.

- d) The system will integrate any mapping needs into the AGO's web based eSORN application's search results.
 - e) The public user shall be able to enter an address and have all sexual offenders within a selected radius of that address listed as a labeled icon on a map. In addition, there will be a list of offender records associated with the icons displayed. Selecting an offender record will result in that offender's record to be retrieved and displayed. From this page the public user will be able to see a map surrounding the offenders' home residence. Zooming and scanning (right, left, up and down) functionality will remain in tact.
 - (1) Information displayed will include what is defined for public release by the State of Ohio notification laws.
 - f) Vendor shall support the site and be available for questions, comments from the community as well as the local Sheriff's officials via the AGO. This will be accomplished in a manner acceptable to AGO.
 - i) Vendor will make technical assistance available via toll free 888-928-2412 and via email at techsupport@watchsystems.com
 - ii) Non Technical and Managerial support shall be directed to 888-928-2412 or contacting adminsupport@watchsystems.com
 - g) Vendor will provide information on the offender consistent with information displayed on the website maintained by the AGO.
- 6) Active Contact
- a) Interface with the eSORN verification schedule and make a phone call to the reported and associated phone numbers as well as email alerts of the registered offender
 - b) Phone calls will be custom to each office where the offender is registered.
 - i) A single phone call will be made to the primary offender phone number received in the data sync from the AGO five days prior to the offenders required registration date. Dates are to be quarterly, twice annually or once a year based on the offenders risk level.
 - c) Reports will be generated for each office on a monthly basis that detail
 - (1) completed calls
 - (2) disconnected calls
- 7) Booking Alert
- a) Monitor all registered Ohio sex offenders and develop an alert system whenever a registered offender is incarcerated in the United States and processed within a jail of the Appriss Justice Exchange network.
 - b) Alerts will note the offender
 - (1) name
 - (2) eSORN ID#
 - (3) jail
 - (4) jail phone number
 - c) Alert will notify the deputy when the offender is
 - (1) incarcerated
 - (2) released
 - d) The AGO will provide a list of deputies with associated email addresses and the corresponding ORI # of the office 4 times a year so as to ensure notifications are delivered to the appropriate person.
- 8) Data Synchronization
- a) The system shall provide an electronic mechanism to import and export updated records from the AGO's eSORN database for the Community Notification Address Book (CNAB).
 - (1) The data synchronization procedure will occur in a time frame mutually agreed to.

- b) Each sheriff's office will have a website developed, maintained and hosted by the vendor for sexual offender searches and email notification registration. The vendor will populate each office with the offender information related to the county that is received in the synchronization.
 - c) The vendor shall maintain the connection to send and receive defined fields for each offender record including the offender primary phone number.
 - (1) Vendor shall maintain and monitor the data synchronization connection and maintain an alert system supported by; phone, email and text alert to the vendor staff responsible.
 - (2) Vendor shall respond to connection issues and shall report such errors to the AGO staff.
 - d) The vendor shall maintain a balance procedure including a weekly comparison of files. When a discrepancy is identified in the file size between the two systems an internal review will be conducted to determine the source and to reconcile.
 - e) Data to be included in the sync shall not be limited to the information available to the public but shall also include;
 - i) Agency ORI #
 - ii) Verification dates
 - iii) Primary phone number
 - iv) Email addresses
 - v) Internet monikers
 - vi) Deputy email address and deputy phone number.
- 9) Residency Restriction Map Layer
- a) Vendor has created digitized files of all school properties including parcels for athletic fields, playgrounds etc.
 - b) Vendor shall maintain a single point of contact for each school district to approve maps.
 - c) Vendor shall maintain contact with county GIS departments in counties where such services are indicated by the County Auditor's Association of Ohio
 - d) Vendor will maintain a system whereby school boundaries can be updated for new information as available. (included in cost of annual maintenance)
 - e) Maps files will be maintained in normal shape files, are available to AGO for other uses and will be provided in electronic format for use by AGO or other agencies at request of AGO at no additional charge.
 - f) Vendor already provides an address scrubbing service wherein users may validate the entered address of an offender.
 - (1) Vendor provides a flag to the user that the proposed address is within 1000 feet of a school boundary. The flag will bring back one of the following three answers:
 - (2) address within school boundary
 - (3) address outside school boundary
 - (4) address does not geocode and thus no determination can be made as to school proximity
 - g) Maps are already provided so that eSORN users and public web visitors can view an offender's address. Vendor has added the school map boundary to these maps so that the proximity to the school can be visualized.
 - h) Vendor provides a service that can be called from within eSORN to create a report showing all offenders in the selected county within 1000 feet of school boundary
- 10) Postal notification.
- a) The vendor provides a program whereby the Sheriffs office can generate an electronic mailing estimate that is based on a user defined radial; the estimate must be in accordance with United States Postal Service requirements of deliverable addresses.
 - b) The vendor shall automatically compute the notification cost based on the number of deliverable addresses defined in the estimate search. The cost shall be based on the current first class published postal rate.
 - c) The vendor will allow for the deputy of the requesting office to preview a notification card prior to requesting the mailing from the vendor, each cards shall be uniquely branded for the requesting office.

- d) The vendor shall provide an integrated address scrubber that validates the offender address to ensure accuracy of the mailing.
 - e) The vendor shall provide a means for electronically submitting a mailing request so that the notification circulation is printed, labeled and delivered to the United States Postal Service within two business days of receiving the electronic request.
 - f) The notification information shall describe the offender by name, aliases, address, physical description, offenses, scars and marks, comments and photograph and any other information as defined by state statute for public notification.
 - g) The system shall calculate the number of postal addresses within a specified radius (currently 1200 ft) of the offender address that must receive a post card. In addition, the Community Notification Address Book for the Sheriff's involved in the notification will be included in this list. The Community Notification Address Book (CNAB) is defined as an electronic list provided by the Sheriff to the AGO, via the eSORN administration/registration web application of additional notification recipients to be mailed with each mailing regardless of radial. This address book is unique to each of the 88 county Sheriffs of Ohio.
 - h) The notification post card shall be customized to the sheriff's office with the Sheriff Name, office logo and brief text.
 - i) The post card size shall be 5 1/2" x 8 1/2" printed on a 100# index card stock and printed in black ink two sides.
 - j) One side shall feature standard "Family Safety Tip" as approved by the AGO/BSSA, so recipients are better prepared to deal with the information.
 - k) A service will be made available at an additional charge to and upon request by the sheriff's office of the historical mailings and the addresses mailed by the vendor. The list will be made available on an annual basis and will be in an ASCII or CSV format and delivered on a CD.
 - l) Vendor will cooperate in any review of their performance under this agreement that the AGO requests.
 - m) Use of the Direct Mail feature is optional to each sheriff's office.
 - n) The system shall allow the SORN officer to print a page that can be used as a flyer or poster for a notification program. The flyer or poster should print the same information as defined on the community notification cards.
 - o) The vendor will supply a mechanism for the Sheriff and the AGO to determine the distance between two addresses so as to determine the appropriate address buffer. This mechanism will be available for AGO use agency wide.
 - p) Vendor shall keep a database log of all addresses associated with each offender mailing for 2 years after mailing has been completed.
 - q) Vendor will provide a list of all addresses mailed to the agency, upon request and at an additional cost to the sheriff, after each mailing.
- 11) OffenderWatch sex offender registration and database synchronization systems
- a) Vendor will provide and support the software for all 88 counties as well as all of the DOC locations to register offenders
 - b) Vendor will provide all front line service and support of all authorized users of the program
 - c) Vendor will make all necessary program and support modifications to ensure the program meets any and all of the compatible features found in the eSORN program as defined in the OffenderWatch Project Analysis document dated 05/05/2011.

- d) Vendor will train all of the users in new features and will make sure the program meets and or exceeds the minimum Ohio statutory code.
- e) Program will not go into effect until tested and approved by the BSSA eSORN committee and the approval of the AGO.
 - i) It is expected this will be in October 2011
 - ii) No price increase will be realized in 2011 or 2012 for the OffenderWatch application.

Pricing Schedule for the Ohio Attorney General eSORN Program

Watch Systems will deliver the following components of the eSORN program for the Ohio Attorney General. These deliverables shall be in accordance within the guidelines of the itemized functions of the Statement of Work.

The following hourly rates apply to the delivery schedules;

1. Project Manager	\$239.28/hr
2. Senior Systems Analyst	\$138.78/hr
3. Senior IT Consultant	\$124.43/hr
4. IT Consultant	\$ 90.93/hr
5. Network Administrator	\$105.28/hr
6. Senior Database Administrator	\$148.35/hr
7. Help Desk Technician	\$ 62.21/hr
8. Help Desk Manager	\$ 86.14/hr
9. GIS Specialist	\$ 90.93/hr

Deliverables for the project are as follows:

1. Hosting Site for mapping, email and mailing	\$50,000
2. Mapping Modifications and Support	\$40,000
3. System for sheriff databases and web sites	\$70,000
4. Notification email application	\$50,000
5. State Sex Offender Webpage mapping and support	\$20,000
6. Active Contact	\$35,000
7. Booking Alert	\$45,000
8. Data Synchronization	\$35,000
9. Residency Restriction mapping and support	\$35,000
10. Postal Notification System	\$19,000

Maintenance shall be billed in 12 equal payments based on the annual amount of \$399,000. Monthly billing shall occur on the 1st of each month in the amount of \$33,250.00. First billing expected to be July 1, 2011.

EXHIBIT B
Terms and Conditions

(see attached)

STATE TERM CONTRACT

THIS CONTRACT (the "Contract") is between the State of Ohio ("State"), through its Office of Information Technology, IT Governance Division, with offices at 30 East Broad Street, Columbus, Ohio 43215 and: Watch Systems, LLC ("Contractor"), with offices at 516 E Rutland St, Covington, LA, 70433.

BACKGROUND

The State recognizes that it is sometimes advantageous to do business with some manufacturers under a State term contract rather than through a competitive bidding or proposal process. In such cases, the State may enter into a contract with the manufacturer provided that the manufacturer offers its products and ancillary services at the same prices that the manufacturer offers those products and services to the US Government under the GSA's Multiple Award Schedule program or SmartBuy program. Or if the manufacturer has no contract under the GSA's Multiple Award Schedule program or SmartBuy program, the State will accept the pricing the manufacturer offers to its distributors. Further, if the manufacturer has no GSA Multiple Award Schedule or SmartBuy contract and no distributors, the State may accept the prices that the manufacturer offers to its most favored customers for each product or service.

The State also recognizes that some manufacturers work primarily through dealers for various reasons, including offering customers better support through dealers that have a local presence in a service area. Because of this, the State may sometimes agree to work directly with a manufacturer's dealers.

However, if the Contractor is not the manufacturer of the products or services under this Contract, the Contractor must submit a letter from the manufacturer that assures the State that the Contractor is an authorized dealer in the manufacturer's products or services. The letter also must assure the State that the Contractor will have sufficient quantities of the offered products for the duration of the Contract to meet the State's needs under the Contract during the initial term and any extensions. Further, the letter must identify each of the manufacturer's product and service that the Contractor will supply under this Contract. The letter also must contain an assurance of the availability through the dealer of repair services and spare parts for products covered by this Contract for five years from the date of purchase. It also must contain an assurance that software maintenance will be available under the terms of this Contract either from the dealer or the manufacturer for six years from the date of acceptance. (This assurance is not necessary for PC and PC-based server software with a perpetual license fee of less than \$10,000.00 per copy.) The dealer must submit the letter, signed by an authorized representative of the manufacturer, with the executed copies of this Contract.

This Contract establishes terms and conditions under which State agencies (including any board, instrumentality, commission, or other political body) and Ohio political subdivisions, such as counties, municipalities, and townships, may acquire the Contractor's products or services at the pricing identified below. This Contract, however, only permits such; it is not a requirements contract and does not obligate any State agency or political subdivision to acquire the Contractor's products or services.

TERMS AND CONDITIONS

1 - TERM

- 1.1 **TERM.** This Contract is effective on the date the State's duly authorized representative executes it, as evidenced by the date appearing with the representative's signature, below. Unless this Contract is terminated or expires without renewal, it will remain in effect until the end of the State's current fiscal biennium, which is June 30, 2009. Termination or expiration of this Contract will not limit the Contractor's continuing obligations with respect to Deliverables that the State paid for before termination or limit the State's rights in such.
- 1.2 **CONTRACT RENEWAL.** In the State's sole discretion, it may renew this Contract for a period of one month at the end of each biennium during which this Contract remains in place. Any further renewals will be only by



written agreement between the State and the Contractor. Such renewals may be for any number of times for any period not to exceed the time remaining in the State's then-current biennium.

2 - PRICING AND PAYMENT

2.1 CERTIFICATION OF ACCURACY. By checking one of the following three items, the Contractor certifies that the Contractor's prices under this Contract are:

- x The prices at which the Contractor currently offers each product and service to the US Government under the GSA's Multiple Award Schedule program;
- The prices at which the Contractor currently offers each product and service to the US Government under the GSA's SmartBuy program; or
- The best prices at which the Contractor has offered each product and service to its most favored customers within one year before the date the Contractor executed this Contract or adds the product or service to this Contract, whichever is later.

If the Contractor is offering prices based on its most favored customer prices, the Contractor represents that it does not have a GSA Multiple Award Schedule or SmartBuy contract.

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

The Contractor further certifies that the above representations will apply and be true with respect to all future pricing information submitted to revise this Contract.

2.2 PRICE ADJUSTMENTS. If the Contractor has relied on its GSA Multiple Award Schedule pricing or its GSA SmartBuy pricing, the State will be entitled to any price decreases that the Contractor offers to the GSA for any of its products and services during the term of this Contract. The Contractor must notify the State of any reduction in its GSA Multiple Award Schedule or SmartBuy pricing within 30 days of its occurrence and immediately reduce the price of the affected products or services to the State under this Contract.

If the Contractor has relied on its best customer pricing, the State will be entitled to a price decrease any time the Contractor or any of its dealers or distributors under this Contract sells a product or a service to any of its customers for less than the price agreed to between the State and the Contractor under this Contract. Any time the Contractor or any of its dealers or distributors under Section 3.1 of this Contract sells a product or provides a service to any customer for less than it is then available to the State under this Contract, the Contractor must notify the State of that event within 30 days of its occurrence and immediately reduce the price of the affected products or services to the State under this Contract.

The Contractor also must notify the State within 30 days of any general reduction in the price of any product or service covered by this Contract, even if the general reduction does not place the price of the product or service below the price available to the State under this Contract. The purpose of this notice of a general reduction in price is to allow the State to assess the value the State believes it is receiving under this Contract in light of the general reduction. If the State believes it is appropriate, the State may ask to renegotiate the Contract price for the products and services affected by the general reduction in price. If the Contractor and the State cannot agree on a renegotiated price, then on written notice to the Contractor, the State may immediately remove the affected products and services from this Contract.

2.3 PRICELIST. The Contractor's pricelist for the products and services that the Contractor may provide to the State under this Contract is attached as Exhibit I. For convenience, those products and services are called "Deliverables" in this Contract. Any custom materials resulting from the Contractor's services also are called "Deliverables" in this Contract. The Contractor may not provide any other Deliverables under this Contract without a prior written amendment to this Contract that both the State and the Contractor have signed. Furthermore, the Contractor may not charge the State greater prices for these Deliverables than the prices on the Exhibit I. If Exhibit I contains or incorporates by reference any terms or conditions other than a description of the scope of license for software, a description of the Contractor's products and

services, and the prices for those products and services, those terms or conditions are excluded from this Contract and are of no effect. Exhibit I is identified as the following pricelist:

Watch Systems Price List

The Contractor will not sell to the State any notebook computers with less than a 1.60 GHz internal clock speed. Additionally, the Contractor will not sell to the State any PCs or servers using CPUs with less than a 3.0 GHz internal clock speed. Additionally, the Contractor will not sell to the State any term software licenses. And except in the case of operating systems licensed in conjunction with desktop PCs, notebook computers, PDAs, and similar personal computing devices that the OEM does not distribute without an operating system, the Contractor will not sell or license any Microsoft software to the State. If any of the foregoing items are listed in the Contractor's pricelist, they are deleted for purposes of this Contract.

- 2.4 NOTIFICATION OF PRICE INCREASES.** If this Contract permits any price increases, the Contractor must notify the State and any affected State agencies of the increase at least 60 days before the effective date of the price increase. The Contractor must notify affected State agencies at their purchase order "bill to" address contained in the applicable purchase orders. This notification must specify, when applicable, the product serial number, location, current price, increased price, and applicable purchase order number.

- 2.5 PAYMENT DUE DATE.** Payments will be due on the 30th day after the later of:

- (a) The date the State actually receives a proper invoice at the office designated in the applicable purchase order to receive it; or
- (b) The date the State accepts the Deliverable.

The date the State issues a warrant (the State's equivalent to a check) in payment of an invoice will be considered the date payment is made. Without diminishing the Contractor's right to timely payment, the payment will be overdue only if it is not received by the 30th day after the payment's due date. If the State has not issued payment by then, interest will begin to accrue under Ohio Revised Code (the "Code") § 126.30.

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

- (a) Name and address of the Contractor as designated in this Contract;
- (b) The Contractor's federal tax identification number as designated in this Contract;
- (c) The Contractor's invoice remittance address as designated in this Contract;
- (d) The purchase order number authorizing the delivery of the Deliverables;
- (e) A description of the Deliverables, including, as applicable, the time period, serial number, unit price, quantity, and total price of the Deliverables; and
- (f) If the invoice is for a lease, the Contractor also must include the payment number (e.g., 1 of 36).

If an authorized dealer has fulfilled the purchase order, then the dealer's information should be supplied in lieu of the Contractor's information. If an invoice does not meet this section's requirements, or if the Contractor fails to give proper notice of a price increase (see the next section), the State will send the Contractor written notice. The State will send the notice, along with the improper invoice, to the Contractor's address designated for receipt of purchase orders within 15 days. The notice will contain a description of the defect or impropriety and any additional information the Contractor needs to correct the invoice. If such notification has been sent, the payment due date will be 30 days after the State receives a proper invoice and has accepted the Contractor's Deliverable.

- 2.7 OHIO PAYMENT CARD.** Participating State agencies issuing orders under this Contract may use the Ohio Payment Card. Such purchases may not exceed \$2,500 unless the Office of Budget and Management ("OBM") has authorized the agency to exceed this limit. If OBM increases the dollar limit for payment cards for all State agencies, the State will post notice of that on its Procurement Website. Participating State

agencies are required to use the Ohio Payment Card in accordance with OBM's current guidelines for the Ohio Payment Card and the agency's approved plan filed with the OBM. The Contractor may process a payment in the payment card network only upon delivery and acceptance of the applicable Deliverables. For partial deliveries or performance, the Contractor may process a payment for the amount delivered or completed only and not for the entire amount ordered by the ordering agency. Upon completion of the delivery of remaining Deliverables, the Contractor may process a payment request in the payment card network for the remainder of the order. The Contractor should receive payment through its merchant bank within the time agreed upon between the Contractor and its merchant bank. The Contractor should expect normal processing fees from its merchant bank for payment card transactions, which the Contractor may not pass on to the State.

- 2.8 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.
- 2.9 OBM CERTIFICATION.** This Contract is subject to Code § 126.07. Any orders under this Contract are void until the Director of the OBM certifies that there is a balance in the appropriation available to pay for the order.
- 2.10 CONTROLLING BOARD AUTHORIZATION.** The State's obligations under this Contract are subject to the Ohio Controlling Board continuing to authorize the State's use of its term contracts program. If the Ohio Controlling Board fails to authorize or withdraws its authorization for this program, this Contract will terminate immediately, and the Contractor may not take any more orders under it.
- 2.11 TRAVEL EXPENSES.** Any travel that the Contractor requires to perform its obligations under this Contract will be at the Contractor's expense. The State will pay for any additional travel that it requests only with prior written approval. The State will pay for all additional travel expenses that it requests in accordance with OBM's travel policy in Rule 126-1-02 of the Ohio Administrative Code (the "Administrative Code").
- 2.12 TAXES.** The State is exempt from all sales, use, excise, and property taxes and will not pay any such taxes. To the extent sales, use, excise, or any similar taxes are imposed on the Contractor in connection with any Deliverable, the Contractor must pay those taxes together with any interest and penalties not successfully disputed with the taxing authority.
- 2.13 OFFSET.** The State may set off any amounts the Contractor owes to the State under this or other contracts against any payments due from the State to the Contractor under this or any other contracts with the State.

3 - CONTRACT ADMINISTRATION

- 3.1 DEALERS AND DISTRIBUTORS.** The State authorizes the Contractor to name one or more dealers to work with the State on behalf of the Contractor. But if the Contractor decides to use any dealers, the Contractor must submit the name, principal business address, addresses for purchase orders and for payments, telephone number, and its federal tax identification number. The Contractor also must submit a completed W9 form for each dealer it wishes to name under this section. The Contractor's submission must be on its official letterhead, signed by an authorized representative, and addressed to the Deputy State Chief Information Officer, Office of Information Technology.

In doing so, the Contractor warrants that:

- (a) The Contractor has provided the dealer with a copy of this Contract, and a duly authorized representative of the dealer has agreed, in writing, to be bound by the terms and conditions in this Contract.
- (b) Such agreement specifically provides that it is for the benefit of the State as well as the Contractor.

- (c) The Contractor will remain liable under this Contract for the services of any dealer and will remedy any breach of the dealer under this Contract.
- (d) Payments under this Contract for the services of any dealer may be made directly to that dealer, and the Contractor will look solely to the dealer for any payments due to the Contractor once the State has paid the dealer.
- (e) To the extent that there is any liability to the State arising from doing business with a dealer that has not signed the agreement required under this section with the Contractor, the Contractor will indemnify the State for such liability.

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

The State strongly encourages the participation of small and disadvantaged businesses in its contracting programs and has created a certification program to Encourage Diversity Growth and Equity (EDGE) in State contracting. State agencies are instructed to include in their procurements such participation, including through the use of State Term Schedule contracts that are either held by EDGE businesses or that offer the opportunity to work with EDGE dealers or distributors.

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

Unless it is impracticable to do so, all records related to this Contract must be kept in a single location, either at the Contractor's principal place of business or the facilities where the Contractor substantially performed under this Contract. If this is not practical, the Contractor must assume the cost of collecting, organizing, and relocating the records, along with any technology needed for accessing the records, to its office nearest Columbus, Ohio whenever the State or any entity with audit rights requests access to the records. The Contractor must do so within 15 days of receiving the State's written notice of its intent to audit the Contractor's records and must notify the State as soon as the records are ready for audit.

If any audit reveals any material misrepresentation or overcharge to the State, the State will be entitled to recover its damages, including the cost of the audit.

- 3.3 INSURANCE.** The Contractor must provide the following insurance coverage at its own expense throughout the term of this Contract:

- (a) Workers' compensation insurance, as required by Ohio law, and if some work will be done outside Ohio, the laws of the appropriate states where work will be done. The Contractor also must maintain employer's liability insurance with at least a \$1,000,000.00 limit.
- (b) Commercial General Liability insurance coverage for bodily injury, personal injury, wrongful death, and property damage. The defense cost must be outside of the policy limits. Such policy must designate the State of Ohio as an additional insured, as its interest may appear. The policy also must be endorsed to include a blanket waiver of subrogation. At a minimum, the limits of the insurance must be:

- \$ 2,000,000 General Aggregate
- \$ 2,000,000 Products/Completed Operations Aggregate
- \$ 1,000,000 Per Occurrence Limit
- \$ 1,000,000 Personal and Advertising Injury Limit
- \$ 100,000 Fire Legal Liability

\$ 10,000 Medical Payments

The policy must be endorsed to provide the State with 30-days prior written notice of cancellation or material change to the policy. And the Contractor's Commercial General Liability must be primary over any other insurance coverage.

- (c) Commercial Automobile Liability insurance with a combined single limit of \$500,000.
- (d) Professional Liability insurance covering all staff with a minimum limit of \$1,000,000 per incident and \$3,000,000 aggregate. If the Contractor's policy is written on a "claims made" basis, the Contractor must provide the State with proof of continuous coverage at the time the policy is renewed. If for any reason the policy expires, or coverage is terminated, the Contractor must purchase and maintain "tail" coverage through the applicable statute of limitations.

All certificates must be in a form that is reasonably satisfactory to the State as to the contents of the policies and the quality of the insurance carriers. All carriers must have at least an "A-" rating by A.M. Best.

- 3.4 **CONTRACT COMPLIANCE.** Any State agency that uses this Contract will be responsible for the administration of this Contract with respect to the orders that it places and may monitor the Contractor's performance and compliance with this Contract. If an agency becomes aware of any noncompliance with the terms of this Contract or the specifications of an order, the agency may document the noncompliance and give the Contractor written notice of the noncompliance for immediate correction. If the Contractor fails to cure the noncompliance, the agency may notify the State through the Office of Information Technology Contract Management, by executing a Complaint to Vendor form to help resolve the issue. Should the State determine that the form identifies an uncured breach of this Contract, the State may terminate this Contract and seek such other remedies as may be available to it.
- 3.5 **POLITICAL SUBDIVISIONS.** Ohio political subdivisions, such as Ohio cities, counties, and townships ("Political Subdivisions"), may rely on this Contract. Whenever a Political Subdivision relies on this Contract to issue a purchase order, the Political Subdivision will step into the shoes of the State under this Contract for purposes of its order, and, as to the Political Subdivision's order, this Contract will be between the Contractor and the Political Subdivision. The Contractor must look solely to the Political Subdivision for performance, including but not limited to payment, and must hold the State harmless with regard to such orders and the Political Subdivision's performance. But the State will have the right to terminate this Contract and seek such remedies on termination as this Contract provides should the Contractor fail to honor its obligations under an order from a Political Subdivision. Nothing in this Contract requires the Contractor to accept an order from a Political Subdivision, if the Contractor reasonably believes that the Political Subdivision is or will be unable to perform its obligations in relation to that order.
- 3.6 **RECALLS.** If a Deliverable is recalled, seized, or embargoed, or if the Contractor, a manufacturer, packer, processor, or regulatory body finds that a Deliverable has been misbranded, adulterated, or is unsafe, the Contractor must notify the State, through the Office of Information Technology Contract Management, as well as all agencies that have ordered the Deliverable, within ten business days after the Contractor learns of any of the above events. At the option of the State, the Contractor must either reimburse the State for the purchase price of each affected Deliverable or provide an equal or better replacement for each Deliverable at no additional cost to the State. The Contractor also must remove and replace all affected Deliverables within a reasonable time, as determined by the State. Further, at the option of the State, the Contractor may be required to reimburse the State for storage costs and handling fees, which the State may calculate from the time of delivery of each affected Deliverable to the Deliverable's actual removal. Furthermore, the Contractor must bear all costs associated with the removal and proper disposal of the affected Deliverables. The State will treat any failure to refund the purchase price or provide a suitable replacement within a reasonable time, not to exceed 30 days, as a default.

- 3.7 TERMINATION.** The State may terminate this Contract or any order under this Contract if the Contractor defaults in meeting its obligations and fails to timely cure its default. The State also may terminate this Contract or any order under it if a petition in bankruptcy is filed by or against the Contractor and not dismissed within 60 days. And the State may terminate this Contract or any order under it if the Contractor violates any law or regulation while performing under this Contract or if it appears to the State that the Contractor's performance is substantially endangered through no fault of the State. In all of the foregoing cases, the termination will be for cause.

On written notice, the Contractor will have 30 days to cure any breach of its obligations under this Contract, provided the breach is curable. If the Contractor fails to cure the breach within 30 days after written notice or if the breach is not one that is curable, the State will have the right to terminate this Contract, the applicable orders, or both immediately upon written notice to the Contractor. Some provisions of this Contract may provide for a shorter cure period than 30 days or for no cure period at all. Those provisions will prevail over this one. If a particular section does not state what the cure period will be, this provision will govern.

The State also may terminate this Contract in the case of breaches that are cured within 30 days but are persistent. "Persistent" in this context means that the State has notified the Contractor in writing of the Contractor's failure to meet any of its obligations two times. After the second such notice, the State may terminate this Contract without a cure period if the Contractor again fails to meet any obligation. The three defaults do not have to relate to the same obligation or type of failure.

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

Any notice of termination will be effective as soon as the Contractor receives it. On receipt of the notice of termination, the Contractor will immediately cease all work on any Deliverables affected by the termination and take all steps necessary to minimize any costs the Contractor will incur related to the affected orders. The Contractor also must immediately prepare a report and deliver it to the State. The report must detail all open orders at the time of termination.

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

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

- 3.8 EXCUSABLE DELAY.** Neither party will be liable for any delay in its performance under this Contract that arises from causes beyond its reasonable control and without its negligence or fault. The delayed party must notify the other promptly of any material delay in performance and must specify in writing the proposed revised performance date as soon as practicable after notice of delay. For any such excusable delay, the date of performance or delivery will be extended for a period equal to the time lost by reason of the excusable delay. The delayed party also must describe the cause of the delay and what steps it then is taking or will take to remove the cause. The delayed party may not rely on a claim of excusable delay to avoid liability for a delay if the party has not taken commercially reasonable steps to mitigate or avoid the delay.

3.9 INDEPENDENT STATUS. The parties will be acting as independent entities. The partners, employees, officers, directors, and agents of one party may only act in the capacity of representatives of that party and not as employees, officers, directors, or agents of the other party and will not be deemed as such for any purpose. Each party assumes full responsibility for the actions of its partners, employees, officers, directors, and agents while performing under this Contract and will be solely responsible for paying those people. Additionally, each party will be solely responsible for withholding and paying social security and income taxes, making workers' compensation contributions, paying disability benefits, and providing fringe benefits, if any, for its partners, employees, officers, directors, and agents, and neither party may legally bind the other party in any manner.

3.10 LOCATION OF SERVICES AND DATA. As part of this Contract, the Contractor must disclose the following:

- (a) All locations where any services will be performed;
- (b) All locations where any State data applicable to the Contract will be maintained or made available; and
- (c) The principal place of business for the Contractor and all its subcontractors.

The Contractor may not change any location where any services are performed to a location outside the country of the original location or change any location where the data is maintained or made available to any other location outside the country of the original location without prior written approval of the State, which the State will not be obligated to provide.

4 - DELIVERY AND ACCEPTANCE

4.1 ACCEPTANCE. The acceptance procedure for Deliverables will be an informal review by the agency acquiring the Deliverables to ensure that each Deliverable meets the warranties in this Contract. The State will have up to 30 days after installation to do this. The State will not issue a formal letter of acceptance, and passage of 30 days will imply acceptance, though the State will issue a notice of noncompliance if a Deliverable does not meet the warranties in this Contract.

If the State issues a noncompliance letter, the Contractor will have 30 days to correct the problems listed in the letter. If the Contractor fails to do so, the Contractor will be in default without a cure period. If the State has issued a noncompliance letter, the Deliverable will not be accepted until the State issues a letter of acceptance indicating that each problem noted in the noncompliance letter has been cured. If the problems have been fixed during the 30-day period, the State will issue the acceptance letter within 15 days after all defects have been fixed.

4.2 TITLE. Title to any Deliverable will pass to the State only on acceptance of the Deliverable, and all risk of loss will remain with the Contractor until title to the Deliverable passes to the State.

4.3 DELIVERIES. The Contractor must make all deliveries F.O.B. destination.

5 - INTELLECTUAL PROPERTY

5.1 COMMERCIAL MATERIAL. As used in this section, "Commercial Material" means anything that the Contractor or a third party has developed at private expense and that is commercially available in the marketplace, subject to intellectual property rights, and readily susceptible to copying through duplication on magnetic media, paper, or other media. Examples include the written reports, books, pictures, videos, movies, computer programs, source code, and documentation.

Any Commercial Material that the Contractor intends to deliver as a Deliverable must have the scope of the license granted in such material disclosed in an Exhibit to this Contract, if that scope of license is different than the scope of license contained in this section for Commercial Materials.

Except for Commercial Material that is software ("Commercial Software"), if the Commercial Material is copyrighted and published material, then the State will have the rights permitted under the federal copyright laws for each copy of the Commercial Material delivered to it by the Contractor.

Except for Commercial Software, if the Commercial Material is patented, then the State will have the rights permitted under the federal patent laws for each copy of the Commercial Material delivered to it by the Contractor.

For Commercial Software, the State will have the following, perpetual rights, subject to the next paragraph. The State may:

- (1) Use and copy the Commercial Software for use in or with the computer or computers for which it was acquired, including use at any State installation to which such computer or computers may be transferred;
- (2) Use or copy the Commercial Software for use with a backup computer for disaster recovery and disaster recovery testing purposes or if any computer for which it was acquired is inoperative;
- (3) Reproduce the Commercial Software for archival, image management, and backup purposes;
- (4) Modify, adapt, and combine the Commercial Software with other computer software, provided that the modified, combined, and adapted portions of the derivative software incorporating any of the Commercial Software will be subject to same restrictions on use;
- (5) Disclose to and reproduce the Commercial Software for use on behalf of the State by support service contractors or their subcontractors, subject to the same restrictions on use; and
- (6) Use or copy the Commercial Software for use with a replacement computer.

In the case of any other scope of license (e.g., MIPs, tier, concurrent users, enterprise, site, or otherwise), the foregoing will apply except as expressly modified by the applicable license description, which must be incorporated as part of Exhibit I. If the Contractor provides greater license rights in an item included in Exhibit I to its general customer base for the Software's list price, those additional license rights also will be provided to the State without additional cost or obligation. No license description may reduce the rights in items 1 through 6 above; it may only define the extent of use, if the use is other than a CPU license.

The State will treat any Commercial Software as Confidential Information, in accordance with the requirements of the Confidential Information section of this Contract, if the Commercial Software is clearly and conspicuously labeled as confidential or secret.

- 5.2 CUSTOM DELIVERABLES.** All custom work done by the Contractor and covered by this Contract will belong to the State, with all rights, title, and interest in all intellectual property that comes into existence through the Contractor's work under this Contract being assigned to the State. Additionally, the Contractor waives any shop rights, author rights, and similar retained interests in any such custom developed materials. The Contractor must provide the State with all assistance reasonably needed to vest such rights of ownership in the State. However, the Contractor will retain ownership of all tools, methods, techniques, standards, and other development procedures, as well as generic and preexisting shells, subroutines, and similar material incorporated in any custom Deliverable ("Pre-existing Materials").

The Contractor grants the State a worldwide, non-exclusive, royalty-free, perpetual license to use, modify, sell, and otherwise distribute all Pre-existing Materials that are incorporated in any custom-developed Deliverable. The Contractor may not include in any custom Deliverable any intellectual property unless such has been created under this Contract or qualifies as Pre-existing Material. If the Contractor wants to incorporate any Pre-existing materials in a custom Deliverable, the Contractor must disclose that desire to the State and obtain written approval from the State for doing so in advance. On the request of the Contractor, the State will incorporate any proprietary notice that Contractor may reasonably want for any Pre-existing Materials included in a custom Deliverable in all copies the State makes of that Deliverable.

Subject to the limitations and obligations of the State with respect to Pre-existing Materials, the State may make all custom Deliverables available to the general public without any proprietary notices of any kind.

- 5.3 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 must 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 may not disclose any Confidential Information to third parties and must use it solely to perform under this Contract.

If any Deliverables contain data, documentation, or other written information that is confidential in nature and properly labeled as such, then it also will be Confidential Information for purposes of this section. The State will keep all such Confidential Information in confidence and will not use it other than as authorized under this Contract. Nor will the State disclose any such Confidential Information to any third party without first obligating the third party to maintain the secrecy of the Confidential Information.

If one party discloses Confidential Information ("Disclosing Party") to the other party to this Contract ("Receiving Party"), the Receiving Party's obligation to maintain the confidentiality of the Confidential Information will not apply where such:

- (1) Was already in the possession of the Receiving Party without an obligation of confidence;
- (2) Is independently developed by the Receiving Party, provided documentary evidence exists to support the independent development;
- (3) Except as provided in the next paragraph, is or becomes publicly available without a breach of this Contract;
- (4) Is rightfully received by the Receiving Party from a third party without an 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 the disclosure and use of the Confidential Information solely for the purposes intended to be served by the original order of production.

Information that may be available publicly through other sources about people that is personal in nature, such as medical records, addresses, phone numbers, social security numbers, and similar things are nevertheless sensitive in nature and may not be disclosed or used in any manner except as expressly authorized in this Contract. Therefore, item (3) in the preceding paragraph does not apply, and the Contractor must treat such information as Confidential Information whether it is available elsewhere or not.

Except for Confidential Information that the Contractor delivers to the State and that is part of a Deliverable or necessary for the proper use or maintenance of a Deliverable, the Receiving Party must return all originals of any Confidential Information and destroy any copies it has made on termination or expiration of this Contract.

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 will be entitled to temporary and permanent injunctive relief to enforce the provisions of this Contract without the necessity of proving actual damages. However, provision does not diminish or alter any right to claim and recover damages.

- 5.4 **USE OF NAME.** The Contractor may not publicize that it is doing business with the State or use this Contract or the Contractor's relationship with the State as a marketing or sales tool, unless the State agrees otherwise in writing. The State has no obligation to agree to any such advertising, publicity, sales, or marketing activities.

6 - TRANSACTION REPORTING

- 6.1 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 must report the quarterly dollar value of sales to the State via the Internet using the Web form at the Office of Information Technology's vendor portal, <https://cm.ohio.gov>. If no sales occur, the Contractor must show zero sales on the report. The report must be submitted 30 days after the completion of 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.

- 6.2 Contractor's REVENUE SHARE.** The Contractor must pay the State a share of the sales transacted under this Contract. The Contractor must remit the revenue share in US dollars within 30 days after the end of the quarterly reporting period. The revenue share that the Contractor must pay equals .0075 of the total quarterly sales reported. The revenue share is included in the prices reflected on Exhibit I and reflected in the total amount charged to ordering activities, and the Contractor may not add a surcharge to orders under this Contract to cover the cost of the 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 Office of Information Technology. 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 State Term Contract 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
Office of Finance
30 East Broad Street, Suite 4060
Columbus, Ohio 43215 - 3414

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 setoff 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.

7 - WARRANTIES AND LIABILITIES

- 7.1 WARRANTIES.** The Contractor warrants that the recommendations, guidance, and performance of the Contractor and all Deliverables under this Contract will:

- (a) Be in accordance with the sound professional standards and the requirements of this Contract and without any material defects;
- (b) Not infringe on the intellectual property rights of any third party;
- (c) Be the work solely of the Contractor, unless otherwise provided in this Contract; and

- (d) Be merchantable and fit for the particular purpose for which the Deliverables were acquired.

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

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

If any work of the Contractor or any Deliverable fails to comply with these warranties, and the Contractor is so notified in writing, the Contractor must correct such failure with all due speed, not to exceed 30 days, or refund the amount of the compensation paid for the Deliverable. The Contractor also must indemnify the State for any direct damages and any claims by third parties based on any breach of these warranties.

7.2 SOFTWARE WARRANTY. If Exhibit I includes work to develop custom software as a Deliverable, then on delivery and for one year after the date of acceptance of any Deliverable that includes custom software, the Contractor warrants 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;
- (b) The software will be free of material defects;
- (c) The Contractor will deliver and maintain relevant and complete software documentation, commentary, and source code;
- (d) The source code language used to code the software is readily available in the commercial market, widely used and accepted for the type of programming involved, and support programming in the language is reasonably available in the open market; and
- (e) The software and all maintenance will be provided in a professional, timely, and efficient manner.

For Commercial Software developed by the Contractor or licensed from a third party, the Contractor represents and warrants that it either has the right or has obtained a binding commitment from the third party licensor to make the following warranties and commit to the following maintenance obligations. During the warranty period described in the next paragraph, the Contractor must:

- (a) Maintain or cause the third-party licensor to maintain the Commercial Software so that it operates in the manner described in its documentation;
- (b) Supply technical bulletins and updated user guides;
- (c) Supply the State with all updates, improvements, enhancements, and modifications to the Commercial Software and documentation and, if available, the commentary and the source code;
- (d) Correct or replace the software and remedy any material programming error that is attributable to the Contractor or the third-party licensor; and
- (e) Maintain or obtain a commitment from the third-party licensor to maintain the Commercial Software so that it will properly operate in conjunction with changes in the operating environment for which it was designed.

For Commercial Software designed for mainframe platforms and for Commercial Software designed for PC or PC-based servers and costing more than \$10,000.00 per license or per copy, the warranty period will be the longer of one year after acceptance or the licensor's standard warranty period. For Commercial Software designed for PC or PC-based servers and costing less than \$10,000.00 per license or per copy, the warranty period will be the longer of three months after acceptance or the licensor's standard warranty period. For PC and PC-based servers, the warranty will not include updates, improvements,

enhancements, or modifications to the Commercial Software and documentation, if such are not provided as part of the licensor's standard warranty or license fee.

Software documentation means well written, readily understood, clear, and concise instructions for the software's users as well as a system administrator. The software documentation must provide the users of the software with meaningful instructions on how to take full advantage of all of the capabilities designed for end users. It also means installation and system administration documentation for a system administrator to allow proper control, configuration, and management of the software. Source code means the uncompiled operating instructions. The Contractor must provide the source code in the language in which it was written and must include such commentary or annotations as would allow a competent programmer proficient in the source language to readily interpret the source code and understand the purpose of all routines and subroutines contained within the source code.

- 7.3 EQUIPMENT WARRANTY.** If any computer hardware or other type of electrical equipment ("Equipment") will be a part of any Deliverable, the following warranties apply. The Contractor warrants that the Equipment fully complies with all government environmental and safety standards applicable to the Equipment. The Contractor also warrants for the warranty period described in the next paragraph that the Equipment will perform substantially in accordance with its user manuals, technical materials, and related writings published by the manufacturer with respect to such Equipment, and that such Equipment will achieve any function described in such writings. The foregoing warranty will not apply to Equipment that the State modifies or damages after title passes to it. The warranty period for all Equipment will be the longer of one year after the State accepts the Equipment or the Contractor's standard warranty period.

If any Equipment does not meet the above warranties during the applicable warranty period, the Contractor must fix the nonconforming Equipment so it performs substantially in accordance with its user manuals, technical materials, and related publications, replace the Equipment, or grant the State a refund equal to the amount it paid for the Equipment. The Contractor must either fix or replace the Equipment or refund the purchase price to the State with all due speed, not to exceed seven days in the case of a fix or a replacement or 30 days in the case of a refund. The Contractor will be responsible for all shipping costs associate with fixing, replacing, or returning any defective equipment.

- 7.4 INDEMNITY.** The Contractor must 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 its performance under this Contract, provided such bodily injury or property damage is due to the negligence or other tortious conduct of the Contractor, its employees, agents, or subcontractors. The Contractor also must indemnify the State against any claim of infringement of a copyright, patent, trade secret, or other 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 will 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 of the following four things:

- (a) Modify the Deliverable so that it is no longer infringing;
- (b) Replace the Deliverable with an equivalent or better item;
- (c) Acquire the right for the State to use the Deliverable as it was intended for the State to use under this Contract; or
- (d) 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.

- 7.5 LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS CONTRACT OR ANYTHING INCORPORATED BY REFERENCE INTO THIS CONTRACT, THE PARTIES AGREE AS FOLLOWS:

- (a) NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND, INCLUDING BUT NOT LIMITED TO

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

- (b) THE CONTRACTOR WILL BE LIABLE FOR ALL DIRECT DAMAGES DUE TO THE FAULT OR NEGLIGENCE OF THE CONTRACTOR OR ITS BREACH OF ANY PROVISION OF THIS CONTRACT.

8 - MAINTENANCE

- 8.1 SOFTWARE MAINTENANCE.** If this Contract involves any custom software as a Deliverable, then during the warranty period, the Contractor must correct any material programming errors that are attributable to the Contractor within a reasonable time, provided the State notifies the Contractor, either orally or in writing, of a problem with the software and provides sufficient information to identify the problem. The Contractor's response to a programming error will depend upon the severity of the problem. In the case of programming errors that slow the processing of data by a small degree, render minor and non-critical functions of the System inoperable or unstable, or require users or administrations to employ workarounds to fully use the software, the Contractor must respond to requests for resolution within four business hours and begin working on a proper solution within one business day, dedicating the resources of one qualified programmer full-time to fixing the problem. In the case of any defects with more significant consequences, including those that render key functions of the software inoperable or significantly slow data processing, the Contractor must respond within two business hours of notification and, if requested, provide on-site assistance and dedicate all available resources to resolving the problem.

For Commercial Software other than PC or PC-based server software costing less than \$10,000.00 per copy or license, the Contractor must provide maintenance during the warranty period at no cost to the State. At a minimum, that maintenance must be the standard maintenance program that the licensor, whether the Contractor or a third party, normally provides to its client base. That maintenance program must include all new releases, updates, patches, and fixes to the Commercial Software. It also must include a commitment to keep the software current with the operating environment in which it is designed to function and a commitment to promptly correct all material defects in the software.

Additionally, the Contractor will make (or obtain a commitment from the third-party licensor to make) maintenance available for the software for at least five years after the warranty period. The Contractor will limit or obtain a commitment from the third-party licensor, if applicable, to limit increases in the annual fee for maintenance to no more than five percent annually. If the licensor, whether it is the Contractor or a third-party, is unable to provide maintenance during that period, then the licensor must do one of the following things: (a) give the State a *pro rata* refund of the license fee based on a five-year useful life; or (b) release the source code for the software to the State for use by the State solely for the purpose of maintaining any copies of the software for which the State has a proper license. The State will treat the source code as Confidential Information under the Confidentiality Section of this Contract. In the case of third-party Commercial Software, the Contractor warrants that it has legally bound the third-party licensor to the obligations of this Contract or that the Contractor has the right to make these commitments directly to the State.

For Commercial Software designed for PC or PC-based server platforms and costing less than \$10,000.00 per copy or license, the Contractor must provide the same maintenance and user assistance during the warranty period at no additional cost to the State as the Contractor or the third-party licensor makes generally available at no additional charge to its other customers.

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

- (a) The Contractor's (or third party licensor's) standard upgrade or migration fee;
- (b) The upgrade or migration fee in Exhibit I; or
- (c) The difference between the license fee originally paid and the then-current license fee for the license or version of the Commercial Software that the State seeks to acquire.

The foregoing will not apply to Commercial Software for PCs and PC-based server software with a license fee of less than \$10,000.00, unless the Contractor or third-party licensor makes upgrade packages available for the Commercial Software to other customers. If PC or PC-based server software upgrades are available, the State will be entitled to the most favorable license fee on which such are made available to other most favored customers or dealers, as appropriate.

8.3 EQUIPMENT MAINTENANCE. If this Contract involves computer or telecommunications hardware or other mechanical or electrical equipment ("Equipment") as a Deliverable, then, during the warranty period and during any period covered by annual maintenance, the Contractor must provide maintenance to keep the Equipment in or restore the Equipment to good working order. This maintenance must include preventative and remedial maintenance, installation of safety changes, and installation of engineering changes based upon the specific needs of the individual item of Equipment. This maintenance also must include the repair, replacement, or exchange deemed necessary to keep the Equipment in good working order. For purposes of this Contract, Equipment restored to good working order means Equipment that performs in accordance with the manufacturer's published specifications. The Contractor must use its best efforts to perform all fault isolation and problem determination attributed to the Equipment. The following services are outside the scope of this Contract:

- (a) Maintenance to bring the Equipment into compliance with any law, rule, or regulation, if such law, rule, or regulation was not in effect on the acceptance date;
- (b) Repair and replacement work or increase in maintenance time as a result of damage or loss resulting from accident, casualty, neglect, misuse, or abuse, if such is the State's fault (and beyond normal wear and tear), damage resulting from improper packing or failure to follow prescribed shipping instruction (if such is done by the State), failure of electrical power, air conditioning or humidity control, use of supplies not approved by the original manufacturer of the Equipment as describe in the Equipment's documentation, or causes other than ordinary use of Equipment;
- (c) Furnishing platens, supplies, or accessories, making specification changes, or adding or removing approved accessories, attachments, or other devices except as permitted in the Equipment's user documentation;
- (d) Maintenance or increased maintenance time resulting from any improper use, maintenance, or connection to other equipment (not done by the Contractor) that results in damage to the Equipment;
- (e) Repairs needed to restore the Equipment to good operating condition if the Equipment has been damaged by anyone other than the Contractor's authorized service personnel repairing, modifying, or performing maintenance on the Equipment.

8.4 EQUIPMENT MAINTENANCE STANDARDS. Except in the case of excusable delay, remedial Equipment maintenance by the Contractor will be completed within eight business hours after notification by the State that maintenance is required. In the case of preventative maintenance, the Contractor will perform such in accordance with the manufacturer's published schedule and specifications. If maintenance is not completed within eight hours after notification by the State, the Contractor will be in default. Failure of the Contractor to meet or maintain these requirements will provide the State with the same rights and remedies as specified elsewhere in this Contract for default, except that the Contractor will only have eight hours to remedy a default. The Contractor will provide adequate staff to provide the maintenance required by this Contract.

8.5 EQUIPMENT MAINTENANCE CONTINUITY. If the Contractor is unable to provide Equipment maintenance to meet the State's ongoing performance requirements and if, in the State's sole opinion, the Contractor is unlikely to resume providing warranty services that meets the State's ongoing performance requirement, the Contractor will be in default, and the State will be entitled to the remedies in the default section of this Contract. The State will also be entitled to the following items from the Contractor:

- (a) All information necessary for the State to perform the maintenance, including but not limited to logic diagrams, maintenance manuals, and system and unit schematics, with all changes noted;
- (b) A listing of suppliers capable of supplying necessary spare parts;
- (c) Adequate information to permit the State to have spare parts manufactured elsewhere; and
- (d) A listing of spare parts and their recommended replacement schedule to enable the State to create a centralized inventory of spare parts.

The State will treat as Confidential Information in accordance with the Confidentiality Section of this Contract any information in items (a) through (d) above that the Contractor rightfully identifies in writing as confidential. And when disclosure to a third-party is necessary for the State to continue the maintenance, the State will require any third-party to whom disclosure is made to agree to hold the Confidential Information in confidence and to make no further disclosure of it. Further, the State agrees that any such Confidential Information will be used solely to perform maintenance for the State and will be returned to the Contractor or destroyed when such use is no longer needed.

- 8.6 **PRINCIPAL PERIOD OF MAINTENANCE (GENERAL).** Software and Equipment maintenance must be available nine working hours per weekday, between 8:00 a.m. and 5:00 p.m. Eastern Standard Time. Travel time and expenses related to remedial and preventative maintenance will not be billable and must be included in the price of the maintenance.
- 8.7 **MAINTENANCE ACCESS (GENERAL).** For all Software and Equipment maintenance under this Contract, the State will provide the Contractor with reasonable access to the Deliverable to perform maintenance. All maintenance that requires a Deliverable to be inoperable must be performed outside the State's customary working hours, except when the Deliverable is already inoperable. Preventative or scheduled maintenance must be performed at mutually agreeable times, within the parameters of the manufacturer's published schedule.

9 - ASSIGNMENT AND SUBCONTRACTING

- 9.1 **ASSIGNMENT.** The Contractor may not assign this Contract without the written consent of the State, which the State will not be obligated to provide.
- 9.2 **SUBCONTRACTING.** The State recognizes that it may be necessary for the Contractor to use subcontractors to perform portions of the work under this Contract. In those circumstances, before the Contractor engages any such subcontractor, the Contractor must submit a list identifying its subcontractors or joint venture partners performing portions of the work under the Contract. If any changes to that list occur during the term of the Contract, the Contractor must immediately provide the State an updated list of subcontractors or joint venture business partners. In addition, all subcontractors and joint venture business partners must agree in writing to be bound by all of the terms and conditions of this Contract and any specifications of any order under this Contract for which they perform work. The State may reject any subcontractor submitted by the Contractor.

10 - CONSTRUCTION

- 10.1 **HEADINGS.** The headings used in this Contract are for convenience only and may not be used in interpreting this Contract.
- 10.2 **ENTIRE DOCUMENT.** This Contract, which includes the Contractor's pricelist attached as Exhibit I and all documents referred to in this Contract, constitutes the entire agreement between the parties with respect to the subject matter and supersedes any previous agreements, whether oral or written.
- 10.3 **BINDING EFFECT.** This Contract will be binding on and benefit the respective successors and assigns of the State and the Contractor.
- 10.4 **AMENDMENTS - WAIVER.** No amendment or modification of this Contract will be effective unless it is in writing and signed by both parties. The failure of either party at any time to demand strict performance by

the other party of any of the terms or conditions of this Contract may not be construed as a waiver of any those terms or conditions, and either party may at any time demand strict and complete performance by the other party.

- 10.5 SEVERABILITY.** If a court of competent jurisdiction finds any provision of this Contract to be unenforceable, the remaining provisions of this Contract will remain in full force and affect.
- 10.6 CONSTRUCTION.** This Contract must be construed in accordance with the plain meaning of its language and neither for nor against the drafting party.
- 10.7 NOTICES.** For any notice under this Contract to be effective, the noticing party must make it in writing and sent it to the address of the other party first appearing above, unless that party has notified the other party, in writing and in accordance with the provisions of this section, of a new mailing address for the receipt of notices. This notice requirement will not apply to any notices that this Contract expressly authorizes to be made orally.
- 10.8 CONTINUING OBLIGATIONS.** Any terms, conditions, representations, or warranties contained in this Contract that must survive termination or expiration of this Contract to be fully effective will survive the termination or expiration of the Contract. Additionally, termination or expiration of this Contract will not affect the State's right to continue to use any Deliverable for which it has paid, including licensed material. And no termination or expiration of the Contract will affect the State's right to receive maintenance, warranty work, or other services for which the State has paid.
- 10.9 PRIORITY.** If there is any inconsistency or conflict between this document and any provision of anything incorporated by reference, this document will prevail.
- 10.10 DAYS.** When this Contract refers to days, it means calendar days, unless it expressly provides otherwise.

11 - LAW AND COURTS

- 11.1 EEO.** The Contractor must comply with all Ohio laws regarding equal employment opportunity, including among others Code § 125.111, as well as all related Executive Orders of the Governor of Ohio.
- 11.2 DRUG FREE WORKPLACE.** The Contractor must comply with all Ohio laws regarding maintaining a drug-free workplace and make a good faith effort to ensure that all its employees do not possess and are not under influence of illegal drugs or alcohol or abuse prescription drugs while working on State property.
- 11.3 OHIO ETHICS LAW AND LIMITS ON POLITICAL CONTRIBUTIONS.** The Contractor certifies that it is currently in compliance and will continue to adhere to the requirements of the Ohio ethics laws. In accordance with Executive Order 2007-01S, the Contractor, by signature on this document, certifies: (1) it has reviewed and understands Executive Order 2007-01S, (2) has reviewed and understands the Ohio ethics and conflicts of interest laws, and (3) will take no action inconsistent with those laws and this order. The Contractor understands that failure to comply with Executive Order 2007-01S is, in itself, grounds for termination of this Contract and may result in the loss of other contracts or grants with the State. The Contractor hereby certifies that all applicable parties listed in Division (I)(3) or (J)(3) of Ohio Revised Code Section 3517.13 are in full compliance with Divisions (I)(1) and (J)(1) of Ohio Revised Code Section 3517.13.
- 11.4 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.
- 11.5 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.
- 11.6 UNRESOLVED FINDINGS.** The Contractor represents that it is not subject to an unresolved finding for recovery under Code § 9.24. If this warranty proves false when the parties sign this Contract, the Contract will be

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void. Additionally, if this representation proves false on the date of any renewal or extension of the Contract, the renewal or extension will be void.

11.7 TERROR DECLARATION. In accordance with R.C. 2909.33(C), Contractor certifies that it meets one of the following conditions:

(a) Contractor has not received, nor will receive as a result of this contract, an aggregate amount greater than one hundred thousand dollars (\$100,000) in business or funding, excluding personal benefits, from the state, instrumentalities, or political subdivisions during the current fiscal year;
or

(b)(1) Contractor has received, or will receive as a result of this contract, an aggregate amount greater than one hundred thousand dollars (\$100,000) in business or funding, excluding personal benefits, from the state, instrumentalities, or political subdivisions during the current fiscal year.
and,

(2) Contractor has either precertified with the Office of Budget and Management, or has completed the attached Declaration of Material Assistance form certifying that Contractor has not provided material assistance to any organization on the Terrorist Exclusion List, as that term is defined in R.C. 2909.21.

11.7 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.

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.

CONTRACTOR

BY: 

STATE OF OHIO,
OFFICE OF INFORMATION TECHNOLOGY

BY: 

R. STEVE EDMONSON
DIRECTOR, OFFICE OF INFORMATION TECHNOLOGY
STATE CHIEF INFORMATION OFFICER

DATE: 3-10-08

DATE: 3-19-08

Exhibit I

Position	GSA Hourly Price w/IFF	1 st Increase after 12 months	2 nd Increase after 12 months	3 rd Increase after 12 months
Project Manager	\$239.28	\$248.85	\$258.81	\$269.16
Senior Systems Analyst	\$138.78	\$144.33	\$150.10	\$156.11
Senior IT Consultant	\$124.43	\$129.41	\$134.58	\$139.97
IT Consultant	\$ 90.93	\$94.57	\$98.35	\$102.28
Network Administrator	\$105.28	\$109.49	\$113.87	\$118.43
Senior Database Administrator	\$148.35	\$154.28	\$160.46	\$166.87
Help Desk Technician/Customer Support	\$ 62.21	\$64.70	\$67.29	\$69.98
Help Desk Manager	\$ 86.14	\$89.59	\$93.17	\$96.90
GIS Specialist	\$ 90.93	\$94.57	\$98.35	\$102.28

Watch Systems

STATE TERM SCHEDULE

STATE OF OHIO
DEPARTMENT OF ADMINISTRATIVE SERVICES
GENERAL SERVICES DIVISION
OFFICE OF PROCUREMENT SERVICES
4200 SURFACE ROAD, COLUMBUS, OH 43228-1395

Index No: STS033
OAKS Contract ID: 534121
Category: IT Services
Rev Date: 04/06/2009

This state term contract may be used by any state agencies, as well as properly registered political subdivisions, as defined in Section 125.04(B) of the Revised Code. Additionally, state universities, vocational schools, community colleges, and other institutions of higher education may use this contract. But such use is subject to those entities meeting all requirements under their procurement authority. This is not a requirements contract, and no state agency or political subdivision is obligated to make purchases under it.

CONTRACT NUMBER 534121 (6/30/2009) Extended through 10/8/2012

CONTRACTOR, PRICES, TERM SCHEDULE, ETC.

P.O.'s To:

0000079671
Watch Systems
516 E. Rutland Road
Covington, LA 70433

Invoices From:

Same

Contractor's Contact:

Mr. Lou Luzynski Telephone: 985 871 8110 FAX: 985 871 8115 Email: lluzynski@watchsystems.com

Delivery:

F.O.B. Destination

Terms:

Net 30 Days

UNSPSC CODES:

All purchase orders placed against this contract shall list the following UNSPSC Codes for the respective items.

81110000 - Computer services

EFFECTIVE DATE:

This contract is effective from 3/20/2008 through 10/8/2012, unless extended. Use the contractor's contact information above to obtain information, approved literature, and certification letter.

APPROVED PRODUCTS/SERVICES:

Only those vendors, products, and services listed in the price pages, approved by the Department of Administrative Services, may be purchased from this contract. The terms and conditions of this contract may not be modified by any ordering document issued under it.

Last Addendum: 1