Commonwealth of Virginia
Virginia Information Technologies Agency

MITEM SOFTWARE & SERVICES

Optional Use Contract

Date:	September 6, 2006
Contract #:	VA-041110-MITM
Contractor:	MITEM Corporation 640 Menlo Avenue Menlo Park, CA 94025
FIN:	77-0053782
Contact Person:	Debby Scheraga Phone: 650-323-1500 Fax: 650-323-1511 E-mail: debbys@mitem.com
Term:	November 30, 2004 through November 29, 2007

For Additional Contract Information:
Supply Chain Management
Virginia Information Technologies Agency

Mike Novak
Phone: 804-371-5563
E-Mail: mike.novak@vita.virginia.gov
Fax: 804-371-5969

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.

CONTRACT #VA-041110-MITM

CONTRACT CHANGE LOG

Change No.	Description of Change	Effective Date
1	Incorporates access rights for VITA's 3rd party suppliers	7/1/06

COMMONWEALTH *of* VIRGINIA

Virginia Information Technologies Agency
110 SOUTH SEVENTH STREET
RICHMOND, VIRGINIA 23219

June 20, 2006

MITEM CORPORATION
Debby Scheraga
ADMINISTRATION@MITEM.COM
640 Menlo Avenue
Menlo Park, CA 94025

Re: Contract # VA-041110-MITM and VA-60302-MITM

Dear Debby Scheraga,

As the Commonwealth and Northrop Grumman Information Technology, Inc. (Northrop Grumman) continue to work toward the Comprehensive Infrastructure Agreement Service Commencement Date, July 1, 2006, we want to keep you informed of the status of our contract with you.

On 6/12/2006 you were sent an email with a letter attached requesting that you work with us to obtain assignment of certain licenses ordered under the above referenced Contract with the Commonwealth to Northrop Grumman effective July 1. We have since learned that many of our contracts designated for assignment to Northrop Grumman provide goods and services to out-of-scope entities and/or provide out-of-scope goods and services to in-scope agencies (Executive Branch). In order to allow time to properly process the appropriate change to any of our contracts, we are withdrawing our notice to assign until we are able to conduct a more detailed review of your contract, discuss our options and continue toward a permanent change or disposition of our contract. Therefore, we would like to delay our request to obtain assignment of our licenses to allow Northrop Grumman, VITA and you to have more time to determine the appropriate action.

Meanwhile, because Northrop Grumman will begin providing services to the Commonwealth on July 1, we request that the above referenced Contract, as well as any applicable end user agreements, be amended to include the following clause:

> The Commonwealth may allow access to the Software and Documentation by VITA'S third party vendors who are under contract with VITA to provide services to or on behalf of VITA. Access includes using, copying, modifying, transmitting, loading or executing the Software on behalf of the Commonwealth, as long as such third party vendors agree to comply with the confidentiality and use restrictions contained in this Agreement.

No response is required and your silence will be deemed consent, however if you have any questions please contact me by June 23, 2006.

We greatly appreciate your cooperation and will continue to rely upon you as we move forward with this important initiative.

Sincerely,

Kay Bradley
kay.bradley@vita.virginia.gov
Fax # 804-371-5969
Supply Chain Management
VITA

MASTER AGREEMENT
BETWEEN
THE COMMONWEALTH OF VIRGINIA
AND
MITEM Corporation

THIS SOFTWARE LICENSE AGREEMENT ("Agreement") is entered into by and between the Commonwealth of Virginia, through its Virginia Information Technologies Agency (VITA), (hereinafter referred to as the "Commonwealth" or "VITA") and MITEM Corporation ("Contractor" or "MITEM"), a business incorporated in California, F.E.I.N. 77-0053782, having its principal place of business at 640 Menlo Avenue, Menlo Park, CA, to be effective as of November 15, 2004. The Commonwealth and Contractor are referred to herein individually as "Party" and collectively as "Parties".

1. PURPOSE

This Agreement sets forth the terms and conditions under which Contractor agrees to grant a license to use certain of Contractor's Software, and to provide various Services to the Commonwealth.

2. DEFINITIONS

A. **Agent**
Any third party independent agent of the Commonwealth.

B. **Authorized User**
State agencies, state institutions of higher education, localities and other Public Bodies as defined by § 2.2-4301 of the *Code of Virginia*.

C. **Documentation**
Those materials detailing the information and instructions needed in order to allow the Commonwealth, its Agents and its Authorized Users to make productive use of the Software.

D. **Services**
Any services, including software modifications, installation, support and training provided by Contractor under this Agreement.

E. **Software**
The programs and code provided by Contractor under this Agreement as set forth in *Attachment A* or as described on Contractor's US and International price lists in effect at time of order placement.

F. **Specifications**
The functional, performance, operational, compatibility, and other parameters and characteristics of the Software described in *Attachment C*, titled "*Software Specifications*," Documentation, Statement of Work and such other parameters,

characteristics, or performance standards for the Software that may be agreed upon in writing by the parties.

3. SOFTWARE LICENSE

A. License Grant

i. Contractor grants to the Commonwealth a worldwide, nonexclusive, transferable, annual renewable object code license to use, copy, transmit and distribute the Software and Documentation including any subsequent revisions, in accordance with the terms and conditions set forth herein and subject only to the limitations and/or restrictions explicitly set forth in this Agreement. The Software is the property of the Contractor, and no title or ownership of the Software or any of its parts, including documentation, will transfer to the Commonwealth.

ii. The Commonwealth will have the right to use, copy, transmit and distribute the Software for its benefit and for the benefit of its Agents and/or its Authorized Users, including internal and third-party information processing, unless prohibited elsewhere in this Agreement.

iii. The Commonwealth may allow access to the Software by the Commonwealth's third party vendors who are under contract with the Commonwealth to provide services to or on behalf of the Commonwealth. Access includes loading or executing the Software on behalf of the Commonwealth, its Agents or Authorized Users.

iv. The license includes a test system copy for the creation of one test environment, which consists of the right to use the Software for non-production test purposes, including but not limited to, problem/defect identification, remediation, and resolution, debugging, new version evaluation, Software interface testing, and disaster recovery technique analysis and implementation. This test environment must support multi-instance testing. Contractor will not charge a fee for the installation of Software hosted on VITA's servers pursuant to subsection B of the section herein titled *SOFTWARE LICENSE*. Any additional test system copy is subject to the initial set fee provisions of *Attachment A*.

v. In the event that all of the Commonwealth's copies of the Software, including all backup copies, are destroyed, irreparably damaged or otherwise lost due to fire, explosion, sabotage, flood or other disaster, Contractor will provide the Commonwealth, at no additional cost, replacement copies of the Software and Documentation. Nothing contained in this Section will obligate Contractor to replace or assist in the recovery of data lost concurrent with the loss of the Software.

vi. The Commonwealth may make a reasonable number of copies of the Software and Documentation for use in training, support, demonstrations, backup, disaster recovery and development for no additional license fees or costs. The Commonwealth agrees that any copies of the Software or Documentation that it makes under this Agreement will bear all copyright, trademark and other proprietary notices included therein by Contractor.

vii. Except as expressly authorized, the Commonwealth will not distribute the Software to any third party without Contractor's prior written consent.

viii. Except as provided or allowed by law, each Party agrees that it shall not reverse engineer, decompile, disassemble, or otherwise attempt to derive source code or other trade secrets from any software or intellectual property of the Other Party.

ix. The Commonwealth may not use the Software or any of its components in a manner inconsistent with its intended use as described in Specifications, Documentation and this Agreement.

x. Nothing contained herein shall be construed to restrict or limit the Commonwealth's rights to use any technical data which the Commonwealth may already possess or acquire under proper authorization from other sources.

B. License Type

The license(s) granted under this section authorizes:

i. The Commonwealth and its Agents to host Software on servers owned and operated, or leased and operated, by the Commonwealth The Commonwealth will not use the proprietary components contained in Software to run other applications except as permitted in this Agreement or with written permission of Contractor.

ii. The Commonwealth, its Agents and its Authorized Users to use such software hosted by the Commonwealth to access, in a non-invasive manner (see section herein titled *SOFTWARE WARRANTY*, subsection B.) and via proprietary software Modules created by Contractor, data maintained by specific Agencies of the Commonwealth. Such Modules are identified and described in *Attachment A*.

iii. The Commonwealth acknowledges that successful use of the Software requires that Contractor install Software.

4. INTERPRETATION OF AGREEMENT

The documents comprising this Master Agreement, and their order of precedence in case of conflict, are: (1) this document, consisting of Terms and Conditions labeled 1 through 65, *Attachment A*, *Attachment B*, entitled "*Sample Statement Of Work (SOW)*"; *Attachment C*, entitled *Software Specifications*; (2) all executed Orders and Attachments referencing this Agreement; and (3) the Contractor's Software "Product Use Rights", which as used herein means only those clauses that describe the permitted usage of the Software specified on each individual Software License Agreement, which is contained in, or provided with, each instance of Software.

The foregoing documents represent the complete and final agreement of the parties with respect to the subject matter of this Agreement. No other written documents regardless of form or content shall be executed by any agency or institution for products or services acquired under this Agreement unless signed by the VITA Contracts Manager identified in the section herein titled *CHANGES/MODIFICATIONS,* or his alternate as designated by the Chief Information Officer of Virginia.

IN NO EVENT IS THE SOFTWARE LICENSE AGREEMENT CONTAINED IN EACH SOFTWARE PRODUCT EXPECTED TO BE EXECUTED OR HAVE ANY OTHER MEANING THAN FOR ITS SPECIFIC PRODUCT USE RIGHTS. FOR ANY EVENT WHEREIN THE PRODUCT USE RIGHTS CONFLICT WITH THIS AGREEMENT, THIS AGREEMENT SHALL PREVAIL.

THE UNIFORM COMPUTER INFORMATION TRANSACTION ACT (UCITA) SHALL NOT APPLY TO THIS AGREEMENT. For the convenience of the parties, there may be an individual Software License Agreement contained in each copy of Software ordered and shipped under this Agreement. Both parties agree that the individual Software License Agreement specific to each copy of Software will be used only to identify the Product Use Rights and is not valid for any other purpose. Without limiting the foregoing, the Contractor, as the Manufacturer of the Software hereby warrants that no such individual Software License Agreement is deemed to be executed by any action of any Authorized User of this Agreement. The Contractor hereby represents that the individual Software License Agreement does not purport to create conflicts with this Agreement. It is the intent of the parties that all rights and obligations are identified in this Agreement and the Product Use Rights.

If any term or condition of this Agreement is found to be illegal or unenforceable, it shall be severed, and the validity of the remaining terms and conditions shall not be affected.

Nothing in this Agreement shall be construed as an express or implied waiver of the Commonwealth's sovereign or Eleventh Amendment immunity, or as a pledge of its full faith and credit.

5. HEADINGS NOT CONTROLLING

Headings used in this Agreement are for reference purposes only and shall not be considered in construing this Agreement.

6. APPLICABLE LAWS AND COURTS

This Agreement shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The Contractor shall comply with all applicable federal, state and local laws, rules and regulations.

7. ANTI-DISCRIMINATION

Contractor certifies to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the Virginia Public Procurement Act. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the Agreement on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

In every Agreement over $10,000 the provisions in A. and B. below apply:

A. During the performance of this Agreement, the Contractor agrees as follows:

i. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

ii. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.

iii. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.

B. The Contractor will include the provisions of A. above in every subcontract or purchase order over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

8. IMMIGRATION REFORM AND CONTROL ACT OF 1986

Contractor certifies that they do not and will not during the performance of this Agreement employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

9. DEBARMENT STATUS

Contractor certifies that they are not currently debarred by the Commonwealth of Virginia from providing the type of goods and/or services covered by this Agreement, nor are they an agent of any person or entity that is currently so debarred.

10. ANTITRUST

By entering into an Agreement, the Contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said Agreement.

11. PAYMENT

A. To Prime Contractor:

i. Invoices for items ordered, delivered and accepted shall be submitted by the Contractor directly to the payment address shown on the order. All invoices shall show the number of this Agreement number and/or order number; or the federal employer identification number (for proprietorships, partnerships, and corporations).

ii. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.

iii. All goods or services provided under this Agreement or order, that are to be paid for with public funds, shall be billed by the Contractor at the Agreement price, regardless of which public agency is being billed.

iv. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.

v. Unreasonable Charges. Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, Contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges that appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Commonwealth shall promptly notify the Contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A Contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges that are not in dispute (*Code of Virginia,* § 2.2-4363).

B. To Subcontractors:

i. A Contractor awarded a contract under this Agreement is hereby obligated:

a. To pay the subcontractor(s) within seven (7) days of the Contractor's receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the subcontractor(s) under the agreement; or

b. To notify the agency and the subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.

c. The Contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the agreement) on all amounts owed by the Contractor

that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in b. above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier Contractor performing under the primary Agreement. A Contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.

12. TESTING AND INSPECTION/LATENT DEFECTS

The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure Software and Services conform to Specifications. All Software is subject to inspection and test. Software that does not meet Specifications may be rejected. Failure to reject, however, does not relieve the Contractor of liability for latent or hidden defects subsequently revealed when Software is used after acceptance has occurred. If latent defects are found at any time during the term of this Agreement, the Contractor shall repair or replace the defective Software. This remedy shall be in addition to any other remedies or obligations under this Agreement or provided by law.

13. ASSIGNMENT OF AGREEMENT

To the fullest extent permitted by law, the parties agree that Contractor's rights under this Agreement shall not be assignable, in whole or in part, to any other party without the Commonwealth's written consent, and that any purported assignment or transfer without such consent shall be null and void. If any law limits the right of the parties to prohibit assignment or nonconsensual assignments, the effective date of the assignment shall be as follows. The Contractor shall give the VITA Contracts Manager (identified in the section herein titled *CHANGES/MODIFICATIONS*) prompt written notice of the assignment, signed by authorized representatives of both the Contractor and the assignee. This written notice shall be on VITA's "Assignment Notice / Payment Instruction" form and shall provide all information requested on that form; such form may be obtained from the VITA Contracts Manager. Copies of the form may be obtained from the VITA Contracts Manager. Upon acknowledgment of receipt of the properly executed form by the VITA Contracts Manager, the Assignee shall notify the VITA's Controller of the assignment and shall supply the Controller with a copy of the properly executed form. Any payments made prior to receipt of such notification and form shall not be covered by this assignment.

In the event the Commonwealth receives any notice from a third party claiming to be an assignee of any rights of the Contractor under this Agreement, Contractor agrees that payment or other performance in respect of those rights shall not be due until at least 30 days after VITA's receipt of the notice required by the above paragraph or receipt of a similarly executed notice confirming the absence or revocation of the purported assignment. The VITA Contracts Manager shall promptly notify the Contractor of any assignment notice it receives.

Any assignment incidental to a sale or other transfer of substantially all the assets of Contractor (i.e., a "sale of Contractor's business") shall not be considered an assignment for purposes of this section.

14. CONTRACTOR COMMITMENTS, WARRANTIES AND REPRESENTATIONS

Any commitment made by Contractor pursuant to this Agreement shall be binding upon Contractor. For the purposes of this Agreement, a commitment by the Contractor includes:

A. Prices and options committed to remain in force over a specified period(s) of time.

B. Any written warranty or representation made by the Contractor made pursuant to this Agreement as to software performance, or other physical design or functional characteristics of that which is offered.

15. CHANGES/MODIFICATIONS

This Agreement may be modified in accordance with § 2.2-4309 of the *Code of Virginia.* Such modifications may only be made by the representatives noted below, or, with regard to VITA, by an alternate representative as designated by the Chief Information Officer of Virginia. No modification to this Agreement shall be effective unless it is in writing and signed by the duly authorized representative of both parties. No term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent to breach is in writing.

Authorized Representatives:

COMMONWEALTH OF VIRGINIA:

Michael Novak, Contracts Manager
Virginia Information Technologies Agency
Richmond Plaza Bldg., Lobby Level
110 South 7th Street
Richmond, VA 23219-3931
Tel: 804-371-5563
Fax: 804-371-5969
Email: michael.novak@vita.virginia.gov

CONTRACTOR:

MITEM Corporation
ATTN: Debby Scheraga
640 Menlo Avenue
Menlo Park, CA 94025
Tel: 650-323-1500
Fax: 650-323-1511
Email: debbys@mitem.com

THE ISSUANCE OF INFORMATION, ADVICE, APPROVALS, OR INSTRUCTIONS BY THE COMMONWEALTH'S OR AUTHORIZED USER'S TECHNICAL OR MANAGEMENT PERSONNEL OR OTHER REPRESENTATIVES SHALL BE DEEMED EXPRESSIONS OF PERSONAL OPINIONS ONLY AND SHALL NOT AFFECT THE CONTRACTOR'S AND COMMONWEALTH'S RIGHTS AND OBLIGATIONS HEREUNDER UNLESS THE SAME IS IN WRITING SIGNED BY THE

PARTIES AND EXPRESSLY STATES THAT IT CONSTITUTES A CHANGE TO THE AGREEMENT.

16. eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION

The eVA Internet electronic procurement solution, web site portal http://www.eva.state.va.us, streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for vendors to conduct business with state agencies and public bodies.

All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution either through the eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service, and complete the Ariba Commerce Services Network registration.

All vendors must register in both the eVA and the Ariba Commerce Services Network Vendor Registration Systems.

A. eVA Basic Vendor Registration Service: $25 Annual Fee plus a Transaction Fee of 1% per order received. The maximum transaction fee is $500 per order. eVA Basic Vendor Registration Service includes electronic order receipt, vendor catalog posting, on-line registration, and electronic bidding, as they become available.

B. eVA Premium Vendor Registration Service: $200 Annual Fee plus a Transaction Fee of 1% per order received. The maximum transaction fee is $500 per order. eVA Premium Vendor Registration Service includes all benefits of the eVA Basic Vendor Registration Service plus automatic e-mail or fax notification of solicitations and amendments, and ability to research historical procurement data, as they become available.

C. Ariba Commerce Services Network Registration. The Ariba Commerce Services Network registration is required and provides the tool used to transmit information electronically between state agencies and vendors. There is no additional fee for this service.

17. eVA BUSINESS-TO-GOVERNMENT CONTRACTS

The eVA Internet electronic procurement solution, web site portal www.eva.state.va.us, streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for vendors to conduct business with state agencies and public bodies.

Failure to comply with the requirements in A. and B. below will be just cause for the Commonwealth to reject your bid/offer or terminate this Agreement for default.

Vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution and agree to comply with the following:

A. Submit a fully executed American Management Systems, Inc., (AMS) Trading Partner Agreement, a copy of which can be accessed and downloaded from http://www.eva.state.va.us. AMS is the Commonwealth's service provider to implement and host the eVA e-procurement solution.

B. Provide an electronic catalog (price list) for items awarded under a term contract. The format of this electronic catalog shall conform to the eVA Catalog Interchange Format (CIF) Specification that can be accessed and downloaded from http://www.eva.state.va.us.

18. TERM

Orders may be written against this Agreement via eVA for a period of three (3) years beginning on the date of its final execution by both parties. The Agreement shall remain in full force and effect beyond the Agreement term period until the last item delivered completes its lease period and/or any Service contracted hereunder has been fully performed/accepted. Subject to the mutual written consent of both parties, this Agreement may be extended for up to three (3) additional one (1) year periods after the expiration of the initial three (3) year period. The Commonwealth will issue a written notification to the Contractor stating the extension period, 30 days prior to the expiration of any current Term. Except for the cancellation of the Agreement by Commonwealth or its material breach, Contractor will, on a pro-rata basis, refund any unused portion of such license fees to VITA if the Agreement is terminated prior to the expiration of all licenses.

19. ORDERS

As all Software will be hosted by Commonwealth, Commonwealth shall retain the sole and exclusive authority to order all Software and Services delineated herein on behalf of all Authorized Users. Commonwealth shall order all Software and Services **not** addressed in *Attachment A* as follows:

A. Commonwealth will first provide a Statement of Work ("SOW") to Contractor for completion;

B. Contractor will acknowledge receipt of SOW to Commonwealth within two (2) business days and provide Commonwealth with a total cost for all Software and Services within seven (7) calendar days after receipt of a SOW;

C. Following the receipt of a completed SOW from Commonwealth, the Authorized User may send Commonwealth an eVA requisition (http://www.eva.state.va.us), and attach the SOW;

D. Commonwealth will review the eVA requisition and attached SOW for approval;

E. If Commonwealth approves the eVA requisition and attached SOW, Commonwealth will process the eVA requisition and issue an order via eVA to the Contractor with the attached SOW;

F. Upon receipt of a valid order issued by Commonwealth, Contractor shall process the order and return a confirmation Receipt to identify and verify that:

   i. The order in question was received, is technically correct, accurate, and complete, with SOW attached, and identifying the Software and Services to be acquired, price, and Required Delivery Date ("RDD");

   ii. Contractor may request clarification and/or a change to the RDD should Software and Services availability or delivery be an issue, and any other applicable administrative or technical information necessary to deliver the Software and Services requested on the order by the RDD;

G. To be valid, any order must cite this Agreement # VA-041110-MITM, and be approved by an Ordering Officer (identified in the section herein titled *ORDERING OFFICERS*) authorized by Commonwealth to place orders binding the Commonwealth contractually under this Agreement; and,

H. Contractor shall request a clarification for any order that is not complete, clear or fully understood.

The Commonwealth's intent is to use eVA, the Commonwealth's total e-procurement internet portal solution (http://www.eVA.state.va.us), as the sole ordering method.

Under no circumstances shall an Ordering Officer, or any Authorized User, have the authority to modify this Agreement. Any additional or conflicting terms and conditions contained in any order are agreed to be excluded and of no effect upon this Agreement.

20. ORDERING OFFICERS

VITA will appoint Ordering Officers as appropriate. The Ordering Officer(s) authority is limited to ordering the Software and Services identified herein and including all attachments, via written eVA order(s) that reference this Agreement, and does not include the ability to add any additional Software or Services not set forth herein, or to change or modify any prices, terms and or conditions agreed upon by the parties hereto. All changes to this Agreement must be incorporated into a formal modification

to this Agreement by the Authorized Representatives identified in the section herein titled *CHANGES/MODIFICATIONS.*

Contractor is hereby notified that the Commonwealth will only make payment against valid orders executed by any of the foregoing authorized Ordering Officers, and a confirmed receipt by the Contractor. Contractor shall be advised in writing by the VITA Contracts Manger, or their appointed designee, of any change in the identity of Ordering Officers.

21. BILLING FORMAT

An electronic format, such as FTP, e-mail or CD-ROM, is preferred, provided that such electronic format includes all data required in the section herein titled *Invoices.*

22. INVOICES

All invoices shall be rendered promptly to VITA after all Software and Services addressed by the invoice have been accepted pursuant to the requirements identified in the section herein titled *ACCEPTANCE.* All payments under this Agreement, except those for Services, shall be monthly prepaid. Services shall be paid net 30. No invoice may include any costs other than those identified in the Agreement or the individual order referencing this Agreement. All invoices for Software licenses purchased shall provide the information identified in *Attachment A.*

23. TAXES

Sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request, and can be obtained online at http://www.tax.state.va.us/. Deliveries against this Agreement shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.

24. FAILURE TO DELIVER

In the event the Contractor fails for any reason to deliver in a timely manner pursuant to this Agreement, the Commonwealth, at its own discretion, may give Contractor oral or written notice of such breach. Once notice by VITA is sent or given, VITA may immediately procure the items from another source. In no event shall VITA be held to pay Contractor any costs incurred by Contractor, including but not limited to ordering, marketing, manufacturing, or delivering the item(s) which are subject of the VITA's notice of breach. This remedy is in addition to and not in lieu of any other remedy the Commonwealth may have under this agreement and the laws of the Commonwealth of Virginia.

25. PRODUCT CONDITION

All physical items related to Software, such as manuals and training materials, to be supplied by Contractor shall be new.

26. SOFTWARE SPECIFICATION

All Software shall conform to all Specifications published or provided by the Contractor or developer in all respects, including, but not limited to, operating performance, timing characteristics, sizing and compatibility. Such Specifications shall be included as *Attachment C* hereto.

27. DELIVERY AND INSTALLATION

Contractor shall make initial delivery of Software pursuant to this Agreement no later than 30 days after Agreement's Effective Date. Thereafter, Contractor will deliver Software according to the delivery date set forth on the appropriate order.

Except where otherwise expressly provided, delivery includes installation and delivery shall not be complete until Contractor completes installation of all Software, including, without limitation, shipping FOB destination, and connection of such Software with internal utility services, ready for Acceptance Testing. For the initial installation of Software and for installation of all upgrades to Software, Contractor will work cooperatively with VITA. VITA's role will be to execute tasks that Contractor is unable to execute due to policy or privilege limitations. Contractor will be solely responsible for applying software patches, updates and upgrades during the initial installation and installations of all upgrades.

28. SITE PREPARATION

At least 30 days prior to the scheduled delivery date, Contractor shall provide the Commonwealth with any environmental specifications necessary to ensure the proper and efficient operation of all Software. All such specifications shall be in writing.

The Commonwealth shall prepare the site at its own expense and in accordance with all such environmental specifications.

Ten (10) days prior to scheduled delivery date, Contractor shall, if it deems necessary, inspect the site and notify the Commonwealth in writing of any environmental inadequacies. In the absence of notification to the contrary, the Commonwealth's environment shall be deemed acceptable to the Contractor.

Any delay or additional site preparation expense caused in whole or in part by erroneous or incomplete environmental specifications shall be the Contractor's responsibility.

29. COMMENCEMENT OF ACCEPTANCE TESTING

The Software shall be considered ready for testing when the Contractor provides the Commonwealth with the documentation of a successful system audit or diagnostic test performed at the site that demonstrates, to the satisfaction of the Commonwealth, that all Software meets the Specifications. If the Contractor certifies that the Software are ready to begin acceptance testing prior to the scheduled delivery date, the Commonwealth, at its option, may elect to test the Software and change the delivery date accordingly.

30. REQUIRED PERFORMANCE LEVEL DURING ACCEPTANCE PERIOD

To qualify for acceptance, all Software must concurrently perform in accordance with the Specifications, contained in *Attachment C*, at an average effectiveness level of 100% over a period of five (5) consecutive days during the principal period of use, as defined in the section herein titled *MAINTENANCE AND SOFTWARE SUPPORT*. For the purpose of this Agreement such five (5) consecutive day period shall be known as the acceptance period. The Commonwealth shall not pay any charges, either beforehand or retroactively, associated with the Contractor's requirement to achieve this performance level. If any Software does not meet the standard of performance during the initial five (5) consecutive days, then the acceptance period shall continue on a day-to-day basis until all Software concurrently meets the standard of performance for five (5) consecutive days.

Should it be necessary, the Commonwealth may delay the start of the acceptance period, but such a delay shall not exceed thirty (30) consecutive days.

31. ACCEPTANCE

The Software shall be deemed accepted on the first day after successful completion of the acceptance period. Upon request, the Commonwealth shall provide written confirmation of acceptance. If the standard of performance has not been met after 30 calendar days have elapsed from the start of the acceptance period, the Commonwealth may require a replacement to be provided or may avail itself of the remedies for breach.

32. RECORDS

The Commonwealth shall maintain appropriate daily records documenting performance during the acceptance period and such records shall be conclusive for purposes of determining acceptance.

33. INSURANCE

Contractor certifies it will have the following insurance coverages by the Effective Date of this Agreement. The Contractor further certifies that the Contractor and any subcontractors will maintain these insurance coverages during the entire term of the

Agreement and that all insurance coverages will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

INSURANCE COVERAGES AND LIMITS REQUIRED:

A. Worker's Compensation - Statutory requirements and benefits.
B. Employers Liability - $100,000.
C. Commercial General Liability - $500,000 combined single limit. Commercial General Liability is to include Premises/Operations Liability, Products and Completed Operations Coverage, and Independent Contractor's Liability or Owner's and Contractor's Protective Liability. The Commonwealth of Virginia must be named as an additional insured when requiring a Contractor to obtain Commercial General Liability coverage.

34. DRUG-FREE WORKPLACE

During the performance of this Agreement, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

35. NONDISCRIMINATION OF CONTRACTORS

Contractor shall not be discriminated against in the award of this Agreement because of race, religion, color, sex, national origin, age, or disability or against faith-based organizations. If the award of this Agreement is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this Agreement objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

36. BREACH

Contractor shall be deemed in breach of this Agreement if the Contractor (a) fails to make any Software ready for acceptance testing by the specified delivery date; (b) repeatedly fails to respond to requests for maintenance or other required Services within the time limits set forth in this Agreement; (c) fails to comply with any other term of this Agreement and fails to cure such noncompliance within ten (10) days (or such greater period as is acceptable to the Commonwealth) following Contractor's receipt of a Show Cause Notice identifying such noncompliance; or, (d) fails to provide a written response to the Commonwealth's Show Cause Notice within ten days after receiving same.

Contractor shall not be in breach of this Agreement if its default was due to causes beyond the reasonable control of, and occurred without any fault or negligence on the part of, both the Contractor and its subcontractors. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Commonwealth in either its sovereign or Contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather.

In the event of breach, in addition to any other remedies provided by law, the Commonwealth may cancel its obligations with respect to any or all unaccepted Software or Services. All costs for deinstallation and return of Software shall be borne by the Contractor. In no event shall any failure by the Commonwealth to exercise any remedy available to it be construed as a waiver of or consent to any breach.

37. NON-APPROPRIATION

All funds for payment of Software or Services ordered under this Agreement are subject to the availability of legislative appropriation for such purposes. In the event of non-appropriation of funds by the Legislature for the items under this Agreement, the Commonwealth will terminate this Agreement for the Software or Services for which funds have not been appropriated. Written notice will be provided to the Contractor as soon as possible after legislative action is completed.

If any purchases are to be supported by federal funding, and such funding is not made available, the Commonwealth may terminate this Agreement for Software or Services dependent on such federal funds without further obligation.

38. AUDIT

The Commonwealth shall have the right to request appropriate computer information, financial records and catalogs pertaining to this Contract and work hereunder at all reasonable times, and shall have the right to determine the correctness and propriety of the charges billed by Contractor. Contractor shall maintain a copy of all books, records and catalogs utilized for pricing under this Contract for at least three (3) years after the contract's expiration.

39. TERMINATION FOR CONVENIENCE

The Commonwealth may terminate this Agreement in whole or in part, for Convenience at any time by submitting to the Contractor, a writing, 30 days prior to the date of termination. The Commonwealth shall be obligated for all outstanding orders, as per Agreement, subsequent to this termination.

In the event of termination by the Commonwealth, payment will be made by the Commonwealth to the Contractor for Services provided as of the effective cancellation date. After receipt of a notice of termination, the contractor shall stop all work or deliveries under the order or Agreement on the effective date, and to the extent, specified in said Notice. The Commonwealth shall not be obligated for any other costs or obligations in the event of Termination for Convenience.

40. TERMINATION FOR CONVENIENCE OF INDIVIDUAL ORDER

Any individual order placed under this Agreement may be terminated, in whole or in part, by the Commonwealth for its convenience, at any time up to 30 days advance written notice to the Contractor. There are no other costs or obligations for termination for convenience.

41. PRIME CONTRACTOR RESPONSIBILITY

If Contractor's proposal includes any products or services to be supplied by another party, then Contractor agrees as follows:

A. Contractor shall act as prime Contractor for the procurement and maintenance of the entire proposed configuration and shall be the sole point of contact with regard to all obligations under this Agreement.

B. Contractor hereby represents and warrants that Contractor has made such other party aware of the proposed use and disposition of the other party's product or services, and that such other party has agreed in writing that it has no objection thereto.

C. In the case of software licensed from others, such requirement shall be deemed satisfied if Contractor's use and incorporation of such third-party software is done in compliance with said third party's license for its software.

42. PATENT/COPYRIGHT PROTECTION

Contractor, at its own expense, shall defend any suit brought against the Commonwealth for the infringement of patents, copyrights or trade secrets enforceable in the United States if the claim of infringement is alleged to relate to or arise from the Contractor's or Commonwealth's use of any equipment, software, materials or information prepared, developed or delivered in connection with performance of this

Agreement. In such suit, Contractor shall indemnify the Commonwealth, its Agents, officers and employees for any loss, liability or expense incurred as a result of such suit.

The Commonwealth shall notify the Contractor of such suit within a reasonable time after learning of it and shall give the Contractor the full right and opportunity to conduct the defense of the suit, subject however to the requirements of §§ 2.2-510 and 2.2-514 of the *Code of Virginia* or any successor statute. If principles of governmental or public law are involved, the Commonwealth may, at its option and expense, participate in the defense of the suit.

The Contractor shall not be required to indemnify the Commonwealth for liability arising solely out of the Commonwealth's own specifications or design or solely from the combination of equipment or software furnished hereunder with any equipment or software not supplied by the Contractor.

If, any Software or Service becomes, or in the Contractor's opinion, is likely to become, the subject of a claim of infringement, Contractor may, at its option, provide noninfringing substitutes that are satisfactory to the Commonwealth, or at Contractor's option and expense, may obtain the right for the Commonwealth to continue the use of such Software or Service.

If the use of such Software or Service by the Commonwealth is prevented by permanent injunction or by Contractor's failure to procure the right for the Commonwealth to continue using the software, the Contractor agrees to take back the infringing equipment, software, materials or information and refund the total amount the Commonwealth has paid Contractor under this Agreement, less one half (1/2%) percent of the total paid for each month of use by the Commonwealth. This obligation is in addition to the obligations cited in the first four subparagraphs above of this section titled *Patent/Copyright Protection.*

43. CONTRACTUAL DISPUTES

A. Claims

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 VITA no later than 60 days after final payment; however, written notice of the Contractor's intention to file such claim must be given to VITA 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. VITA shall render a final decision in writing within 30 days after its receipt of the Contractor's written claim.

The Contractor 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

Commonwealth's decision on the claim, unless that agency fails to render its decision within 30 days.

B. Dispute Resolution
In the event the Parties are unable to resolve any dispute or alleged breach of this Agreement:

i. Each Party agrees to submit the matter to an arbitration panel and make every good faith effort to resole the matter.

ii. The arbitration panel shall be made of three (3) arbitrators to be nominated in accordance with the American Arbitration Association (AAA) rules. The arbitration panel will follow the AAA rules except as set forth to the contrary in this Agreement. Every effort will be made to accomplish the goals of arbitration, mainly to promptly resolve the matter with minimal cost.

iii. The laws of the Commonwealth of Virginia shall govern this Agreement and any disputes arising hereunder. The Arbitration proceedings shall be conducted in Richmond, Virginia, or other such place as may be mutually agreed by the parties. The arbitration, regardless of location, shall be conducted in English.

iv. The prevailing Party can file the order for enforcement in the jurisdiction having jurisdiction over the non-prevailing Party.

v. The order is binding unless appealed by the non-prevailing party.

vi. The arbitrators shall have no authority to award punitive damages or any other damages not measured by the prevailing Party's actual damages, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of the Agreement.

vii. The arbitrators shall award the prevailing Party, if any, as determined by the arbitrators, all of its costs and fees. "Costs and fees" means all reasonable pre-award expenses of the arbitration including the arbitrator's fees, administrative fees, travel expenses, out-of-pocket expenses, such as copying and telephone costs, witness fees and attorney's fees.

viii. The proceedings, and the resolution, order and terms will be confidential.

C. Contractor's Remedies
In the event of any breach by the Commonwealth, Contractor'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 Contractor's remedies include the right to terminate

any Software license hereunder. In the event of non-payment for Services, contractor has the right to terminate future Services. In no other event shall Contractor's remedies include the right to terminate any Services hereunder.

44. LIMITATION OF LIABILITY

To the maximum extent permitted by applicable law, the Contractor's liability under this contract for loss or damages to government property caused by the use of any defective or deficient product and/or services delivered under this Contract shall not exceed the greater of $1,000,000 *dollars or two times the total amount of the affected order to be paid to the Contractor resulting from a statement of work (SOW) under this contract as of the date of the event or circumstance giving rise to Contractor's liability.* The Contractor will not be liable under this contract for any indirect, incidental, special or consequential damages, or damages from loss of profits, revenue, data or use of the supplies, equipment and/or services delivered under this contract. The above limitation of liability is per incident. The limitation and exclusion of damages in the foregoing sentences will not apply, however, to liability arising from: (a) personal injury or death; (b) defect or deficiency caused by willful misconduct or negligence on the part of the contractor; or (c) circumstances where the contract expressly provides a right to damages, indemnification or reimbursement.

45. PRICE PROTECTION/ADJUSTMENTS

The Commonwealth shall not pay any costs above those specified in this Agreement or set forth on any order referencing this Agreement. If within 12 months following the acceptance of any Software or Service, the list price of the Software or Service is reduced below the price paid hereunder, then the difference shall be refunded to the Commonwealth. Such refund shall be made to the Commonwealth within 30 days from the date the decrease is announced to the general public. In addition, written notification of the decrease will be provided to VITA Contracts Manager, identified in the section herein titled *CHANGES/MODIFICATIONS*. In no event may the amount of any Agreement, without adequate consideration, be increased for any purpose.

Any price decrease effectuated during the Agreement period by reason of market change shall be passed on to the Commonwealth. This decrease will be effective on the date the price decrease is announced to the general public.

The Commonwealth, in its sole option, may permit price adjustments, for requested changes in the Contractor's cost of Services using the Consumer Price Index/W (CPI-W) Table 4, Services/"Other Services" category as a guide, as found on website http://STATS.BLS.GOV/NEWS.RELEASE/CPI.T04.HTM.

Once the website is accessed, refer to the section titled COMMODITY AND SERVICE GROUP, within this group, refer to the lines titled SERVICES and OTHER SERVICES and read the figures in the fourth column for the current CPI rate.

No price increase is authorized until 12 months after the effective date of this Agreement, or the effective date for any subsequent renewal thereafter, or the effective date of any order referencing this Agreement. Price increases allowed shall not be retroactive and shall only apply to new statements of work (SOW) or change orders impacting an existing SOW, upon approval of .

Contractor shall give not less than thirty 30 days advance written notice of any price increase to the VITA Contracts Manager. Any approved price changes will be effective only at the beginning of the calendar month following the end of the full 30 day notification period. The Contractor shall document the amount and the proposed effective date of any general change in the price of Services. Documentation shall be supplied with the Contractor's request for increase which will: 1) verify that the requested price increase is general in scope and not applicable just to the Commonwealth; and (2) verify the amount of percentage of increase which is being passed on to or by the Contractor and why the percentage of increase is necessary to supply Services. The Contractor is further advised that decreases which affect the cost of Services are required to be communicated and effective immediately to the VITA Contracts Manager.

46. MOST FAVORED CUSTOMER

Contractor represents that its price(s) to the Commonwealth, during the term of this Agreement, are and will be no less favorable that those provided to other customers, whether to the Government or to any other purchaser for similar quantities under similar conditions, and if not, will give the Commonwealth, a retroactive price reduction.

47. CREDITS

Any credits due VITA under the terms of this Agreement may be applied against Contractor's invoices with appropriate information attached.

48. BUY OUTS - THIRD PARTY ACQUISITION OF CONTRACTOR'S SOFTWARE

Contractor shall promptly notify the VITA Contracts Manager, identified in the section herein titled *CHANGES/MODIFICATIONS*, in the event that the intellectual property in or business associated with any Software or Service covered by this Agreement is acquired from the Contractor by a third party or in the event the Contractor or substantially all of its assets is acquired by a third party.

The terms and conditions of this Agreement including but not limited to the license rights and related services shall not be affected in such event identified above even if the successor or assignee already has an agreement with the Commonwealth covering software and services of the type covered by this Agreement. The Contractor's responsibilities under this Agreement shall not be released by such acquisition. In addition, prior to any acquisition, Contractor shall obtain for the Commonwealth's benefit the assignee's agreement to fully perform this Agreement.

The successor or assignee, by taking any benefit, including acceptance of payment, under this Agreement ratifies this Agreement.

The failure of any successor or assignee of the Contractor to acknowledge its obligation to adhere to the terms and conditions of this Agreement shall constitute a breach of this Agreement for which the successor or assignee and the original Contractor shall be liable and subject to debarment.

49. LICENSED SOFTWARE

Contractor represents and warrants that it is the sole owner of all Software or, if not the owner, has received all proper authorizations from the owner to license the Software, and has the full right and power to grant the rights contained in this Agreement. Contractor further warrants and represents that the Software is of original development, and that the package and its use will not violate or infringe upon any patent, copyright, trade secret or other property right of any other person.

50. TERM OF LICENSE

All licenses granted under this Agreement are leased on a non-exclusive, irrevocable annual license basis and shall commence upon the acceptance of the Software by the Commonwealth. Notwithstanding the foregoing, the Commonwealth may terminate the license at any time. All licenses granted to the Commonwealth are for the use of the Software at the Commonwealth's computing facilities at the sites identified in any executed order referencing this Agreement. This license is annual and in no event shall Contractor's remedies for any breach of this Agreement include the right to terminate any license or support services hereunder.

51. CONFIDENTIALITY

Commonwealth agrees that when the Software is proprietary to Contractor and has been developed or acquired at Contractor's expense, that it shall hold and use the Software in the same manner as it would deal with its own confidential information. Commonwealth shall not knowingly divulge, nor knowingly permit any of its employees, Agents, or representatives to divulge, any proprietary information with respect to the Software, the technology embodied therein, or any other documentation, models, descriptions, forms, instructions or other proprietary information relating thereto, except as specifically authorized by Contractor, in writing, or as may be required by the laws of the Commonwealth of Virginia.

Commonwealth shall take all reasonable steps necessary or appropriate to insure compliance with this section by the Commonwealth's employees, Agents and representatives, including copying reproducible legends and markings on all physical components of the Software.

The Commonwealth's obligation under this section titled *CONFIDENTIALITY* shall terminate three (3) years after the Commonwealth ceases using the Software containing the proprietary information.

52. SOFTWARE UPGRADES

A. The Commonwealth shall be entitled to receive an have installed by Contractor any and all upgraded versions of the Software that Contractor may make available in the future including any third party Software provided by the Contractor under this Agreement. At its discretion, Contractor may provide enhancements to the application and will be responsible for upgrading the Software hosted at VITA.

B. Contractor agrees to the following Software change categories:

   i. Operational Changes
   Operational Changes are minor, routine changes required to keep the Software consistent with applications and data maintained by specific Agencies of the Commonwealth that Software accesses in a non-invasive manner via Contractor's proprietary software Modules. Such Operational Changes include modification of the Software's runtime parameters, modifications to keep the Software consistent with screen changes on an Agency's application. Contractor is required to log all Operational Changes and make such logs available to VITA upon request.

   ii. Non-Operational Changes
   Non-Operational Changes include, but are not limited to:

      a. Changes to Software that require more than a "screen sync" change.

      b. Service requested by VITA pursuant to an SOW.

      c. Changes as a result of extensive screen changes by an Agency application that require more than a "quick update" from Contractor.

C. Contractor agrees to adhere to all VITA Change Management Policies for all Non-Operational Changes.

D. If a newly-installed upgraded version of the Software fails to function, Contractor agrees to reinstall the previous version of the Software within one (1) business day.

53. SOFTWARE WARRANTY

A. Contractor warrants the operation of the Software identified in this Agreement for a minimum of twelve (12) months (or such longer period as may be agreed to) after installation or installation of any Software upgrade. Software which fails to operate in accordance with the Contractor's published specifications will be returned, at Contractor's expense, for replacement. Contractor agrees to replace any non-conforming Software within five (5) calendar days after receipt of the returned Software. Warranty service shall include, but not necessarily be limited to, detection and correction or errors, updating of all Software to operate with all updated or revised versions of the operating systems for which the Software is licensed, and provision of enhancements to the Software as they are generally made available. Software license fees shall include unlimited telephonic support and all travel, labor, and documentation necessary to maintain the Software accordance with Contractor's published specifications.

B. Contractor represents and warrants that Contractor has rendered Software incapable of changing, deleting or otherwise altering the data maintained by specific agencies of the Commonwealth when such data is accessed via proprietary Software Modules created by Contractor.

C. Contractor represents and warrants that Software is fit for the intended use set forth in the Specifications and will function according to Specifications when installed in multiple instances on a single server. Such installation shall support, at a minimum, ten (10) instances and 1,000 logged-on users with 100 users concurrently executing queries. If Contractor's installation fails to meet such performance, VITA, at its option, may terminate the Agreement for convenience pursuant to the section herein titled *TERMINATION FOR CONVENIENCE*, and shall be relieved of any and all outstanding financial obligations to Contractor.

D. EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT CONTRACTOR HEREBY DISCLAIMS ANY REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF THE SOFTWARE, ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, OR THE QUALITY OR WORKMANSHIP OF THE PRODUCT.

54. MAINTENANCE AND SOFTWARE SUPPORT

A. Maintenance

When requested by VITA, Contractor shall be responsive to maintenance requirements of the Authorized User or VITA. Maintenance shall include, but not necessarily be limited to, detection, where possible, and correction of errors, updating of all Software to operate with all updated or revised versions of the

operating systems for which the Software is licensed, and provision of enhancements to the Software as they are generally made available.

B. Maintenance Window
Contractor agrees to perform maintenance related to Operational Changes (as defined in the *SOFTWARE UPGRADES* section of the Agreement) at any time other than the Principal Period of Use (as defined in the *MAINTENANCE AND SOFTWARE SUPPORT* section of the Agreement).

Contractor agrees to perform maintenance related to Non-Operational Changes (as defined in the *SOFTWARE UPGRADES* section of the Agreement) only during the following periods, or as agreed to by the Parties:

i. Sundays, 3:00 A.M. to 8:30 A.M. Eastern Standard Time.
ii. Thursdays, 3:00 A.M. to 5:00 A.M. Eastern Standard Time.

C. Contractor's Maintenance Point-Of-Contact
Contractor shall provide the Commonwealth with designated points-of-contact and make arrangements to enable its maintenance representative to receive such notification or other continuous telephone coverage to permit the Commonwealth to make such contact.

D. Integration
It is anticipated that the host systems with which the Software is integrated will change resulting in the need for Contractor to make certain programmatic adjustments to the Software and the integration component of the Software to insure its continued functionality. While the anticipated effort is expected to be minor for each incident, there are no assurances that future system changes would not require a significant effort to correct. As part of this Agreement and at no additional charge, Contractor will provide up to 20 hours of programmatic adjustments per fiscal quarter. Adjustments which exceed this limit will be estimated by Contractor and approved by VITA prior to corrective changes being made. The cost of these adjustments will be invoiced to VITA at a daily or hourly rate agreed in advance between VITA and Contractor. Because the magnitude of these systems changes is unknown, it is possible that some interruption of the Software functionality or complete interoperability may result; in such instances, Contractor agrees to respond according to the Priority Schedule contained in subsection titled Priority Schedule below.

E. Support
VITA will be responsible for all user support calls. If the reported problem is isolated to the Software, then VITA will escalate the issue to Contractor's technical support but will continue to maintain the support dialog with the user. VITA will provide direct access to the production and test servers through a virtual private network (VPN) connection. This VPN connection will be available on an as needed basis for the duration of this Agreement. In addition, VITA will

also provide to Contractor the means to upload and download files from VITA's file systems to maintain the Software along with administrative privileges to the test and the production server via terminal service access. In lieu of the administrative privileges granted to Contractor, VITA may provide its own staff member who can perform the necessary administrative functions on a demand basis.

F. Priority Schedule

Contractor will provide support to VITA during contractor's standard support hours, which are 9:00 A.M. to 8:00 P.M. Eastern Standard Time, Monday through Friday. Contractor will provide operational support to VITA as required for continued functionality of the Software. Contractor agrees to provide such operational support in accord with the following Priority Schedule:

PRIORITY LEVEL	DESCRIPTION	INITIAL RESPONSE
1	Software use halted, or having a severe impact on the user's ability to continue running Software	Four (4) hours
2	Software use impacted, but can continue for a reasonable amount of time before problem becomes critical	Start of next business day
3	User is informing VITA and VITA therefore is informing Contractor of a problem or has a "how-to" related question	One (1) full business day

G. Principal Period of Use

Contractor warrants that, except as specifically agreed to in writing, all Software will be fully operational and available to the Commonwealth and Authorized Users during the hours from 9:00 A.M. to 8:00 P.M. Eastern Standard Time, Monday through Friday. This period shall be referred to as the Principal Period of Use (PPU). VITA and Authorized Users shall have access to the Software and the Software shall be operational at all times, but only guaranteed access and operation during the PPU. Contractor shall make its best commercial effort to ensure the maximum performance of the Software during the PPU. It is understood that during times outside of the PPU, the Software will be available except when Contractor performs maintenance pursuant to Maintenance Window subsection of the section herein titled *MAINTENANCE AND SOFTWARE SUPPORT.*

If the Software loses functionality, in whole or in part, during the PPU for reasons within Contractor's control, Contractor will have two (2) full business days after notification, within the PPU, to return the Software to full functionality.

i. EXAMPLE 1: Software goes down at noon on Monday, trouble ticket opened. Contractor has until noon on Wednesday to correct the problem.

ii. EXAMPLE 2: Software goes down at 8:00 A.M. on Saturday, trouble ticket opened. Since the PPU starts at 8:00 A.M. on Monday, Contractor has until 8:00 A.M. on Wednesday to correct the problem.

H. Remedy

If Contractor fails to return the Software to full functionality by the end of two (2) full business days, VITA will have the following remedies available, at its discretion:

i. Software loses functionality for three (3) to ten (10) PPU days: 1/20 monthly credit per day for all licenses impacted.

ii. Software loses functionality for 11-20 days: 1/10 monthly credit per day for all licenses impacted.

iii. Software loses functionality for 21 days and over: VITA has the option to terminate the Agreement and all licenses with full refund for any period remaining the term of the licenses or continue receiving credits of 1/10 the monthly bill per day for all licenses impacted.

The above remedy schedule is for individual instances of the loss of Software functionality. Multiple losses of Software functionality shall not be combined when determining remedies available.

I. System Alteration

In the event the Commonwealth alters the systems to which Contractor has access and such alteration causes Contractor's Software to function at less than published Specifications, Contractor will use best commercial efforts to update Software and restore Software's functionality to published Specifications. In such an event, Contractor agrees to restore Software's functionality to published Specifications within one (1) business day or provide VITA a schedule for complete restoration of Software's functionality to published Specifications. Time spent by Contractor to update Software and restore Software's functionality to published Specifications shall be included in the 20 hours of programmatic adjustments per fiscal quarter identified in the *Integration* subsection of the *MAINTENANCE AND SOFTWARE SUPPORT* section of the Agreement.

55. MOVEMENT OF SOFTWARE

Any Software may be moved from one Commonwealth location to another upon thirty 30 days written notice to the Contractor. Prior written notice shall not be required in the event of an emergency. Contractor shall continue to warrant/maintain Software as stipulated herein.

There shall be no relocation charge to the Commonwealth in the event of transfer of licensed Software to another location or locations, and the licensed Software is to be discontinued at the old location(s).

56. CORRECTION OF ERRORS

In the event Contractor cannot correct errors in the then-current, unaltered version (including updates) of the Software to keep such Software in specified operating condition by responsive service, the Contractor shall replace the Product or provide a "work around" within 10 calendar days after notification that a software correction is required. In the event Contractor does not keep the Software in specified operating condition in accordance with this Agreement, then the Commonwealth, at its sole option, shall have the right to return any or all of the Software and related technical data and Contractor shall refund the total license fees paid less a pro rata amount based on a monthly charge for months already past.

57. SOURCE CODE

If Contractor ceases to maintain experienced staff and resources necessary to provide required Software maintenance to its customers in the ordinary course of business, or otherwise ceases to provide required maintenance Services in the ordinary course of business, the Commonwealth shall be entitled to have, use and duplicate, for its own internal maintenance purposes, a copy of the source code and associated Documentation for the affected Software. Until such time as a complete copy of such materials is provided to the Commonwealth, the Commonwealth shall have the exclusive right to possess all physical embodiments of such materials now existing or hereafter created by the Contractor or its successor in interest. The Commonwealth's rights under this section shall survive the expiration or termination of this Agreement for 12 months after the term of the last remaining license expires. The entire lease and royalty fee necessary to support the rights granted to the Commonwealth in this section is included in the initial license fee payable with respect to the Software.

58. ESCROW

Pursuant to terms mutually agreed to by the parties, Contractor shall place a copy of the source code and associated Documentation for the Software in escrow and update such materials held in escrow a minimum of one (1) time each calendar year.

59. WARRANTY AGAINST SHUTDOWN DEVICES

Contractor warrants that the Software provided under this Agreement shall not contain any lock, counter, CPU reference, virus, worm, undocumented features or other device capable of halting operations or erasing or altering data or programs. Contractor further warrants that neither the Contractor, nor its agents, employees or subcontractors shall insert any such device after execution of this Agreement. Contractor does have the

authority to design the Software in such a way that a notification e-mail is automatically sent to both Contractor and VITA when a license has expired.

60. DISASTER RECOVERY

By executing this Agreement, Contractor hereby authorizes the Commonwealth to operate Contractor's licensed Software identified in this Agreement at other location(s) for purposes of disaster recovery and disaster recovery testing. In addition, Contractor recognizes that to prepare for such an event the Commonwealth must test the Contractor's Software (normally for a periods of two (2) to three (3) days, twice annually) at a disaster recovery vendor's Cold Site. The use of Contractor's Software by the Commonwealth, at such times and under such events will be in accordance with the terms and conditions of this Agreement. Contractor agrees that there shall be no additional charge to the Commonwealth when Contractor's Software are used during an actual disaster or for disaster recovery testing.

61. HIPAA

In the course of providing Software or Services to the Commonwealth, Contractor warrants that it will comply with the privacy regulations of the Health Insurance Portability and Accountability Act of 1996.

62. NONVISUAL ACCESS TO TECHNOLOGY AND SECTION 508 REHABILITATION ACT

All information technology which, pursuant to this Agreement, is purchased or upgraded by or for the use of any State agency or institution or political subdivision of the Commonwealth (the "Technology") shall comply with the following non-visual access standards from the date of purchase or upgrade until the expiration of this Agreement:

A. Effective, interactive control and use of the Technology shall be readily achievable by non-visual means;

B. The Technology equipped for non-visual access shall be compatible with information technology used by other individuals with whom any blind or visually impaired user of the Technology interacts;

C. Nonvisual access technology shall be integrated into any networks used to share communications among employees, program participants or the public; and

D. The technology for non-visual access shall have the capability of providing equivalent access by non-visual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

Compliance with the foregoing non-visual access standards shall not be required if the head of the using agency, institution or political subdivision determines that (i) the Technology is not available with non-visual access because the essential elements of the Technology are visual and (ii) non-visual equivalence is not available.

Installation of hardware, software, or peripheral devices used for non-visual access is not required when the Technology is being used exclusively by individuals who are not blind or visually impaired, but applications programs and underlying operating systems (including the format of the data) used for the manipulation and presentation of information shall permit the installation and effective use of non-visual access software and peripheral devices.

If requested, the Contractor must provide a detailed explanation of how compliance with the foregoing non-visual access standards is achieved and a validation of concept demonstration.

All information technology which, pursuant to this Agreement, is purchased or upgraded by or for the use of any Commonwealth agency or institution or political subdivision of the Commonwealth (the "Technology") shall comply with Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended. If requested, the Contractor must provide a detailed explanation of how compliance with Section 508 of the Rehabilitation Act is achieved and a validation of concept demonstration. (http://www.section508.gov/)

The requirements of this Paragraph along with the Non-Visual Access to Technology Clause shall be construed to achieve full compliance with the Information Technology Access Act, §§2.2-3500 through 2.2-3504 of the *Code of Virginia.*

If the requirements of this section arise, Contractor will provide a SOW to comply. Following receipt of such SOW, Commonwealth may elect to accept the SOW, waive the provisions of this section, or terminate this agreement pursuant to the section herein titled *TERMINATION FOR CONVENIENCE.*

63. CREATION OF INTELLECTUAL PROPERTY

All copyrightable material created pursuant to this Agreement, including but not limited to all enhancements or modifications to the Software shall belong exclusively to Contractor, regardless of consideration, if any, paid by VITA for such enhancements or modifications.

64. TRAINING AND DOCUMENTATION

The license fee includes all Contractor costs for the training Commonwealth's employees or Agents, as well as Authorized Users' employees or agents, at Commonwealth's designated location on the use and operation of Software. Pursuant to a mutually agreed upon schedule, Contractor shall provide sufficient personnel experienced and qualified to conduct such training. Specific subjects to be addressed

by Contractor during such training and logistical details are described in *Attachment A.*

Contractor will deliver to the Commonwealth three (3) complete hard copies or electronic media of Documentation, as requested by the Commonwealth. The Commonwealth will have the right, as part of the license granted herein, to make as many additional copies of the Documentation, in whole or in part, for its own use as required. This Documentation will include, but not be limited to, overview descriptions of all major functions, detailed step-by-step operating procedures for each screen and activity, and technical reference manuals. Contractor will provide revisions to such documentation to reflect any modifications made by Contractor to the Software. The Commonwealth will have the right, as part of the license granted herein, at its own discretion, to take all or portions of the Documentation, modify or completely customize item support of the authorized use of the Software and may duplicate such Documentation and include it in a Commonwealth Document or platform. The Commonwealth will continue to include Contractor's copyright notice.

65. SECURITY

A. All data transfers between end users and the Contractor's Software shall be via secure socket layer. All remote management connection to the Contractor's Software by Contractor shall be via VITA's VPN facilities.
B. Parties agree to the following rights and responsibilities regarding all electronic communications, including but not limited to e-mail, generated by Contractor's software:

   i. Contractor agrees that VITA shall have administrative control of all electronic communications generated by Contractor's software.
   ii. VITA agrees to send to the mitem.com domain all electronic communications generated by Contractor's software.
   iii. Contractor represents and warrants that any electronic communication generated by Contractor's software will only contain information related to the operation and function of Contractor's Software and will not contain any Commonwealth of Virginia information that is confidential in nature.
   iv. Contractor represents and warrants that any electronic communication generated by Contractor's software will not be encrypted.
   v. Contractor agrees that VITA shall have the right to retain a copy of any electronic communication sent pursuant to subsection B. of the section herein titled *SECURITY.*
   vi. It shall be a breach of this agreement for Contractor to send any portion of an electronic communication sent pursuant to subsection B. of the section herein titled *SECURITY* to a third party without first obtaining written permission from VITA.

C. Contractor shall comply with all Commonwealth security policies, procedures, and applicable federal and state laws. Contractor warrants that it will support the 3270e encrypted terminal emulation with SSL at no charge.

30 Change agreed to by: (VITA) Michael A Nr 11/29/04; (MITEM)

D. No later than ~~120~~ 30 Business days after the Effective Date of this Agreement, Contractor shall provide to VITA a completed SOW describing Contractor's plan to implement a multi-tiered architecture for the licensed Software. Such SOW shall include details such as cost, deliverable dates and desired VITA resources.

E. Any audits or reviews performed on systems that support state data must include the Commonwealth's security requirements and controls. A final copy of all audit or review results and action dealing with the security of the Commonwealth's data shall be furnished to the VITA Director of Security within three (3) business days.

F. The Contractor site shall be subject to audits and reviews by the Commonwealth Security Office or authorized designee to ensure that all furnished data under this Agreement is being maintained to protect the confidentially, integrity, and availability. Contractor must furnish access to site and provide all necessary information to conduct review or audit.

G. The Commonwealth Security Office must be notified whenever Commonwealth data being maintained by the contractor is compromised or an attempt to compromise into those systems that maintain Commonwealth data. This notification must be done in not more than 24 hours from knowledge of comprise or attempt.

H. Data being furnished by the Commonwealth shall be maintained on behalf of the Commonwealth and shall never be considered owned data by the contractor. Such data shall be identified and shall not be given to any other party other than Contractor. All data shall be returned to the Commonwealth at their request if such data is no longer needed. Data residing on electronic media for processing purposes must be removed or deleted as defined in Commonwealth Security Policies

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

MITEM CORPORATION

BY: _____

NAME: Gale R Aguilar

COMMONWEALTH OF VIRGINIA

BY: _____

NAME: Lemuel C. Stewart, Jr.

TITLE: Pres & COO

DATE: 11-15-2004

TITLE: CIO of the Commonwealth

DATE: 11-30-04

FOR INTERNAL COMMONWEALTH ACTION REVIEW AND APPROVAL ONLY:

COMMONWEALTH OF VIRGINIA
(insert department)

BY: _____

NAME:_____

TITLE:_____

DATE:_____

COMMONWEALTH OF VIRGINIA
(insert department)

BY: _____

NAME:_____

TITLE:_____

DATE:_____

COMMONWEALTH OF VIRGINIA
(insert department)

BY: _____

NAME:_____

TITLE:_____

DATE:_____

ATTACHMENT "A"
TO
MASTER AGREEMENT
BETWEEN
THE COMMONWEALTH OF VIRGINIA
AND
MITEM CORPORATION

Attachment "A" is hereby incorporated into and made an integral part of Agreement # VA-041110-MITM between MITEM CORPORATION and the Commonwealth of Virginia.

In the event of any discrepancy between this Attachment "A" and Agreement # VA-041110-MITM, the provisions of VA-041110-MITM shall control.

1. PRODUCT DESCRIPTION

Contractor's Software, hereinafter referred to as HSI, is a software product which interfaces with and optimizes the user's interactions with selected Commonwealth systems. HSI consists of:

A. A set of integrated software components that perform the application's functions, provide the server functions, provide the ability to operate multiple virtual HSI systems on a single server, and software for the remote and local management of the system.

B. An included set of services that are necessary for the utilization of the system.

2. LISTING OF SERVICES, PRICING AND USAGE INSTRUCTIONS

A. Modules

i. Following installation and acceptance of HSI, such Software will be hosted on servers owned and operated by VITA. HSI permits end users to access, in a non-invasive manner and via proprietary Modules, data maintained by specific Agencies of the Commonwealth. Modules are Software that facilitate such access. Modules currently available for HSI and the Agency responsible for maintaining the underlying data are:

Module	Agency
ADAPT	Department of Social Services
VACIS	Department of Social Services
VAMMIS	Department of Medical Assistance Services

DMV	Department of Motor Vehicles
VEC	Virginia Employment Commission
APECS	Department of Social Services
SVES	Social Security Administration

ii. Contractor and VITA acknowledge that HSI can facilitate access to data maintained by other agencies of the Commonwealth in the future by mutual agreement of the Parties.

B. License Administration

Contractor shall generate and lease licenses for use of HSI only to VITA. VITA is solely responsible for administering licenses among Authorized Users. In no event shall Contractor lease, sell or otherwise provide to any entity other than VITA a license for access, via HSI or other means, to data maintained by any Agency of the Commonwealth.

C. HSI Base License Fee and Module License Fee

i. HSI Base License Fee: $25 per end user per month. Administrative Module is included in the Base License Fee.

ii. Per Module License Fee: for each non-Administrative HSI Module per month:

a. ADAPT $5
b. VACIS $5
c. VAMMIS $5
d. DMV $5
e. VEC $5
f. APECS $5
g. SVES $5

iii. For each month the number of HSI Base Licenses exceeds 1,000, Contractor shall provide a ten percent (10%) price reduction on the fees for all HSI Base Licenses and Module Licenses.

iv. License fees are paid in advance. Contractor shall not charge any penalty for pre-payment of license fees.

D. Initial Setup Fee

End users will be employees or agents of an Authorized User (as defined in the *DEFINITIONS* section of the Agreement). For each Authorized User using HSI for the first time, there will be an initial setup fee of $5,000. This fee includes such items as administrator training and license generation. If VITA performs

the administrator training for a new Authorized User, then the Initial Setup Fee will be reduced to $2,000. The setup fee will apply to each instance of HSI regardless of the purpose or the number of licensed users.

E. License Changes and Additions

From time to time an Authorized User may wish to increase its number of Base Licenses or Modules Licenses. In such an instance, VITA will issue an order to Contractor. Acting on the order, Contractor will issue a new license or licenses, and license fees for such new license or licenses will be charged on a pro-rata basis to cover the remainder of the license term. Authorized Users may decrease their number of base licenses at the beginning of the next license term.

Contractor shall accept orders from VITA for new licenses only on the first (1st) or fifteenth (15th) calendar day of each month, or on the next business day if the first or fifteenth day fall on a weekend or holiday. Contractor agrees to generate and lease such licenses within two (2) business days after receiving an order.

For an additional fee of 20%, Contractor agrees to generate and lease licenses within 12 hours after receiving an order that is clearly and conspicuously marked with the word "EMERGENCY."

F. Price Changes

Are permitted only in accordance with the *PRICE PROTECTION/ADJUSTMENTS* section of the Agreement.

G. Travel

From time to time, Contractor staff may be required to work weekends or to travel to locations other than their primary work place, *which shall be defined in the SOW*. In such cases, the VITA and Contractor may negotiate travel expenses for individuals up to the limits established by the Department of Accounts in the Commonwealth's State Travel Regulations as posted on the Department of Account website: http://www.doa.state.va.us/procedures/adminservices/capp/capp1.htm. Any invoice for travel shall not exceed the Commonwealth's reimbursement rates for mileage, meals, lodging and incidental travel expenses, and shall not exceed 10% of any total "Order" cost. TRAVEL SHALL BE COUNTED AS NORMAL TIME NOT TO EXCEED EIGHT (8) HOURS PER DAY REGARDLESS OF THE ACTUAL TIME REQUIRED. The Contractor shall not charge VITA for travel, lodging and meal expenses to relocate information technology consultants proposed by the Contractor to the workplace specified in the SOW. No overtime payment shall be allowed for hourly individuals only straight hourly rate will be paid. Authorized Users and Contractor may negotiate payment of travel

expenses for out-of-state individuals, if specifically requested by the Authorized User, and within the Commonwealth's Travel reimbursement rates.

H. Agreement Usage

i. Contractor staff shall not be permitted to commence work on any project until a written order has been approved by VITA with an attached Statement of Work. Any work performed by Contractor or Contractor's personnel prior to the effective date stated in any order with Statement of Work shall not be billed and/or accepted by the Commonwealth.

ii. The Commonwealth will provide proper working facilities and consumable supplies commensurate with any task(s) to be performed.

iii. The Commonwealth will provide access to project documentation as well as familiarization briefings on requirements.

iv. The Commonwealth will provide access to any technical manuals and references required during the normal performance of duties.

v. Contractor personnel shall be expected to follow established directives and policies during the performance of assigned tasks.

I. Activation of Orders
Upon receipt of a valid order through eVA or any other authorized ordering process, Contractor shall commence work to deliver all Software and/or deliver Services as stipulated in the order.

J. Ship To / Bill to Addresses
VITA shall include shipping and billing addresses on individual SOWs referencing this Agreement. VITA shall include this information and provide to Contractor in the order.

2. INVOICES

A. All monthly invoices shall contain, at a minimum:

i. The name of each Authorized User possessing a license for at least one HSI Base License. The following information shall be supplied for each such Authorized User:

a. The number of HSI Base Licenses;

b. For each HSI Base License, a list identifying all Module License(s) associated with the HSI Base License in question;

ii. The number of months remaining until the anniversary of this Agreement's Effective Date;

iii. Monthly charges listed by Authorized User;

iv. A text or spreadsheet document that summarizes all charges;

v. This Agreement Number/Order Number, and;

vi. Contractor's Federal Identification Number (FIN).

3. TRAINING

A. As part of the initial installation, Contractor shall train VITA support staff on server maintenance for HSI. Pursuant to such training, Contractor shall:

i. Be onsite at VITA, providing HSI training and instruction, for no less than five (5) hours.

ii. Provide documentation and training materials.

iii. Provide instruction on, at a minimum, the following topics:

a. Accessing the Locality Service Officer (LSO) account(s);
b. How to manage HSI users (set up new user, disable, delete, etc.);
c. How to reset passwords;
d. Overview of the administrator console functionality;
e. How to distinguish an HSI problem from an agency application problem; and
f. Troubleshooting common problems.

B. As part of an individual Authorized User (a locality), the Contractor shall train up to three (3) LSOs designated by the Authorized User. Pursuant to such training, Contractor shall:

i. Be onsite at the locality, providing HSI training and instruction, for no less than five (5) hours.

ii. Provide Documentation and training materials.

iii. Provide instruction on, at a minimum, the following topics:
   a. Accessing the LSO account(s);
   b. How to manage HSI users (set up new user, disable, delete, etc.);
   c. How to reset passwords;
   d. Overview of the administrator console functionality;
   e. How to distinguish an HSI problem from an agency application problem; and
   f. Troubleshooting common problems.

iv. Provide additional training materials for LSOs to use to train locality case workers.

4. VITA POINTS OF CONTACT

Contract Administration/Compliance

Michael Novak, Contracts Manager
Virginia Information Technologies Agency
Richmond Plaza Bldg., Lobby Level
110 South 7th Street
Richmond, VA 23219-39
Tel: 804-371-5563
Fax: 804-371-5969
Email: michael.novak@vita.virginia.gov

Contract Information

Michael Novak, Contracts Manager
Virginia Information Technologies Agency
Richmond Plaza Bldg., Lobby Level
110 South 7th Street
Richmond, VA 23219-39
Tel: 804-371-5563
Fax: 804-371-5969
Email: michael.novak@vita.virginia.gov

5. CONTRACTOR POINTS-OF-CONTACT

Contract Information

MITEM Corporation
ATTN: Debby Scheraga
640 Menlo Avenue
Menlo Park, CA 94025
Tel: 650-323-1500
Fax: 650-323-1511
Email: debbys@mitem.com
web: www.mitem.com

Technical Support Assistance

MITEM CORPORATION
ATTN: Dan Corenzwit
19630 Club House Road, Suite 720
Gaithersburg, MD 20886
Tel. 800-MITEM-60 (800-648-3660)
Fax.
email: support@mitem.com
web: www.mitem.com

ATTACHMENT "B"
TO
MASTER AGREEMENT
BETWEEN
THE COMMONWEALTH OF VIRGINIA
AND
MITEM CORPORATION

SAMPLE STATEMENT OF WORK (SOW)

Attachment "B" is hereby incorporated into and made an integral part of Agreement # VA-041110-MITM between MITEM CORPORATION and the Commonwealth of Virginia.

In the event of any discrepancy between this Attachment "B" and Agreement # VA-041110-MITM, the provisions of VA-041110-MITM shall control.

A completed SOW from the Contractor to the requesting Authorized User is required to accompany any Request from an Authorized User for VITA to process a Contract Order.

1. Effective Date of this SOW:
   This SOW is effective as of <<Insert Date>>

2. Authorized User (Agency/Institution/Local Entity):
   <<Insert name of Commonwealth public body>>

3. Authorized User Contact Info:
   <<Insert all address and other contact information of the public body>>

4. Ship To/Bill To Addresses:
   <<Insert relevant information to appear on the eVA Order to correctly bill information. All shipments should be to the VITA HQ location>>

5. Project Description:
   HSI

6. Scope of Work:

   a. Number of Users

   b. Host Modules required (specify a number for each):

      i. Administrative [_____]

ii. ADAPT [_____]
iii. MMIS [_____]
iv. DMV [_____]
v. VEC [_____]
vi. VACIS [_____]
vii. APECS [_____]
viii. SVES [_____]

7. Cost of Software/Services:

8. Other:

9. Background Info of the Authorized User (systems, equipment, etc):

COORDINATED BY:

MITEM Corporation	**<<Insert name of public body>>**
BY: _____	BY: _____
NAME: _____	NAME: _____
TITLE: _____	TITLE: _____
DATE: _____	DATE: _____

ATTACHMENT "C"
TO
MASTER AGREEMENT
BETWEEN
THE COMMONWEALTH OF VIRGINIA
AND
MITEM CORPORATION

SOFTWARE SPECIFICATIONS

Attachment "C" is hereby incorporated into and made an integral part of Agreement # VA-041110-MITM between MITEM CORPORATION and the Commonwealth of Virginia.

In the event of any discrepancy between this Attachment "C" and Agreement # VA-041110-MITM, the provisions of VA-041110-MITM shall control.

Contractor's Software, hereinafter referred to as HSI, shall meet or exceed the following specifications:

1. **HSI Server Specifications**
   A. MITEM HSI application and data can reside on the same server.
   B. HSI will run on a Windows 2003 Server.
   C. HSI's minimum CPU requirement is the same as that of a Windows 2003 Server.
   D. HSI's recommended minimum memory requirement is 1 Gigabyte.
   E. HSI's recommended minimum disk space is 40 Gigabytes.
   F. The HSI server must be located at, VITA on a segregated network behind a firewall.
   G. HSI must support Sun Java 2 Platform, Standard Edition (J2SE), version 1.4.1

2. **Minimum End User Desktop Configuration**
   A. Locality HSI users must have a PC with a supported version of Internet Explorer, and have the minimum configuration for connecting to COVANET.

3. **Communication/Network Requirements**
   A. HSI Vendor must be allowed remote access to the HSI production server(s) in order to manage the application.
   B. Locality HSI users must be able to perform logins to the HSI server on a secure connection (https).
   C. Locality HSI users must be able to perform queries and receive data on a secured (https) connection to the HSI server via COVANET.

D. Locality HSI users must be able to login to HSI and perform password maintenance over a secured (https) connection to the HSI server via COVANET.
E. Locality users must have communications in place already which allow them access to the HSI server at VITA.
F. Communication between the locality users, HSI, and the target applications must never travel over the public internet, other than via a secure connection such as a VPN which is acceptable to VITA.

4. Audit Requirements

A. VITA must be able to audit vendor activity on the Production box.
B. HSI must have the capability to audit successful/unsuccessful logon attempts, password changes, searches, detail requests, and administrator activities that affect user accounts. This information must be accessible for review by authorized VITA personnel.