Commonwealth of Virginia
Virginia Information Technologies Agency

STATEWIDE HARDWARE AND MAINTENANCE CONTRACTS

Date:	November 13, 2009
Contract #:	VA-071116-KNOW
Authorized User:	State agencies, institutions, and other public bodies, as defined in the Virginia Public Procurement Act.
Contractor:	Knowledge Information Solutions, Inc. 2877 Guardian Lane, Suite 201 Virginia Beach, VA 23452
FIN:	54-2059329
Contact Person:	Terry Kreamer Voice: 757-463-0033 Fax: 757-463-3971 Email: Terry.kreamer@kisinc.net
Term:	November 16, 2009 – November 15, 2010
Payment:	Net 30 days

For Additional Contract Information, Please Contact:

Virginia Information Technologies Agency
Supply Chain Management

Greg Scearce
Strategic Sourcing Specialist
Phone: 804-416-6166
E-Mail: gregory.scearce@vita.virginia.gov
Fax: 804-416-6163

NOTES: Individual Commonwealth of Virginia employees are not authorized to purchase equipment or services for their personal use from this Contract.

For updates, please visit our Website at http://www.vita.virginia.gov/procurement/contracts.cfm

VIRGINIA INFORMATION TECHNOLOGIES AGENCY (VITA): Prior review and approval by VITA for purchases in excess of $100,000.00 is required for State Agencies and Institutions only.

VA-071116-KNOW

CONTRACT CHANGE LOG

Change No.	Description of Change	Effective Date
1	Correct supplier's contact information	1/29/08
2	Mod 1 extends contract term	11/16/08
3	Mod 2 extends contract term	11/16/09

MODIFICATION #2
TO
CONTRACT NUMBER VA-071116-KNOW
BETWEEN THE
COMMONWEALTH OF VIRGINIA
AND
KNOWLEDGE INFORMATION SOLUTIONS, INC.

This MODIFICATION #2 is an agreement between the Commonwealth of Virginia, hereinafter referred to as "State" or "Commonwealth" or "VITA" (Virginia Information Technologies Agency), and KNOWLEDGE INFORMATION SOLUTIONS, INC., hereinafter referred to as "Contractor" relating to the modification of the above Contract. This Modification #2 is hereby incorporated into and made an integral part of Contract VA-071116-KNOW (the Agreement), as modified.

Modification #1 allows for an extension to the above referenced contract

The term of the contract is extended under the same terms for the period beginning November 16, 2009 through November 15, 2010.

The foregoing is the complete and final expression of the parties' agreement to modify Contract VA-071116-KNOW and cannot be modified, except by a writing signed by duly authorized representatives of both parties.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

PERSONS SIGNING THIS CONTRACT ARE AUTHORIZED REPRESENTATIVES OF EACH PARTY TO THIS CONTRACT AND ACKNOWLEDGE THAT EACH PARTY AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THE CONTRACT.

KNOWLEDGE INFORMATION SOLUTIONS, INC.	COMMONWEALTH OF VIRGINIA
BY: Terry Kreamer	BY:
NAME: Terry Kreamer	NAME: GREGORY H. SCEARCE
TITLE: CFO	TITLE: STRATEGIC SOURCING SPECIALIST
DATE: 6 November 2009	DATE: 11. 12. 2009

MODIFICATION #1
TO
CONTRACT NUMBER VA-071116-KNOW
BETWEEN THE
COMMONWEALTH OF VIRGINIA
AND
KNOWLEDGE INFORMATION SOLUTIONS, INC.

This MODIFICATION #1 is an agreement between the Commonwealth of Virginia, hereinafter referred to as "State" or "Commonwealth" or "VITA" (Virginia Information Technologies Agency), and KNOWLEDGE INFORMATION SOLUTIONS, INC., hereinafter referred to as "Contractor" relating to the modification of the above Contract. This Modification #1 is hereby incorporated into and made an integral part of Contract VA-071116-KNOW (the Agreement), as modified.

Modification #1 allows for an extension to the above referenced contract

The term of the contract is extended under the same terms for the period beginning November 16, 2008 through November 15, 2009.

The foregoing is the complete and final expression of the parties' agreement to modify Contract VA-071116-KNOW and cannot be modified, except by a writing signed by duly authorized representatives of both parties.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

PERSONS SIGNING THIS CONTRACT ARE AUTHORIZED REPRESENTATIVES OF EACH PARTY TO THIS CONTRACT AND ACKNOWLEDGE THAT EACH PARTY AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THE CONTRACT.

KNOWLEDGE INFORMATION SOLUTIONS, INC.	COMMONWEALTH OF VIRGINIA
BY:	BY:
NAME: DAVID TESTA	NAME: Gregory Scearce
TITLE: VP PRODUCT	TITLE: Strategic Sourcing Specialist
DATE: 10/20/08	DATE: 11-3-08

Hardware and Maintenance Contract

between

The Virginia Information Technologies Agency

on behalf of

The Commonwealth of Virginia

and

KNOWLEDGE INFORMATION SOLUTIONS, INC.

HARDWARE AND MAINTENANCE CONTRACT
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HARDWARE AND MAINTENANCE CONTRACT

THIS HARDWARE AND MAINTENANCE CONTRACT ("Contract") is entered into by and between the Virginia Information Technologies Agency (hereinafter referred to as "VITA"), pursuant to §2.2-2012 of the Code of Virginia and on behalf of the Commonwealth of Virginia, and Knowledge Information Solutions, Inc. ("Supplier") to be effective as of _____, 20__ ("Effective Date").

1. PURPOSE

This Contract sets forth the terms and conditions under which Supplier agrees to sell or rent certain of Supplier's Product, and to provide various Services to the Authorized Users.

2. DEFINITIONS

A. Acceptance

Acceptance shall occur upon receipt of product or when installation has been completed as requested by an Authorized User.

B. Authorized Users

All Public Bodies, including VITA and all Commonwealth agencies, as defined by §2.2-4301 and referenced by §2.2-4304 of the Code of Virginia.

C. Confidential Information

Any confidential or proprietary information of a Party that is disclosed in any manner, including oral or written, graphic, machine readable or other tangible form, to any other Party in connection with or as a result of discussions related to this Contract or any order issued hereunder, and which at the time of disclosure either (i) is marked as being "Confidential" or "Proprietary", (ii) is otherwise reasonably identifiable as the confidential or proprietary information of the disclosing Party, or (iii) under the circumstances of disclosure should reasonably be considered as confidential or proprietary information of the disclosing Party.

D. Maintenance Coverage Period (MCP)

The term during which Maintenance is to be provided for a unit of Product.

E. Maintenance Services (or Maintenance)

Those Services, preventive and remedial, performed by Supplier at Authorized User's request in order to ensure continued operation of the purchased Product. Maintenance Services shall include support services.

F. Operating Condition

That condition which allows the Product to function in a normal, acceptable working manner, as designed by the Product manufacturer.

G. Party

Supplier, VITA, or any Authorized User.

H. Product

Hardware, peripherals, and any other equipment, including the System Software, all upgrades, all applicable user documentation and related accessories as set forth on Exhibit C provided pursuant to this Contract. Documentation may include but is not limited to: users' guides, operations manuals with part lists, copies of all applicable warranties, and any other pertinent information necessary for the proper operation and maintenance of the hardware, software, and accessories.

I. Receipt (of Product)

An Authorized User or its Agent has physically received the Product at the correct "ship to" location.

J. Rental Services
Those Services, preventive and remedial, performed by Supplier at Authorized User's request in order to ensure continued operation of the rented Product. Rental Services shall include support services.

K. Rental Term
The twelve (12) month or thirty-six (36) month time period, beginning at Acceptance, and any extension(s) thereto allowable pursuant to this Contract, and except as cancelled or terminated in accordance with this Contract, during which Supplier rents a unit of Product to the Authorized User.

L. Requirements
The functional, performance, operational, compatibility, and other parameters and characteristics of the Product described in the applicable documentation, Product manufacturer's specifications, Exhibit A and such other parameters, characteristics, or performance standards for the Product that may be agreed upon in writing by VITA and Supplier or the Parties to an order issued hereunder.

M. Service
Any Product-related service provided, by Supplier under this Contract, including certain Maintenance and Rental Services for the Product.

N. Software Publisher
The licensor of the System Software provided by Supplier under this Contract.

O. Supplier
Includes any individual who is an employee, agent, sub-contractor, or independent contractor of Supplier to provide Products and/or Services under this Contract.

P. System Software
The operating system code, including software, firmware and microcode, (object code version) for each Product, including any subsequent revisions, as well as any applicable documentation.

Q. VITA
Virginia Information Technologies Agency, an agency of the Commonwealth of Virginia pursuant to Chapter 20.1 (§§2.2-2005 et seq.) of the Code of Virginia.

R. Warranty Period
One (1) year following Acceptance of each unit of Product for purchase or any component part.

3. TERM AND TERMINATION

A. Contract Term
This Contract is effective and legally binding as of the Effective Date and, unless terminated as provided for in this section, shall continue to be effective and legally binding for a period of one (1) year. VITA, at its sole discretion, may extend this Contract for up to four (4) additional one (1) year periods after the expiration of the initial one (1) year period. VITA will issue a written notification to the Supplier stating the extension period, not less than thirty (30) days prior to the expiration of any current term. Warranty on or Maintenance Services for any Product ordered during the term of the Contract may extend beyond the term of this Contract. In addition, the Rental Term for a unit of Product may extend beyond the term of this Contract. Expiration of the term of the Contract shall not affect any perpetual license granted hereunder.

B. Termination for Convenience
VITA may terminate this Contract, in whole or in part, or any order issued hereunder, in whole or in part, or an Authorized User may terminate for convenience an order, in whole or in part, upon not less than thirty (30) days prior written notice at any time for any reason ("Termination for Convenience"). In addition, VITA may immediately terminate this Contract, in whole or in part, or any order issued hereunder, if Supplier becomes a party excluded from Federal Procurement and Nonprocurement Programs. VITA shall provide written notice to Supplier of such termination, and Supplier shall provide written notice to VITA if federal debarment proceedings are instituted

against Supplier. Supplier shall submit any contractual or order dispute to VITA or the terminating Authorized User for resolution according to the terms of the Dispute Resolution Section of this Contract. Upon termination, neither the Commonwealth, nor VITA, nor any Authorized User shall have any future liability except for (i) Services rendered by Supplier prior to the termination date, (ii) for Product ordered for purchase or delivered by Supplier pursuant to an order for Maintenance Services, Product accepted by the Authorized User prior to the termination date, and (iii) for rented Product, rental fees in accordance with the Termination of Rental Orders section. Return of any rented Product or unused supplies shall be at the Authorized User's expense, unless termination is due to Supplier's status as a party excluded from Federal Procurement and Non-procurement Programs in which case return of such Product or supplies shall be at Supplier's expense. Termination of this Contract or any order shall not affect any perpetual license granted pursuant to this Contract, provided all fees for such license have been paid.

C. Termination for Breach or Default

VITA shall have the right to terminate this Contract, in whole or in part, or any order issued hereunder, in whole or in part, or an Authorized User may terminate an order, in whole or in part, for breach and/or default of Supplier ("Termination for Breach" or "Termination for Default"). Supplier shall be deemed in breach and/or default in the event that Supplier fails to meet any material obligation set forth in this Contract or in any order issued hereunder.

If VITA or an Authorized User deems the Supplier to be in breach and/or default, VITA or the Authorized User shall issue a "Show Cause Notice" identifying the failure/non-performance and providing Supplier fifteen (15) days to cure the failure/nonperformance. If Supplier fails to answer the Show Cause Notice, or does not correct the deficiencies noted, VITA may immediately terminate this Contract or any order issued hereunder, in whole or in part, or the Authorized User may immediately terminate its order, in whole or in part. Such termination shall be deemed a Termination for Breach or a Termination for Default. In addition, if Supplier is found by a court of competent jurisdiction to be in violation of or to have violated 31 USC 1352, VITA may immediately terminate this Contract, in whole or in part, for breach. VITA shall provide written notice to Supplier of such termination, and Supplier shall provide written notice to VITA if Supplier is charged with violation of 31 USC 1352.

Upon Termination for Breach or Termination for Default, neither the Commonwealth, nor VITA, nor any Authorized User shall have any future liability except for (i) Services rendered by Supplier and accepted by the Authorized User prior to the termination date, (ii) for Product ordered for purchase or delivered by Supplier pursuant to an order for Maintenance Services, Product delivered by Supplier and accepted by the Authorized User prior to the termination date, and (iii) for rented Product, rental fees through the termination date or the last month in which performance of the rented Product was accepted by the Authorized User, whichever is earlier. Supplier shall accept return of any Product ordered for purchase or delivered by Supplier pursuant to an order for Maintenance Services that was not accepted by the Authorized User(s) and any Product rented by the Authorized User(s), and Supplier shall refund any monies paid for such Product purchased or Product delivered by Supplier pursuant to an order for Maintenance Services and any advance payment for such rented Product. All costs of de-installation and return of Product shall be borne by Supplier.

The failure of VITA or an Authorized User to exercise its right to terminate for breach and/or default under this provision shall not be construed as a waiver of its right to terminate for breach and/or default, rescind or revoke this Contract or any order issued hereunder in the event of any subsequent breach and/or default of any provisions of such agreements.

Supplier shall submit any contractual dispute or order dispute to VITA or the terminating Authorized User for resolution according to the terms of the Dispute Resolution Section.

The terms of the Termination for Convenience and Termination for Breach or Default Sections shall not apply to termination for non-appropriation of funds.

[Termination by Supplier will not be considered.]

D. Transition of Services

Prior to or upon expiration or termination of this Contract and at the request of VITA, Supplier shall provide all assistance as VITA or an Authorized User may reasonably require to transition Product-related Services to any other supplier with whom VITA or such Authorized User contracts for provision of Product-related services. This obligation may extend beyond expiration or termination of the Contract for a period not to exceed six (6) months. In the event of a termination for breach and/or default of Supplier or a termination due to Supplier's status as a party excluded from Federal Procurement and Non-procurement Programs, Supplier shall provide such assistance at no charge or fee to VITA or any Authorized User; otherwise, Supplier shall provide such assistance at a reasonable hourly rate or a charge agreed upon by Supplier and VITA or an Authorized User.

4. PURCHASE, DELIVERY, INSTALLATION AND ACCEPTANCE

A. Orders

Notwithstanding all Authorized User's rights to license, rent, or purchase Supplier's products or services under this Contract, an Authorized User is under no obligation to license, rent, or purchase from Supplier any of Supplier's products or services. This Contract is optional use and non-exclusive and all Authorized Users may, at their sole discretion, purchase, rent, license or otherwise receive benefits from third party suppliers of products and services similar to, or in competition with, the products and services provided by Supplier.

Supplier is required to accept any order placed by an Authorized User through the eVA electronic procurement website portal (http://www.eva.state.va.us). eVA is the Commonwealth of Virginia's e-procurement system. State agencies, as defined in §2.2-2006 of the Code of Virginia, shall order through eVA. All other Authorized Users are encouraged to order through eVA, but may order through the following means:

i). Purchase Order (PO): An official PO form issued by an Authorized User.

ii). Any other order/payment charge or credit card process, such as AMEX, MASTERCARD, or VISA under contract for use by an Authorized User.

This ordering authority is limited to issuing orders for the Products and Services available under this Contract. Under no circumstances shall any Authorized User have the authority to modify this Contract. An order from an Authorized User may contain additional terms and conditions; however, to the extent that the terms and conditions of the Authorized User's order are inconsistent with the terms and conditions of this Contract, the terms of this Contract shall supersede.

Notwithstanding the foregoing, Supplier shall not accept any order from an Authorized User if such order is to be funded, in whole or in part, by federal funds and if, at the time the order is placed, Supplier is not eligible to be the recipient of federal funds as may be noted on any of the Lists of Parties Excluded from Federal Procurement and Non-procurement Programs.

ALL CONTRACTUAL OBLIGATIONS UNDER THIS CONTRACT IN CONNECTION WITH AN ORDER PLACED BY ANY AUTHORIZED USER ARE THE SOLE OBLIGATION OF SUCH AUTHORIZED USER AND NOT THE RESPONSIBILITY OF VITA UNLESS SUCH AUTHORIZED USER IS VITA.

B. Connectivity Site Survey

Prior to issuing an order, an Authorized User may request Supplier's assistance in conducting a connectivity site survey to ensure proper selection of all accessories required for installation and utilization of the connectivity.

A survey will address the following categories:

i). Network type

ii). Network protocols

iii). Network cabling

iv). Network operating systems

v). Memory

vi). Client operating systems

vii). Software applications that will used for printing to the connected Product

viii). Mainframe printing

ix). Scanning

x). Faxing

C. Supplier Quote and Request for Quote

Supplier shall, upon request of an Authorized User, provide a quote based on such Authorized User's specific Product and Service requirements. Such quote should include (a) a detailed description of each item proposed, at the Exhibit C line item level, (b) the quantity of each such item, (c) the contract price, and (d) an extended price. Authorized User may request quotes for both purchase and rental of Product. Any purchase or rental from Supplier resulting from such quote shall be subject to the terms and conditions specified and outlined in this Contract and any subsequent modifications. The Authorized User may request additional terms and conditions subject to mutual agreement of Supplier. To the extent that any terms and conditions of the Authorized User are inconsistent with the terms and conditions of this Contract, the terms and conditions of this Contract shall supersede.

Should an Authorized User determine that a competitive process is required to ensure it receives the best value, such Authorized User may, at its sole discretion, on a case-by-case basis and upon approval by VITA, use a Request for Quote (RFQ) process to obtain products and services identical or similar to those provided by Supplier pursuant to this Contract. The RFQ process is typically used when an Authorized User requires a complete solution that may be fulfilled by Products and Services herein, but whose complexity or size may result in economies that could not be passed on to the Authorized User within the confines of the established contract catalog discount pricing. When an RFQ is used, the project timing and requirements will be clearly outlined in the RFQ document. In some situations, the Authorized User may not identify the exact specifications required. If that is the case, the RFQ respondents will be given the opportunity to identify and propose their recommended specifications.

In cases where the RFQ process is invoked, the Authorized User will issue an RFQ describing its requirements to potential suppliers, and suppliers will provide, within the timeframe specified in the RFQ, a detailed quote. Any quote submitted to the Authorized User as a result of this process shall include (a) a detailed description of each item proposed, at the Exhibit C line item level, (b) the quantity of each such item, (c) the contract price, (d) any additional percentage discount offered, and (e) an extended/total price. Authorized User may request quotes for both purchase and rental of Product. Unless otherwise agreed by Supplier, such quote(s) shall apply only to the Authorized User issuing the RFQ and Supplier shall not be obligated to offer the same price(s) to any other Authorized User.

Generally, the Authorized User will select the supplier offering the lowest total cost proposal. However, non-price factors may be included in the evaluation criteria for a given RFQ. Any purchase or rental from Supplier that is a result of the RFQ process shall be subject to the terms and conditions specified and outlined in this Contract and any subsequent modifications. Additional terms and conditions may be requested or mandated within the RFQ document. To the extent that any terms and conditions of the Authorized User are inconsistent with the terms and conditions of this Contract, the terms and conditions of this Contract shall supersede.

D. Trial Period

At the Authorized User's request, Supplier shall provide Authorized User a unit of Product for a thirty (30) day trial period. If a unit of Product is offered for a trial period the Authorized User shall issue an order for the monthly rental rate of that unit of Product and state that such order is for a thirty (30) day trial. The trial period shall start when the Supplier has completed installation and has made the unit of Product ready for normal use. If during such trial period the unit is deemed to be unacceptable by the Authorized User, the Authorized User may cancel the order and Supplier shall remove such unit at no cost to such Authorized User.

Following the trial period, Authorized User may, at its option, continue or discontinue use of Supplier's Product. Should Authorized User elect to purchase or rent Supplier's Product, Authorized User shall issue an order for purchase or rental of the Product, and Supplier shall credit the trial period price charged to the Authorized User toward the purchase or rental of the unit. If the trial unit provided to such Authorized User was a new unit, the Authorized User shall retain such unit at its location; however, if the trial unit provided to such Authorized User was a demonstration unit (i.e., one which had made any number of copies prior to installation), Supplier shall remove the demonstration unit and deliver a new unit upon receipt of Authorized User's order for purchase or rental of Supplier's Product. Should Authorized User elect to discontinue use of Supplier's Product, Authorized User shall so notify Supplier and Supplier shall de-install and remove the trial unit from the Authorized User's premises at no additional cost to the Authorized User.

E. Delivery Procedure

Supplier shall deliver all Product F.O.B. destination, inside delivery, with such destination being the "ship to" address specified in the applicable order. Supplier shall bear all risk of loss of or damage to the Product until Receipt for self-installed items, and upon Acceptance by the Authorized User for items requiring installation once installation is complete. Supplier shall arrange and pay for all transportation and insurance sufficient to fully protect the Product while in transit. Each shipment shall include a packing slip indicating this Contract number, the Authorized User's order number, the part number, a description of the Product shipped and the quantity shipped. Each package in any shipment shall be numbered, shall have stenciled on one end and one side a description of the quantity of Product contained therein by part number and description, and shall conspicuously display the number of the package in that shipment which contains the packing slip. If required by the Authorized User, Supplier shall bar code all packages shipped. If any loss to, or damage of, the Product occurs prior to Acceptance by the Authorized User, Supplier shall immediately provide a replacement item.

Upon delivery of hardware Product, Supplier shall conduct a demonstration of such Product in the presence of the Authorized User's representative to verify that such Product is fully operational and is in compliance with the Product manufacturer's specifications. Any deficiencies shall be promptly and permanently corrected prior to final Acceptance.

Title to consumable supplies shall pass upon delivery, and title to all purchased Product, excluding System Software, shall pass upon Acceptance.

For each Authorized User, Supplier shall make available all appropriate and/or related user documentation at the time of delivery of the first unit of each different Product type. Hardware Product delivered without the appropriate and required documentation shall be considered "shipped short" until the applicable documentation has been received.

F. Price and Price Protection

As consideration for the Products purchased hereunder, the Authorized User shall pay Supplier the Supplier's list price (as posted on Supplier's publicly available website) less the percentage discount(s) set forth in Exhibit C. Supplier shall make available for purchase whole units of Product and repairable major components thereof. The percentage discount(s), or greater discount(s), shall be applicable throughout the term of this Contract, including any extensions thereto. Additionally, Exhibit C sets forth the purchase price and for Maintenance Services for all Product.

Monthly rental prices for Product are identified in Exhibit C. Product rental and Maintenance prices shall not increase for a period of not less than one (1) year from the Effective Date of this Contract. Thereafter, any increase in price shall be limited to once per twelve (12) month period and shall not exceed the lesser of three percent (3%) or the annual increase in the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, for the expenditure category "Information technology, hardware and services" as published by the Bureau of Labor Statistics of the Department of Labor (http://www.bls.gov/), for the effective date of the increase compared with the same index one (1) year prior. Supplier shall demonstrate the added value for any requested price increase. Any change in price shall be submitted to all Authorized Users in writing in accordance with the above and shall not become effective for sixty (60) days thereafter. Semi-

annually, VITA may check the prices for Product rental and Maintenance against the CPI-U, as defined above, for the expenditure category "Information technology, hardware and services", and the prices in Exhibit C shall be appropriately reduced to ensure continued price competitiveness, if required. Supplier agrees to offer increased Product discounts and Service and rental price reductions to ensure compliance with the Competitive Pricing Section.

G. Invoice Procedure

Supplier shall remit each invoice to the "bill-to" address provided with the order promptly after all purchased Products or Services have been accepted. Payment for rented product shall be monthly in arrears and payment for Maintenance Services shall be annually in arrears unless otherwise stated herein. No invoice shall include any costs other than those identified in the executed order, which costs shall be in accordance with Exhibit C. Without limiting the foregoing, all shipping costs are the Supplier's responsibility except to the extent such charges are identified in Exhibit C, or as noted in any executed order referencing this Contract. Invoices issued by the Supplier shall identify at a minimum:

i). Product or Service type and description

ii). Product serial number, if any

iii). Quantity, charge and extended pricing for each Product and/or Service item

iv). Applicable order date

v). Ship date

vi). Ship-to location contact name

vii). This Contract number and the applicable order number

viii). Supplier's Federal Employer Identification Number (FEIN).

Supplier shall submit separate invoices for the Maintenance charges (detailing the Product types and quantities by Authorized User site), for billable additional services, and for any billable installation services, including the appropriate Product Service Record or other agreed upon written instrument. Additional invoices may be required by Authorized User from time to time detailing charges for Product at affiliate locations by corporate department.

Any terms included on Supplier's invoice shall have no force or effect and will in no way bind VITA or any Authorized User.

H. Payment Terms

All payment obligations under this Contract are subject to the availability of legislative appropriations at the federal, state, or local level, for this purpose. In the event of non-appropriation of funds, irrespective of the source of funds, for the items under this Contract, VITA may, without penalty, terminate this Contract, in whole or in part, or any order, in whole or in part, or an Authorized User may, without penalty, terminate an order, in whole or in part, for those products or services for which funds have not been appropriated. Written notice will be provided to the Supplier as soon as possible after legislative action is completed. Termination for lack of appropriations shall not affect any perpetual license granted pursuant to this Contract, provided all fees for such license have been paid.

Supplier is responsible for the accuracy of its billing information. Supplier agrees not to issue invoices hereunder until Product has been delivered charges for Product or Services accepted more than ninety (90) days prior to receipt of a valid invoice may not be paid. Should Supplier repeatedly over bill Authorized User, Authorized User may assess a one percent (1%) charge for the amount over billed for each month that such over billing continues.

Product shipped without the applicable documentation may not meet Acceptance criteria, and payment shall not be due until after the required documentation is provided.

If there are any disputed items, an Authorized User shall pay all undisputed charges and promptly notify Supplier in writing of any disputed amount. Supplier shall thereupon review its records, and, if it does not concur with the Authorized User, provide the Authorized User with documentation to support the charge. If such charges remain in dispute, such dispute shall be resolved in

accordance with the Dispute Resolution section of this Contract. In the absence of the Supplier's written evidence identifying the merit of the disputed amounts, Authorized User may not pay the disputed amounts and may consider the matter concerning the specific identified amounts closed. All payment terms are net 30 days after Acceptance.

I. Product Trade-in and Upgrade

An Authorized User and Supplier may negotiate trade-ins at any time during the contract term.

J. Purchase of Rented Product

TBD based on Supplier proposal

K. Product Installation

Unless otherwise agreed, Supplier shall provide the initial installation of all Product at no additional charge. Installation shall include: unpacking, removal of all shipping/packing materials, positioning, connecting to internal utility services, testing, related necessary services to allow for Acceptance by the Authorized User. Any additional handling (special rigging) which may be required for installation will be at the Authorized User's expense. The Supplier shall provide quotes specifying rigging charges, if any, to the Authorized User prior to processing such Authorized User's order. All crating and other debris must be removed from the premises by the Supplier. Special rigging is defined as special equipment needed to deliver Product to the installation location, beyond normal means of loading docks, ramps, and elevators.

All Product installations shall comply with building and facilities standards established by the ordering Authorized User. If such Authorized User installs the Product, Supplier shall provide all reasonably necessary telephone assistance at no charge.

Authorized User shall ensure that the space selected for installation is of adequate size for proper installation and use of the Product. Authorized User shall provide proper electrical outlet, pre-tested active network drop and cabling if required, and phone lines for faxing if required.

Supplier shall perform complete installation and verify operation of all Products. Installation shall be performed within sixteen (16) business hours after notification to the Supplier by the Authorized User that the Product has been delivered. If the Authorized User has not provided proper cabling for connecting the unit of Product to Authorized User's network, Supplier shall install the Product to a standalone configuration. Once the Authorized User has provided such cabling, Supplier shall complete the connected installation within sixteen (16) business hours after notification to the Supplier by the Authorized User.

Supplier shall provide drivers and System Software to the Authorized User to load to the network. At a minimum the Supplier shall install end user software to one (1) desktop station. Supplier shall demonstrate a successful copy/print/scan/fax from the unit of Product and desktop station.

L. Product Acceptance

This Product Acceptance Section shall apply to Product ordered for purchase or rental and not to Product provided by Supplier pursuant to Maintenance Services or rental-related Services.

Product shall be deemed accepted when the ordering Authorized User determines that such Product successfully operates in accordance with the Requirements. Such Authorized User shall commence Acceptance testing within fifteen (15) days after Receipt/installation of the Product. Acceptance testing will be no longer than twenty (20) days, or such longer period as may be agreed in writing between Authorized User and Supplier. Supplier agrees to provide to the Authorized User such assistance and advice as the Authorized User may reasonably require, at no additional cost, during such Acceptance testing, other than pre-approved travel expenses incurred which are reimbursable by the Authorized User at the then-current per diem amounts as published by the Virginia Department of Accounts. Any such travel expenses must be pre-approved by the Authorized User and shall be reimbursable by such Authorized User at the then-current per diem amounts as published by the Virginia Department of Accounts (http://www.doa.virginia.gov/Admin_Services/CAPP/CAPP_Topics/20335_1206.pdf, or a successor URL(s)). Authorized User shall provide to Supplier written notice of Acceptance upon successful Acceptance testing.

M. Cure Period

This Cure Period Section shall apply to Product ordered for purchase or rental and not to Product provided by Supplier pursuant to Maintenance Services or rental-related Services.

Supplier shall correct any non-conformities identified hereunder and shall thereafter re-submit such previously non-conforming Product for re-testing within fifteen (15) days of written notice of non-conformance, or as otherwise agreed between the Authorized User and Supplier. In the event that Supplier fails to deliver Product which meets the Requirements, such Authorized User may, in its sole discretion: (i) reject the Product in its entirety and recover amounts previously paid hereunder; (ii) issue a "partial Acceptance" of the Product with an equitable adjustment in the price to account for such deficiency; or (iii) conditionally accept the applicable Product while reserving its right to revoke Acceptance if timely correction is not forthcoming.

N. Product Discontinuation

During the term of this Contract, if any Product listed on Exhibit C is discontinued and Supplier does not offer a substitute acceptable to VITA, Supplier shall, for each Authorized User who purchased the discontinued Product, continue to meet such Authorized User's needs for the discontinued Product for not less than the remainder of term of lease, or in the case of a purchase, 36 months after date of purchase. Additionally, Supplier shall make available to the Authorized User maintenance parts and supplies for discontinued Product for same. In every event, Supplier will provide any Authorized User with 120 days advance written notice of its intent to discontinue any Product type previously ordered by such Authorized User. If Supplier discontinues support for a rented unit of Product, Supplier shall replace such unit of Product with a supported unit of Product of equal or greater functionality, at no increase in cost to the Authorized User.

O. Product Transfer

Rented Product may be transferred, at Authorized User's expense, to any other Authorized User upon thirty (30) days written notice to Supplier without the loss of any earned equity or rental credit, provided the transferee agrees to all obligations of the Product rental as set forth herein and in the applicable order. Maintenance on purchased Product may be transferred among Authorized Users in accordance with a transfer of the Product, provided Supplier is notified of such transfer so as to affect a transfer of Maintenance Services. If a Product transfer requires Supplier to provide installation Services, Supplier shall provide such Services at the prices set forth in Exhibit C.

P. Supplier's Report of Sales and Industrial Funding Adjustment

By the 10th day of every month, the Supplier shall submit the "Supplier Monthly Report of Sales". A template showing the format in which the report is to be submitted and contact information for submission is available at http://www.vita.virginia.gov/procurement/supplierResources.cfm under "Supplier Reporting". The report shall be submitted via electronic mail to the VITA IFA Coordinator and shall report total sales (defined for purposes of this report as all invoiced payments received by Supplier from all Authorized Users) for this Contract during the preceding month. Supplier shall be responsible for submitting the monthly report of sales even if Supplier has had no sales (i.e., a $0.00 total sales value) for the reporting period.

The Supplier shall submit the Industrial Funding Adjustment (IFA) payment for the period covered by such "Supplier Monthly Report of Sales" within thirty (30) days after submitting the "Supplier Monthly Report of Sales". The IFA payment is equal to two percent (2%) of total sales reported during the relevant month.

The IFA payment shall be submitted to VITA, Attention VITA Controller in the form of a check or electronic payment, made payable to the Treasurer of Virginia. The IFA payment shall reference this Contract number, "report amounts", and "report period" and shall be accompanied by a copy of the relevant "Supplier Monthly Report of Sales". Contact information for submission of IFA payments is available at http://www.vita.virginia.gov/procurement/supplierResources.cfm under "Supplier Reporting".

Failure to comply with reporting, payment and distribution requirements of this section may result in default of the Contract.

Q. Small, Woman, and Minority-Owned Business (SWaM) Participation

Supplier and VITA agree to meet promptly after the Effective Date of this Contract to discuss the participation of Virginia Department of Minority Business Enterprise (DMBE)-certified Small Businesses including small businesses owned by service-disabled veterans as subcontractors and second-tier suppliers under this Contract.

Supplier and VITA agree to meet annually thereafter to review small business subcontracting reports and discuss further action with respect to small business subcontracting and spend.

In addition, by the 10th day of every month, Supplier shall submit to VITA the Small Business Subcontracting Monthly Report (template to be provided). Supplier's report should include spend on all Supplier's contracts with second-tier suppliers which provide products or services under this Contract. The report should specify the amount of such spend provided to small businesses. Supplier shall submit the report to SWaM@vita.virginia.gov.

5. PRODUCT SUPPORT AND ADDITIONAL SERVICES

A. Authorized User or Third Party Support

1. Documentation and Support Availability

In the event that VITA terminates this Contract, Supplier shall provide all the necessary user and installation documentation and maintenance and repair training reasonably required to enable any Authorized User to maintain and repair the purchased Product itself or to obtain support and maintenance services from a third-party. Supplier shall also provide the documentation and training necessary to allow any Authorized User to self-maintain to the subcomponent level. In addition, Supplier agrees to provide, for a period of five (5) years from the date of the last purchase, spare parts and components at the cost set forth in Exhibit C, including those solely sourced by Supplier, to enable any Authorized User or its designated third-party maintenance provider to provide full maintenance and repair of the purchased Product.

2. Timeliness and Price

Supplier agrees to make the above-referenced documentation, training and spare parts and components available within fifteen (15) days following receipt of a written request, and at a price set forth in Exhibit C, such price not to exceed Supplier's published price list, or the fair market value, but in no event at prices above the lowest price paid by any other customer of Supplier. In addition, Supplier agrees to sell Product, as set forth in Exhibit C attached hereto, to any Authorized User's third-party maintenance provider under contract with such Authorized User, at the prices and discounts as set forth in Exhibit C, for the sole purpose of supporting the Authorized User's purchased and installed inventory. Supplier agrees to document and provide to all Authorized Users in a timely manner any and all revisions to information and parts and components lists as they are developed or supplied by Supplier.

B. Engineering Changes and Product Modification

For each Authorized User that purchased or rented Product, Supplier agrees to document and provide to such Authorized User any and all planned engineering changes to the Product ninety (90) days prior to incorporation. All engineering changes which affect the safety of the Product ("Safety Changes") or the ability of the Product to meet the published specifications ("Performance Changes"), shall be made at no cost to the Authorized User. Supplier shall install all Safety Changes and Performance Changes within thirty (30) days after issuance of the engineering change order by the Product manufacturer. If such engineering changes affect Product processing or operating capability, they shall be scheduled at the Authorized User's request as to time and at the Authorized User's option. or planned for delivery to the Authorized User.

C. Training

The Product purchase or rental price includes all costs for the training of one trainer at the ordering Authorized User's designated location on the use and operation of the Product, including instruction in any necessary conversion of such Authorized User's data for such use. Pursuant to

a mutually agreed upon schedule, Supplier shall provide sufficient personnel experienced and qualified to conduct such training. In addition to operator training, the Supplier shall provide materials and instructional personnel for the training and/or retraining of users of the Product. This shall be performed within five (5) business days, or as mutually agreed to, after installation and prior to Acceptance and actual operation of the delivered Product. Available optional training, and applicable pricing and discounts, are described in Exhibit C.

D. Parts and Maintenance Support

Supplier agrees to make available new spare parts and the Maintenance Services identified in the Maintenance Services section herein for each Product type purchased by an Authorized User, for 36 months from the date of purchase of the last unit of any given Product type purchased by such Authorized User. Thereafter, Supplier shall advise such Authorized User of its intent to discontinue either certain parts or maintenance services for any Product type purchased by the Authorized User.

Supplier shall notify the Authorized User one (1) year prior to the effective date of any such discontinuance, and shall provide to the Authorized User the opportunity to purchase spare parts in a quantity adequate to support its installed base. Should Supplier advise the Authorized User of its intent to discontinue certain parts for any Product type purchased by the Authorized User, the Authorized User has the option to request and Supplier has the obligation to provide, all documentation, including source code, required to ensure ongoing support, including full maintenance and repair by the Authorized User or its designated third-party maintenance provider within thirty (30) days prior to the discontinuance date or to replace the unsupported Product with a supported Product at a cost to the Authorized User of no more than the cost delta between the supported Product and the unsupported Product.

E. Inventory Record

Supplier shall maintain, at no additional cost, a record of all units of Product rented or covered under warranty and maintenance by type, quantity and location, including the end date for each unit's Warranty Period, MCP, or Rental Term ("Inventory Record"). Product quantities and types may vary as Product is added or deleted from coverage, and Authorized User shall notify Supplier in writing of any Product relocated, added, or removed from service. Upon such notification, Supplier shall amend the Inventory Record to reflect such relocation, addition, or deletion of Product. Supplier shall provide, at no additional cost, a copy of the most current Inventory Record to any Authorized User upon request.

F. Product Service Record

Supplier shall maintain, at no additional cost, a Product Service Record for each unit of Product covered under maintenance or rented by an Authorized User. The Product Service Record shall record the following for such unit of Product: (i) make, model number, and date of installation; (ii) relocation/ removal/ modifications; (iii) remedial actions, including the dates and times of any on-site and telephone support calls, response time, time for repair or resolution, the cause of any malfunction, and the total downtime; (iv) preventive actions; (v) any additional services not covered by maintenance or Rental Services. Upon request by the Authorized User, Supplier shall provide, at no additional cost, a copy of the Product Service Record.

G. Additional Services

In addition to any on-site Maintenance or Rental Service obligations, Supplier shall, upon request of an Authorized User by means of an order issued in accordance with the ordering provisions of this Contract, provide additional on-site services which may include: (i) relocation of previously installed hardware; (ii) assistance to Authorized User's communications department in mutually acceptable duties related to the Maintenance or Rental Services provided under this Contract; and (iii) cabling, if applicable. The Authorized User shall compensate Supplier for such additional on-site services in accordance with the prices identified in Exhibit C.

Furthermore, Supplier shall, upon request of an Authorized User by means of an order issued in accordance with the ordering provisions of this Contract, provide the following services beyond those identified as Maintenance or Rental Service offerings: (i) service on equipment not covered by this Contract, (ii) repair of damage or replacement of parts of hardware resulting from changes in the hardware environment, extraordinary use of the hardware, or interconnected devices, or (iii)

service outside the applicable hours of service. The charge for such services shall be at the hourly rate specified in Exhibit C and shall be inclusive of all expenses. Maintenance or Rental Services requested for a unit of hardware within the forty-eight (48) hour period immediately following remedial maintenance performed on the same unit of hardware for the same problem, shall not be considered an additional service and shall be provided at no charge. Requests for additional services shall only be approved for payment by the Authorized User when a Product Service Record is included with the applicable invoice.

6. WARRANTY AND REMEDY

A. Supplier

Supplier shall perform its obligations hereunder in accordance with the highest professional duty of care.

B. Ownership

Supplier is the owner of the Product or otherwise has the right to grant to the Commonwealth or any Authorized User title to or the right to use the Product provided hereunder without violating or infringing any law, rule, regulation, copyright, patent, trade secret or other proprietary right of any third-party. Upon receipt of payment for purchase of Product and upon delivery of consumable supplies, the Commonwealth or the ordering Authorized User, as applicable, shall obtain good and clear title to the Product, excluding the System Software, free and clear of all liens, claims, security interests and encumbrances.

C. Supplier Viability

Supplier warrants that it has the financial capacity to perform and continue to perform its obligations under this Contract, that no legal proceedings have been threatened or brought against Supplier that could materially adversely affect performance of this Contract, and that entering into this Contract is not prohibited by any contract, or order by any court of competent jurisdiction.

D. Compatibility

Supplier warrants that each Product provided hereunder is, and shall continue to be, data, program, and upward compatible with any other Product available or to be available from Supplier within the same family of Products so that data files created for each Product can be utilized without adaptation of the other Products, and so that programs written for the Product shall operate on the next generation of Products, and not result in the need for alteration, emulation, or other loss of efficiency for a period of not less than remainder of lease or, in the case of purchase, 36 months after date of purchase.

E. Product

Supplier warrants the following with respect to the Product:

i). Product is pursuant to a particular Request for Proposal, and therefore, such Product shall be fit for the particular purposes specified by VITA, and Supplier is possessed of superior knowledge with respect to the Product and is aware that Authorized Users are relying on Supplier's skill and judgment in providing the Product;

ii). If the Product is pursuant to a particular quote or Request for Quote (RFQ), such Product shall be fit for the particular purposes specified by the Authorized User requesting such quote or issuing such RFQ, and Supplier is possessed of superior knowledge with respect to the Product and is aware that such Authorized User is relying on Supplier's skill and judgment in providing the Product;

iii). The Product shall be free of defects in material, design and workmanship;

iv). Upon delivery, the Product shall be new and in Operating Condition and shall have all released engineering changes released to date already installed;

v). Each Product delivered hereunder shall function in conformance with the Requirements;

vi). No engineering change made to the Product and no System Software revision shall degrade the performance of the Product to a level below that defined in the applicable Request for Proposal, and in the Product manufacturer's published specifications;

vii). Upon delivery, all System Software shall be at the current release level unless otherwise requested by the ordering Authorized User; and

viii). The System Software shall not contain any embedded device or code (e.g., time bomb) that is intended to obstruct or prevent any Authorized User's use of the System Software, nor shall Supplier disable any Authorized User's use of such System Software through remote access or otherwise. If the System Software contains authorization codes allowing access to a data base or other software, Supplier warrants that such codes shall be perpetual and non-expiring for System Software for purchased Product and shall not expire for the duration of the Rental Term for rented Product.

F. Limited Warranty

During the Warranty Period, Supplier warrants that the Product shall not contain any material errors and shall function properly and in conformity with the Requirements. Supplier shall correct, at no additional cost to any Authorized User, all errors identified during the Warranty Period that result in a failure of the Product to function as specified in Exhibit A or in the applicable order.

THE OBLIGATIONS OF SUPPLIER UNDER THIS WARRANTY AND REMEDY SECTION ARE MATERIAL. SUPPLIER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY CONCERNING MERCHANTABILITY OR FITNESS FOR ANY OTHER PARTICULAR PURPOSE.

7. MAINTENANCE SERVICES, PRODUCT RENTAL, AND RENTAL SERVICES

Supplier shall provide Maintenance Services (including unlimited telephonic support and all necessary travel and labor) during the Maintenance Coverage Period (MCP) at the prices identified in Exhibit C to maintain the purchased Product in accordance with the Requirements.

Supplier shall provide Rental Services (including unlimited telephonic support and all necessary travel and labor) during the Rental Term at no additional cost above the monthly rental fee(s) identified in Exhibit C to maintain the rented Product in accordance with the Requirements.

The fee(s) for Maintenance of Product purchased under this Contract and the rental fee(s) include full maintenance; all parts including, but not limited to drums; and all supplies including toner, color toner(s), developer, color developer(s), and staple wire. The maintenance and rental fees do not include paper.

Supplier shall be responsible for ensuring that any Authorized User with a current order for Maintenance Services or Product rental has approximately two (2) months of supplies at all times.

Authorized User's designated control organization shall have the exclusive authority to request Maintenance and Rental Services. Supplier shall not respond to calls for service from any other source without prior written approval of Authorized User's agreement administrator designated on the relevant order.

A. Ordering

An Authorized User may order Maintenance Services for any Product at any time during the term of the Contract, irrespective of whether such Product is covered under warranty or maintenance at the time the order is issued to Supplier. Each order shall identify:

i). Product and, if applicable, serial number, for which Maintenance Services shall be provided,

ii). MCP for the Product Maintenance.

Unless otherwise agreed to by the Authorized User and Supplier, the MCP for a unit of Product shall be one (1) year from the effective date of any executed order for Maintenance on such Product.

Rental Services shall be concurrent with the Rental Term.

B. Renewal of Maintenance Services

At least sixty (60) days prior to the expiration of the MCP for each unit of Product, Supplier shall notify the Authorized User of such expiration, and the Authorized User, at its sole discretion, may issue an order to Supplier to renew Maintenance Services for an additional one (1) year period. Termination of this Contract or cancellation of Maintenance Services by an Authorized User shall not affect this Contract or the grant of any license pursuant thereto.

C. Renewal of Product Rental

At least sixty (60) days prior to the expiration of the Rental Term for each unit of Product, Supplier shall notify the Authorized User of such expiration, and the Authorized User, at its sole discretion, may issue an order to Supplier to extend the Rental Term in accordance with the following provisions.

1. Renewal of Twelve (12) Month Rentals

An Authorized User may elect to renew a twelve (12) month rental agreement for two (2) one-year terms beyond the initial Rental Term, with the existing unit of Product and at the same rental rate. In order to enter into a third one-year renewal agreement for the existing copier, the Supplier shall reduce the rental rate charged to the Authorized User not less than five percent (5%). No more than three (3) renewal terms are allowable pursuant to this Contract for a twelve (12) month initial Rental Term. Following the third renewal term, an Authorized User must enter into a new rental agreement using a current contract.

2. Renewal of Thirty-Six (36) Month Rentals

An Authorized User may elect to renew a thirty-six (36) month rental agreement for one (1) year beyond the initial Rental Term. In order to enter into a one-year renewal agreement for the existing unit of Product, the Supplier shall reduce the rental rate charged to the Authorized User not less than five percent (5%). No more than one (1) renewal term is allowable pursuant to this Contract for a thirty-six (36) month initial Rental Term. Following the one renewal term, an Authorized User must enter into a new rental agreement using a current contract.

At the expiration of any Rental Term, Supplier shall remove the unit of Product and all associated accessories and supplies from the Authorized User's premises at Supplier's expense.

D. Services

Supplier shall offer for rent and purchase all Product types identified in Exhibit C and shall offer Maintenance Services for all Product purchased hereunder. No Authorized User is obligated to continue Maintenance Services on Product that has been removed from service, provided Supplier has been notified in writing of such removal.

During the MCP or Rental Term, Supplier shall provide all Services required to maintain the Product in Operating Condition and to ensure Authorized User has sufficient supplies available at all times. Such Services include, but are not limited to, performing preventive and remedial maintenance, providing replacement parts, maintaining sufficient inventory of spare parts to support the Authorized User's installed base, and correcting any malfunctions or defects in any unit of Product.

Supplier shall perform preventive maintenance during regular business hours unless preventive maintenance affects the hardware processing, in which case preventive maintenance shall be performed as mutually agreed and at no additional cost to an Authorized User.

Supplier shall respond to calls for Maintenance or Rental Services Monday through Friday, 7 am through 6 pm local time, excluding Commonwealth holidays. Supplier shall respond to problems with the Product identified by an Authorized User in no more than four (4) hours after notification. Repairs shall be made within twelve (12) working hours of the first notification by the agency.

Calls dispatched outside the times specified herein may be subject to additional charges. Maintenance Services or Rental Services requested for a unit of Product within the forty-eight (48)

hour period immediately following remedial maintenance performed on the same unit of Product for the same problem shall be provided at no charge.

Supplier's response may be on-site or remote, as required to resolve the problem. Supplier agrees to utilize the most expeditious methods of restoring the hardware to its original Operating Condition, which may include part or whole unit replacement. Replacement parts are parts and components used for replacement and must be new parts. Supplier shall ship replacement hardware or hardware component within twenty-four (24) hours of receipt of failed hardware or hardware component. Supplier shall provide any labor, parts, firmware upgrades and software upgrades and return shipping required to perform advanced replacement services at any time during the MCP or Rental Term.

Supplier shall promptly notify all Authorized Users of any defects or malfunctions in the Product or Documentation of which Supplier learns from any source; within five (5) days of knowledge of such defect or malfunction, correct any such defects or malfunctions or provide a workaround until corrected; and provide all Authorized Users with corrections of same, at no additional cost. Supplier shall provide all parts, components and services required to correct the design defect and restore such item or shall replace it, so that it functions as warranted.

For purchased Product, any replacement hardware shall become the sole property of the Authorized User and any defective hardware shall become the sole property of Supplier. In all instances, Supplier shall be solely responsible for all shipping costs.

1. System Software Maintenance

In addition to performing the Product Maintenance and Rental Services in support of the System Software as an integral component of the Product, during the MCP or Rental Term and as part of Maintenance Services and Rental Services, Supplier shall provide the following Services (including unlimited telephonic support and all necessary travel and labor) without additional charge to any Authorized User to maintain the System Software in accordance with the Requirements:

a) New Releases

No later than the first day of general release, Supplier shall provide to all Authorized Users copies of the System Software and Documentation revised to reflect any enhancements, including all new releases, upgrades, and access modes, to the System Software made by Supplier or Software Publisher, including, without limitation, modifications to the System Software which can increase the speed, efficiency or base of operation of the System Software or add additional capabilities to or otherwise improve the functionality of the System Software.

b) Software Evolution

Should Supplier merge or splinter the System Software previously provided to any Authorized User, such action on the part of Supplier shall not in any way result in any Authorized User being charged additional license or Maintenance fees in order to receive enhancements, releases, upgrades or support for the System Software.

If Supplier or Software Publisher reduces or replaces functionality contained in a licensed System Software product and provides the same or substantially similar functionality as or within a separate or renamed System Software product, then the Commonwealth or the Authorized User shall be entitled to license such System Software product at no additional license or maintenance fee, and subject to the terms and conditions herein.

If Supplier or Software Publisher releases an option, future System Software product or other release that has substantially the same functionality as the Software products provided under this Contract, and Software Publisher and/or Supplier ceases to provide maintenance for the older System Software product, then Supplier shall offer the Commonwealth or the Authorized User the option to exchange licenses for such replacement System Software product or function at no additional charge.

2. **Escalation Procedures**

TBD based on Supplier proposal.

3. **Remedies for Non-Conformance**

In addition to any other remedies set forth in this Contract, if Supplier is unable to make the Product or any component thereof, including the System Software conform, in all material respects, to the Requirements within thirty (30) days following notification by an Authorized User, Supplier shall, at such Authorized User's request, accept return of the Product, and (a) during the Warranty Period for purchased Product, return all monies paid by such Authorized User for the returned Product, or (b) during any subsequent Maintenance Period, return all monies paid by such Authorized User for the returned Product, pro-rated using the straight-line method for an estimated Product life cycle of seven (7) years as well as any pre-paid Maintenance fees, as of the date the Authorized User reported the non-conformity, or (c) during the Rental Term, return any pre-paid Rental fees, as of the date the Authorized User reported the non-conformity. Authorized User shall discontinue use of the Product, and Supplier shall remove the non-conforming Product from the Authorized User's premises at Supplier's expense.

Notwithstanding anything to the contrary in this Contract or in any exhibit hereto, VITA and any Authorized User retain all rights and remedies available at law or in equity.

E. Performance Levels and Remedies

1. **Purchased Product**

During the first five (5) years of use by the Authorized User, Product purchased by such Authorized User, either up-front or through a rent-to-own conversion, and covered continuously by Maintenance or Rental Services, as applicable, shall be required to operate satisfactorily and produce acceptable printed quality at a ninety percent (90%) effectiveness level during any month of the five (5) year period beginning at Product Acceptance.

The effectiveness level for a unit of Product shall be computed by dividing the total productive time by the sum of that time plus the Product failure downtime.

Product failure downtime shall not include malfunction due to operator error or preventive maintenance calls.

In addition, the Product failure rate shall not, during any three (3) month period, average more than two (2) malfunctions (breakdowns) per month requiring Supplier correction. No unit of Product shall require six (6) or more service calls in any three (3) month period.

The Product failure rate calculation shall not include service calls for malfunction due to operator error or preventive maintenance.

In the event that the Product does not meet the performance requirements of this section, (a) during the first year of Maintenance, Supplier shall, at no additional cost to the Authorized User, replace the non-compliant unit of Product with a new unit of Product matching all requirements of the original unit of Product, and (b) during subsequent years of Maintenance, Supplier shall replace the non-compliant unit of Product with a unit of Product having equal or greater features.

2. **Rented Product**

Product rented by an Authorized User shall be required to operate satisfactorily and produce acceptable printed quality at a ninety percent (90%) effectiveness level during any month during the Rental Term.

The effectiveness level for a unit of Product shall be computed by dividing the total productive time by the sum of that time plus the Product failure downtime.

Product failure downtime shall not include malfunction due to operator error or preventive maintenance calls.

In addition, the Product failure rate shall not, during any three (3) month period, average more than two (2) malfunctions (breakdowns) per month requiring Supplier correction. No unit of Product shall require six (6) or more service calls in any three (3) month period.

The Product failure rate calculation shall not include service calls for malfunction due to operator error or preventive maintenance.

In the event that the Product does not meet the performance requirements of this section, the Supplier shall replace the non-complaint unit of Product with a new unit of Product matching all requirements of the original unit of Product. Should Supplier fail to replace the unit of Product in accordance with this section, the Authorized User may immediately terminate the applicable order without penalty, and Supplier shall, at its own expense, immediately remove the unit of Product from the Authorized User's premises.

F. Termination of Rental Orders

If the initial Rental Term of a twelve (12) month rental order is terminated prior to the conclusion of the Rental Term, then a termination charge equal to not more than two (2) months of rental fees will be allowed. Subsequent renewal Rental Terms of a twelve (12) month rental order may be cancelled without penalty by issuance of a thirty (30) day written notice.

If a thirty-six (36) month rental order is terminated prior to the conclusion of the Rental Term the termination charge will be assessed on a sliding scale as follows:

i). Within the first year: If the rental order is cancelled within the first year, the termination charge shall be equal to not more than six (6) months of rental fees.

ii). Within the second year: If the rental order is cancelled within the second year, the termination charge shall be equal to not more than four (4) months of rental fees.

iii). Within the third year: If the rental order is cancelled within the third year, the termination charge shall be equal to not more than one (1) month of rental fees.

iv). Fourth year: Any subsequent one (1) year renewal term of a thirty-six (36) month rental order may be cancelled without penalty by issuance of a thirty (30) day written notice.

The monthly rental fee paid as penalty shall be the same monthly rental fee as set forth in the order pursuant to which the Authorized User rented the unit of Product.

Notwithstanding the foregoing, there shall be no penalty for a termination due to Supplier's status as a party excluded from Federal Procurement and Non-procurement Programs or due to a breach or default of Contract by Supplier, including failure of the Product to function in accordance with the Requirements.

8. SCOPE OF USE

Any Authorized User may use the Product, and any software licensed in connection with such Product, on a worldwide basis for the benefit of itself and its agents. Supplier further authorizes use of the Product by third parties who are under contract with an Authorized User to provide outsourcing services, including but not limited to providing application development services, data processing or facilities or infrastructure management services for the benefit of any Authorized User. For Products to which the Commonwealth or an Authorized User takes title, and any System Software which is integral to such Products, under the terms of this Contract, there are no restrictions on subsequent resale or distribution thereof by the Commonwealth or such Authorized User.

9. SOFTWARE LICENSE

If Authorized User is a state agency, board, commission, or other quasi-political entity of the Commonwealth of Virginia or other body referenced in Title 2.2 of the Code of Virginia, the license shall be held by the Commonwealth. If Authorized User is a locality, municipality, school, school system, college, university, local board, local commission, or local quasi-political entity, the license shall be held by that public body.

[VITA will consider Supplier-provided language ONLY when Supplier is a reseller of the Software and the software publisher requires and End User License Agreement (EULA). In such case, Supplier is advised that VITA will require an addendum to such EULA to address terms and conditions in such EULA with which VITA, as a government entity, by law or by policy, cannot agree.]

[Option 1—System Software licensed directly by Supplier]

A. License Grant

Supplier hereby grants to the Commonwealth and all Authorized Users a fully paid, worldwide, nonexclusive, transferable license to use, and to permit any agent of or third party service provider under contract with the Commonwealth or such Authorized User to use, System Software for each Product. Licenses granted in conjunction with purchased Product are perpetual and irrevocable; licenses granted in conjunction with rented Product shall be term licenses revocable only at the end of the Rental Term. Each license granted under this Contract authorizes the Commonwealth or such Authorized User and any agent of or third party service provider under contract with the Commonwealth or such Authorized User to use Supplier-licensed programs in machine readable form on any system without limitation. It is expressly understood that "perpetual" license rights shall commence upon delivery of the System Software to the Authorized User and shall exist in perpetuity unless otherwise terminated in accordance with the applicable provisions of the Contract. The System Software is the property of Supplier, Software Publisher, or licensors of Supplier or Software Publisher, and no title or ownership of the System Software or any of its parts, including documentation, is transferred to the Commonwealth or the Authorized User.

B. Limitations on Copying and Disclosure

The Commonwealth, an Authorized User, or agent of or any third party service provider under contract with the Commonwealth or such Authorized User may make a reasonable number of backup, archival, and disaster recovery copies of the System Software. Any copies of the software or documentation made by the Commonwealth or an Authorized User pursuant to this Contract shall bear all copyright, trademark and other proprietary notices included therein by Supplier, Software Publisher, and their licensors and, except as expressly authorized, neither the Commonwealth nor the Authorized User shall distribute same to any third-party without Supplier's prior written consent. The Commonwealth may distribute the System Software and documentation if such distribution is incidental to transfer of Product to which it has taken title. Neither the Commonwealth nor any Authorized User may resell the System Software except if such resale is incidental to the resale of Product to which the Commonwealth or such Authorized User has taken title.

C. Business Continuity and Recovery

In the event that all of an Authorized User's copies of the System Software, including all backup copies, are destroyed, irreparably damaged or otherwise lost due to fire, explosion, sabotage, flood or other natural disaster not occasioned by the fault of such Authorized User, Supplier shall provide to the Authorized User, at no additional cost, a replacement copy of the System Software and documentation; provided however, that nothing contained in this Section shall obligate Supplier to replace or assist in the recovery of data lost concurrent with the loss of the System Software.

D. Authorized User Compliance

Compliance with the terms and conditions of any license granted pursuant to this Contract is solely the responsibility of the Authorized User which acquired such license and not the responsibility of VITA, unless VITA acquired such license on its own behalf.

E. No Subsequent, Unilateral Modification of Terms by Supplier ("Shrink Wrap")

Notwithstanding any other provision or other unilateral license terms which may be issued by Supplier after the Effective Date of this Contract, and irrespective of whether any such provisions have been proposed prior to or after the issuance of an order for System Software licensed under this Contract, or the fact that such other agreement may be affixed to or accompany System Software upon delivery ("shrink wrap"), the terms and conditions set forth herein shall supersede and govern licensing and delivery of all products and services hereunder.

10. COMPETITIVE PRICING

Supplier warrants and agrees that each of the charges, economic or product terms or warranties granted to the Commonwealth pursuant to this Contract are comparable to or better than the equivalent charge, economic or product term or warranty offered to any commercial or government customer of Supplier. If Supplier enters into any arrangement with another customer of Supplier or with an Authorized User to provide Product or Services under more favorable prices, as the prices may be indicated on Supplier's current U.S. and International price list or comparable document, then this Contract shall be deemed amended as of the date of such other arrangements to incorporate those more favorable prices, and Supplier shall immediately notify VITA of such change.

11. CONFIDENTIALITY

A. Treatment and Protection

Each Party shall (i) hold in strict confidence all Confidential Information of any other Party, (ii) use the Confidential Information solely to perform or to exercise its rights under this Contract, and (iii) not transfer, display, convey or otherwise disclose or make available all or any part of such Confidential Information to any third-party. However, an Authorized User may disclose the Confidential Information as delivered by Supplier to subcontractors, contractors or agents of such Authorized User that are bound by non-disclosure contracts with such Authorized User. Each Party shall take the same measures to protect against the disclosure or use of the Confidential Information as it takes to protect its own proprietary or confidential information (but in no event shall such measures be less than reasonable care).

B. Exclusions

The term "Confidential Information" shall not include information that is:

i). in the public domain through no fault of the receiving Party or of any other person or entity that is similarly contractually or otherwise obligated;

ii). obtained independently from a third-party without an obligation of confidentiality to the disclosing Party and without breach of this Contract;

iii). developed independently by the receiving Party without reference to the Confidential Information of the other Party; or

iv). required to be disclosed under The Virginia Freedom of Information Act (§§2.2-3700 et seq. of the Code of Virginia) or similar laws or pursuant to a court order.

C. Return or Destruction

Authorized User, Supplier shall (i) at its own expense, (a) promptly return to the disclosing Authorized User all tangible Confidential Information (and all copies thereof except the record required by law) of the disclosing Authorized User, or (b) upon written request from the disclosing Authorized User, destroy such Confidential Information and provide the disclosing Authorized User with written certification of such destruction, and (ii) cease all further use of the Authorized User's Confidential Information, whether in tangible or intangible form.

VITA or the Authorized User shall retain and dispose of Supplier's Confidential Information in accordance with the Commonwealth of Virginia's records retention policies or, if Authorized User is not subject to such policies, in accordance with such Authorized User's own records retention policies.

12. INDEMNIFICATION AND LIABILITY

A. Indemnification

Supplier agrees to indemnify, defend and hold harmless the Commonwealth, VITA, any Authorized User, their officers, directors, agents and employees (collectively, "Commonwealth's Indemnified Parties") from and against any and all third party claims, demands, proceedings, suits and actions, including any related liabilities, obligations, losses, damages, assessments, fines, penalties (whether criminal or civil), judgments, settlements, expenses (including attorneys' and accountants' fees and disbursements) and costs (each, a "Claim" and collectively, "Claims"),

incurred by, borne by or asserted against any of Commonwealth's Indemnified Parties to the extent such Claims in any way relate to, arise out of or result from: (i) any intentional or willful misconduct or negligence of any employee, agent, or subcontractor of Supplier, (ii) any act or omission of any employee, agent, or subcontractor of Supplier, (iii) breach of any representation, warranty or covenant of Supplier contained herein, (iv) any defect in the Product or the Services, or (v) any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Product or Services. Selection and approval of counsel and approval of any settlement shall be accomplished in accordance with all applicable laws, rules and regulations. For state agencies the applicable laws include §§ 2.2-510 and 2.2-514 of the Code of Virginia. In all cases the selection and approval of counsel and approval of any settlement shall be satisfactory to VITA or the Authorized User against whom the Claim has been asserted.

In the event that a Claim is commenced against any of Commonwealth's Indemnified Parties alleging that use of the Product or any Product component or that the provision of Services under this Contract infringes any third party's intellectual property rights and Supplier is of the opinion that the allegations in such Claim in whole or in part are not covered by this indemnification provision, Supplier shall immediately notify VITA and the affected Authorized User(s) in writing, via certified mail, specifying to what extent Supplier believes it is obligated to defend and indemnify under the terms and conditions of this Contract. Supplier shall in such event protect the interests of the Commonwealth's Indemnified Parties and secure a continuance to permit VITA and the affected Authorized User(s) to appear and defend their interests in cooperation with Supplier as is appropriate, including any jurisdictional defenses VITA or the affected Authorized User(s) may have.

In the event of a Claim pursuant to any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Product or Services, and in addition to all other obligations of Supplier in this Section, Supplier shall at its expense, either (a) procure for all Authorized Users the right to continue use of such infringing Product or Services, or any component thereof; or (b) replace or modify such infringing Product or Services, or any component thereof, with non-infringing products or services satisfactory to VITA. And in addition, Supplier shall provide any Authorized User with a comparable temporary replacement Product or reimburse VITA or any Authorized User for the reasonable costs incurred by VITA or such Authorized User in obtaining an alternative product in the event such Authorized User cannot use the affected Product. If Supplier cannot accomplish any of the foregoing within a reasonable time and at commercially reasonable rates, then Supplier shall accept the return of the infringing component of the Product or Services, along with any other components of any products rendered unusable by any Authorized User as a result of the infringing component, and refund the price paid to Supplier for such components.

B. Liability

Supplier shall have unlimited liability with respect to (i) any intentional or willful misconduct or negligence of any employee, agent, or subcontractor of Supplier, (ii) any act or omission of any employee, agent, or subcontractor of Supplier, (iii) claims for bodily injury, including death, and real and tangible property damage, (iv) Supplier's indemnification obligations, (v) Supplier's confidentiality obligations, and (vi) Supplier's security compliance obligations. Supplier agrees that it is fully responsible for acts and omissions of its employees, agents, and subcontractors, including their gross negligence or willful misconduct.

FOR ALL OTHER CONTRACTUAL CLAIMS, IN NO EVENT WILL ANY PARTY BE LIABLE TO ANY OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING (WITHOUT LIMITATION) LOSS OF PROFIT, INCOME OR SAVINGS, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, EXCEPT WHEN SUCH DAMAGES ARE CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE PARTY, ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS.

13. SECURITY COMPLIANCE

Supplier agrees to comply with all provisions of the then-current Commonwealth of Virginia security procedures, published by the Virginia Information Technologies Agency (VITA) and which may be

found at (http://www.vita.virginia.gov/docs/psg.cfm) or a successor URL(s), as are pertinent to Supplier's operation. Supplier further agrees to comply with all provisions of the relevant Authorized User's then-current security procedures as are pertinent to Supplier's operation and which have been supplied to Supplier by such Authorized User. Supplier shall also comply with all applicable federal, state and local laws and regulations. For any individual Authorized User location, security procedures may include but not be limited to: background checks, records verification, photographing, and fingerprinting of Supplier's employees or agents. Supplier may, at any time, be required to execute and complete, for each individual Supplier employee or agent, additional forms which may include non-disclosure agreements to be signed by Supplier's employees or agents acknowledging that all Authorized User information with which such employees and agents come into contact while at the Authorized User site is confidential and proprietary. Any unauthorized release of proprietary information by the Supplier or an employee or agent of Supplier shall constitute a breach of this Contract.

Supplier shall indemnify, defend, and hold the Commonwealth, VITA, the Authorized User, their officers, directors, employees and agents harmless from and against any and all fines, penalties (whether criminal or civil), judgments, damages and assessments, including reasonable expenses suffered by, accrued against, or charged to or recoverable from the Commonwealth, VITA, the Authorized User, their officers, directors, agents or employees, on account of the failure of Supplier to perform its obligations pursuant to this Section.

14. BANKRUPTCY

If Supplier becomes insolvent, takes any step leading to its cessation as a going concern, or ceases business operations for any reason and other than assignment as allowed by this Contract, then VITA may immediately terminate this Contract, and an Authorized User may terminate an order, on notice to Supplier unless Supplier immediately gives VITA or such Authorized User adequate assurance of the future performance of this Contract or the applicable order. If bankruptcy proceedings are commenced with respect to Supplier, and if this Contract has not otherwise terminated, then VITA may suspend all further performance of this Contract until Supplier assumes or rejects this Contract pursuant to Section 365 of the Bankruptcy Code or any similar or successor provision, it being agreed by VITA and Supplier that this is an executory contract. Any such suspension of further performance by VITA pending Supplier's assumption or rejection shall not be a breach of this Contract, and shall not affect the right of VITA or any Authorized User to pursue or enforce any of its rights under this Contract or otherwise.

15. GENERAL PROVISIONS

A. Relationship Between VITA and Authorized User and Supplier

Supplier has no authority to contract for VITA or any Authorized User or in any way to bind or to commit VITA or any Authorized User to any agreement of any kind or to assume any liabilities of any nature in the name of or on behalf of VITA or any Authorized User. Under no circumstances shall Supplier, or any of its employees, hold itself out as or be considered an agent or an employee of VITA or any Authorized User, and neither VITA nor any Authorized User shall have any duty to provide or maintain any insurance or other employee benefits on behalf of Supplier or its employees. Supplier represents and warrants that it is an independent contractor for purposes of federal, state and local employment taxes and agrees that neither VITA nor any Authorized User is responsible to collect or withhold any federal, state or local employment taxes, including, but not limited to, income tax withholding and social security contributions, for Supplier. Any and all taxes, interest or penalties, including, but not limited to, any federal, state or local withholding or employment taxes, imposed, assessed or levied as a result of this Contract shall be paid or withheld by Supplier or, if assessed against and paid by VITA or any Authorized User, shall be reimbursed by Supplier upon demand by VITA or such Authorized User.

B. Incorporated Contractual Provisions

The contractual provisions at the following URL are mandatory contractual provisions, required by law or by VITA, that are hereby incorporated by reference:
http://www.vita.virginia.gov/procurement/documents/MandatoryContractTsandCs.pdf

The contractual claims provision §2.2-4363 of the Code of Virginia and the required eVA provisions at http://www.vita.virginia.gov/procurement/documents/eVATsandCs.pdf are also incorporated by reference.

The terms and conditions in documents posted to the above URLs are subject to change pursuant to action by the legislature of the Commonwealth of Virginia, change in VITA policy, or the adoption of revised eVA business requirements. If a change is made to the terms and conditions, a new effective date will be noted in the document title. Supplier is advised to check the URLs periodically.

C. Compliance with the Federal Lobbying Act

Supplier shall not, in connection with this Contract, engage in any activity prohibited by 31 USC 1352 (entitled "Limitation on use of appropriated funds to influence certain Federal Contracting and financial transactions") or by the regulations issued from time to time thereunder (together, the "Lobbying Act"), and shall promptly perform all obligations mandated by the Lobbying Act in connection with this Contract, including, without limitation, obtaining and delivering to the Commonwealth all necessary certifications and disclosures.

Supplier is hereby advised that a significant percentage of the funds used to pay Supplier's invoices under this Contract may be federal funds. Under no circumstances shall any provision of this Contract be construed as requiring or requesting the Supplier to influence or attempt to influence any person identified in 31 USC 1352(a)(1) in any matter.

Supplier's signed certification of compliance with the foregoing is incorporated as Exhibit F hereto.

D. Governing Law

This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without regard to that body of law controlling choice of law. Any and all litigation shall be brought in the circuit courts of the Commonwealth of Virginia. The English language version of this Contract prevails when interpreting this Contract. The United Nations Convention on Contracts for the International Sale of Goods and all other laws and international treaties or conventions relating to the sale of goods are expressly disclaimed. UCITA shall apply to this Contract only to the extent required by §59.1-501.15 of the Code of Virginia.

E. Dispute Resolution

In accordance with §2.2-4363 of the Code of Virginia, Contractual claims, whether for money or other relief, shall be submitted in writing to the public body from whom the relief is sought no later than sixty (60) days after final payment; however, written notice of the Supplier's intention to file such claim must be given to such public body at the time of the occurrence or beginning of the work upon which the claim is based. Pendency of claims shall not delay payment of amounts agreed due in the final payment. The relevant public body shall render a final decision in writing within thirty (30) days after its receipt of the Supplier's written claim.

The Supplier may not invoke any available administrative procedure under §2.2-4365 of the Code of Virginia nor institute legal action prior to receipt of the decision of the relevant public body on the claim, unless that public body fails to render its decision within thirty (30) days. The decision of the relevant public body shall be final and conclusive unless the Supplier, within six (6) months of the date of the final decision on the claim, invokes appropriate action under §2.2-4364, Code of Virginia or the administrative procedure authorized by §2.2-4365, Code of Virginia.

Upon request from the public body from whom the relief is sought, Supplier agrees to submit any and all contractual disputes arising from this Contract to such public body's alternative dispute resolution (ADR) procedures. Supplier may invoke such public body's ADR procedures, if any, at any time and concurrently with any other statutory remedies prescribed by the Code of Virginia.

In the event of any breach by a public body, Supplier's remedies shall be limited to claims for damages and Prompt Payment Act interest and, if available and warranted, equitable relief, all such claims to be processed pursuant to this Section. In no event shall Supplier's remedies include the right to terminate any license or support services hereunder.

F. Advertising and Use of Proprietary Marks

Supplier shall not use the name of VITA or any Authorized User or refer to VITA or any Authorized User, directly or indirectly, in any press release or formal advertisement without receiving prior written consent of VITA or such Authorized User. In no event may Supplier use a proprietary mark of VITA or an Authorized User without receiving the prior written consent of VITA or the Authorized User.

G. Notices

Any notice required or permitted to be given under this Contract shall be in writing and shall be deemed to have been sufficiently given if delivered in person, or if deposited in the U.S. mails, postage prepaid, for mailing by registered, certified mail, or overnight courier service addressed to the addresses shown on the signature page. VITA or Supplier may change its address for notice purposes by giving the other notice of such change in accordance with this Section.

H. No Waiver

Any failure to enforce any terms of this Contract shall not constitute a waiver.

I. Assignment

This Contract shall be binding upon and shall inure to the benefit of the permitted successors and assigns of VITA and Supplier. Supplier may not assign, subcontract, delegate or otherwise convey this Contract or any of its rights and obligations hereunder, to any entity without the prior written consent of VITA, and any such attempted assignment or subcontracting without consent shall be void. VITA may assign this Contract to any entity, so long as the assignee agrees in writing to be bound by the all the terms and conditions of this Contract.

If any law limits the right of VITA or Supplier to prohibit assignment or nonconsensual assignments, the effective date of the assignment shall be thirty (30) days after the Supplier gives VITA prompt written notice of the assignment, signed by authorized representatives of both the Supplier and the assignee. Any payments made prior to receipt of such notification shall not be covered by this assignment.

J. Captions

The captions are for convenience and in no way define, limit or enlarge the scope of this Contract or any of its Sections.

K. Severability

Invalidity of any term of this Contract, in whole or in part, shall not affect the validity of any other term. VITA and Supplier further agree that in the event such provision is an essential part of this Contract, they shall immediately begin negotiations for a suitable replacement provision.

L. Survival

The provisions of this Contract regarding Software License, Warranty, Confidentiality, Liability and Indemnification, and the General Provisions shall survive the expiration or termination of this Contract. In addition, the provisions of this Contract necessary for the use and operation of the Maintenance and rental provisions herein, shall continue in effect through termination of the Maintenance Services ordered pursuant to the Maintenance provisions herein and through expiration of any Rental Term.

M. Force Majeure

No Party shall be responsible for failure to meet its obligations under this Contract if the failure arises from causes beyond the control and without the fault or negligence of the non-performing Party. If any performance date under this Contract is postponed or extended pursuant to this section for longer than thirty (30) calendar days, VITA, by written notice given during the postponement or extension, may terminate Supplier's right to render further performance after the effective date of termination without liability for that termination, and in addition an Authorized User may terminate any order affected by such postponement or delay.

N. Remedies

The remedies set forth in this Contract are intended to be cumulative. In addition to any specific remedy, VITA and all Authorized Users reserve any and all other remedies that may be available at law or in equity.

O. Right to Audit

VITA reserves the right to audit those Supplier records that relate to the Product purchased or rented and Services rendered or the amounts due Supplier for such services under this Contract. VITA's right to audit shall be limited as follows:

i). Three (3) years from Service performance date, Product purchase date, or most recent Product rental date;

ii). Performed at Supplier's premises, during normal business hours at mutually agreed upon times; and

iii). Excludes access to Supplier cost information.

In no event shall the Supplier have the right to audit, or require to have audited, VITA or any Authorized User.

P. Offers of Employment

During the first twelve (12) months of the Contract, should Supplier hire an employee of VITA who has substantially worked on any project covered by this Contract without prior written consent, the Supplier shall be billed for fifty percent (50%) of the employee's annual salary in effect at the time of termination.

Q. Contract Administration

Supplier agrees that at all times during the term of this Contract an account executive, at Supplier's senior management level, shall be assigned and available to VITA. Roles and responsibilities of the account executive are TBD based on Supplier proposal. Supplier reserves the right to change such account executive upon reasonable advance written notice to VITA.

R. Entire Contract

The following Exhibits, including all subparts thereof, are attached to this Contract and are made a part of this Contract for all purposes:

Exhibit A Request for Proposal

Exhibit B Awarded Categories

Exhibit C Prices, Fees, Service Charges and Payment Schedule

Exhibit E Software Publisher's EULA, as amended (for reference only)

Exhibit F Certification Regarding Lobbying

This Contract, its Exhibits, and any prior non-disclosure agreement constitute the entire agreement between VITA and Supplier and supersedes any and all previous representations, understandings, discussions or agreements between VITA and Supplier as to the subject matter hereof. Any and all terms and conditions contained in, incorporated into, or referenced by the Supplier's proposal shall be deemed invalid. The provisions of the Virginia Department of General Services, Division of Purchases and Supply Vendor's Manual shall not apply to this Contract or any order issued hereunder. This Contract may only be amended by an instrument in writing signed by VITA and Supplier. In the event of a conflict, the following order of precedence shall apply: this Contract document, Exhibit C, Exhibit A.

An Authorized User and Supplier may enter into an ordering agreement pursuant to this Contract. To the extent that such ordering agreement include any terms and conditions inconsistent with the terms and conditions of this Contract, such terms and conditions shall be of no force and effect.

VITA and Supplier each acknowledge that it has had the opportunity to review this Contract and to obtain appropriate legal review if it so chose.

EXHIBIT B

Supplier has been awarded the following categories

- Desktop

Executed as of the last date set forth below by the undersigned authorized representatives of VITA and Supplier.

Supplier	VITA
By: Terry N Kreamer	By:
(Signature)	(Signature)
Name: TERRY N. KREAMER	Name: James T. Roberts
(Print)	(Print)
Title: CHIEF FINANCIAL OFFICER	Title: Director Finance & Administration
Date: 11/14/2007	Date: 11/19/07

Address for Notice:	Address for Notice:
KNOWLEDGE INFORMATION Solutions, Inc	
2877 GUARDIAN LANE, STE 201	
VIRGINIA BEACH, VA 23452	
Attention: TERRY N. KREAMER	Attention: Contract Administrator

Deleted: Printer Copier Contract.doc

ATTACHMENT F: CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

i). No Federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee or an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal Contract, grant, loan, or cooperative agreement.

ii). If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

iii). The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and Contracts under grants, loans and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: Catherine H. Giordano

Printed Name: CATHERINE H. GIORDANO

Organization: KIS

Date: September 11 2004

Attachement #1 -- Complete List of all models by Segment.

Specifications:

PRICING DOCUMENT
Virginia Information Technologies Agency (VITA)
Request For Proposals (RFP) 2007-24
Printer/Copier
11-Sep-07

Dell SKU		List:	Discount %	Quote:	Pages / Minute	Paper Sources	Paper Capacity	Memory (MB)	Duty Cycle	Resolution	Meter Count?	Paper Weight	Energy Star	Duplex?	Color Capable	Color PPM	MFP
	Segment 1 Minimum Specifications: KEY: Meets Specifications (YELLOW) / Exceeds Specification (GREEN)				15	2	350	16	15000	600x600	Y	20lb	Y	N	N	N	N
	Dell Recommended Eval Unit																
172DN3B	1720dn printer W/3-yr Warranty ** Evaluation Segment 1 **	418.00	27.00%	305.14	30	2	800	32	25000	1200x1200	Y	110lb	Y	Y	N	N	N
310-8704	550 Sheet expansion Drawer/Tray	99.99	27.00%	72.99													
	Total:	517.99		378.13													
	Alternate Options:																
3113YB	3110cn Printer W/3-yr Warranty	728.00	27.00%	531.44	31	2	800	128	60000	600x600	Y	110lb	Y	Opt.	Y	17	N
310-8101	550 Sheet Paper Drawer/Tray	229.00	27.00%	167.17													
	Total:	957.00		698.61													
18153YB	1815dn W/3-yr Warranty	648.00	27.00%	473.04	27	2	500	64	25000	600x600	Y	110lb	Y	Y	N	N	Y
310-7946	250 Sheet Expansion Drawer/Tray	99.99	27.00%	72.99													
	Total:	747.99		546.03													
	Segment 2 Minimum Specifications: KEY: Meets Specifications (YELLOW) / Exceeds Specification (GREEN)				20	2	350	16	15000	600x600	Y	20lb	Y	N	N	N	N
	Dell Recommended Eval Unit																
172DN3B	1720dn printer W/3-yr Warranty	418.00	27.00%	305.14	30	2	800	32	25000	1200x1200	Y	110lb	Y	Y	N	N	N
310-8704	550 Sheet expansion Drawer/Tray	99.99	27.00%	72.99													
	Total:	517.99		378.13													
	Alternate Options:																
3113YB	3110cn Printer W/3-yr Warranty	728.00	27.00%	531.44	31	2	800	128	60000	600x600	Y	110lb	Y	Opt.	Y	17	N
310-8101	550 Sheet Paper Drawer	229.00	27.00%	167.17													
	Total:	957.00		698.61													
18153YB	1815dn W/3-yr Warranty	648.00	27.00%	473.04	27	2	500	64	25000	600x600	Y	110lb	Y	Y	N	N	Y
310-7946	250 Sheet Expansion Drawer/Tray	99.99	27.00%	72.99													
	Total:	747.99		546.03													
3153YB	3115cn Printer W/3-yr Warranty	1148.00	27.00%	838.04	31	2	800	128	60000	600x600	Y	110lb	Y	Opt.	Y	17	Y
310-8101	550 Sheet expansion Drawer/Tray	229.00	27.00%	167.17													
	Total:	1377.00		1005.21													
	Segment 3 Minimum Specifications: KEY: Meets Specifications (YELLOW) / Exceeds Specification (GREEN)				30	3	1000	16	15000	600x600	Y	32lb	Y	N	N	N	N
	Dell Recommended Eval Unit																
5213YB	5210n printer W/3-yr Warranty	999.00	27.00%	729.27	40	3	1500	64	200000	1200x1200	Y	110lb	Y	Opt.	N	N	N
310-7227	(2) Additional Paper Trays	459.98	27.00%	335.79													
	Total:	1458.98		1065.06													
	Alternate Options:																
5313YB	5310n printer W/3-yr Warranty	1199.00	27.00%	875.27	50	3	1500	128	250000	1200x1200	Y	110lb	Y	Opt.	N	N	N
310-7227	(2) Additional Paper Trays	459.98	27.00%	335.79													
	Total:	1658.98		1211.06													
5113YB	5110n printer W/3-yr Warranty	1349.00	27.00%	984.77	40	3	1500	256	95000	600x600	Y	110lb	Y	Y	Y	35	N
310-7901	1000 Sheet Additional Drawer W/trays	499.00	27.00%	364.27													
	Total:	1848.00		1349.04													

Other Accessories at 33% Discount:

Any supplies except for Toner and Imaging Drums that are found on http://www.dell.com/supplies

Imaging Drums and Toner at 10% discount off of List

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