Appendix I – Model Contract

SYSTEM INTEGRATION AGREEMENT

BY AND BETWEEN

STATE OF CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

AND

_____

Dated _____, 2008

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AGREEMENT made this __ day of _____, 2008, by and between the State of California Department of Corrections and Rehabilitation ("CDCR") and _____ (Contractor"), a _____ corporation, with reference to the following:

A. CDCR wishes to acquire an integrated Health Care Scheduling System ("HCSS") in order to provide CDCR with unified scheduling, tracking, and reporting capabilities for all schedule related aspects of patient-inmate health care delivery, all as more fully described in the Request for Proposal CDCR RFP-08-001-ITS issued by CDCR on January 9, 2009 (the "RFP").

B. CDCR wishes to develop such System through the acquisition of vendor-supplied hardware, software and services so that the System will have the ability to allow CDCR to meet the objectives set forth in the RFP.

C. Contractor provided a proposal dated _____ to CDCR in response to the RFP to provide, install, integrate, implement and service the necessary hardware and software components of the System and related services (such proposal and all amendments thereto, and all responses provided by Contractor to CDCR in connection with the proposal are referred to collectively as the "Proposal").

D. Based on the Proposal, CDCR selected Contractor to provide, install, integrate, implement and service the necessary hardware and software components of the System and related services as further described herein, pursuant to the terms and subject to the conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, CDCR and Contractor hereby agree as follows:

1. STATE OF CALIFORNIA MODEL PROVISIONS

1.1 Application. The following State of California model provisions regarding information technology, attached hereto as Exhibit A, (collectively, the "State Model Provisions") are incorporated herein by this reference, and unless expressly modified or excluded by the terms of this Agreement, apply in all respects to the rights, obligations, and performances of the parties hereunder:

(a) General Provisions – Information Technology, GSPD–401IT (Revised and Effective 04/12/2007) (the "General Provisions");

(b) State Model Information Technology Software Special Provisions, dated 01/21/03;

(c) State Model Information Technology Purchase Special Provisions, dated 02/08/07 (the "Purchase Special Provisions"); and

(d) State Model Information Technology Maintenance Special Provisions, dated 01/21/03.

1.2 Order of Precedence. Notwithstanding Section 11 of the General Provisions or any other provision of the State Model Provisions, in the event of any inconsistency between the articles,

attachments, specifications or provisions which constitute this Agreement, the following order of precedence will apply:

(a) the main body of this Agreement;

(b) the State Model Provisions;

(c) the other Exhibits and Exhibits to this Agreement; and

(d) any Statements of Work.

A Statement of Work may modify any provision of this Agreement provided it specifically identifies by Section number the provision to be modified and expressly identifies such modification as a modification to the terms of this Agreement. Such modification by a Statement of Work will apply only to such Statement of Work.

1.3 Proposals. The acknowledgments, understandings and representations of Contractor in any written proposals made to CDCR for work to be provided under this Agreement (including the Proposal) are hereby confirmed by Contractor and are relied upon by CDCR in entering into this Agreement, and are hereby incorporated herein by this reference, except to the extent expressly described as being out of scope in the applicable Statement of Work.

2. DEFINITIONS

2.1 State Model Provisions. Capitalized terms used in this Agreement have the meanings given to them in the State Model Provisions, except as modified or otherwise defined herein.

2.2 Defined Terms. As used herein:

(a) "Acceptance Criteria" has the meaning given to it in Section 6.2.

(b) "Acceptance Period" has the meaning given to it in Section 6.4.1.

(c) "Bankruptcy Code" has the meaning given to it in Section 4.2.4(b)(ii).

(d) "CDCR Project Leader" has the meaning given to it in Section 3.4.

(e) "Contract" (as used in the State Model Provisions) or "Agreement" means the terms and conditions set forth herein and the Exhibits and Exhibits attached hereto, including the State Model Provisions, and any Statements of Work executed hereunder, all of which are integral parts of this Agreement.

(f) "Contractor Project Leader" has the meaning given to it in Section 3.1.

(g) "Effective Date" means the date in this Agreement first written above.

(h) "Final System Acceptance" has the meaning given to it in Section 6.5.4.

(i) “Implementation Plan” has the meaning given to it in Section 5.2.

(j) “Interfacing Systems” means other systems of CDCR, other agencies or departments of the State of California or other entities with which the System must properly interoperate, as set forth in Exhibit C hereto. A diagram of such Interfacing Systems is included in the System Requirements attached hereto as Exhibit B.

(k) “Key Personnel” has the meaning given to it in Section 3.2.

(l) “Legal and Regulatory Requirements” means all federal and state requirements that are imposed on CDCR, including safety, security and audit requirements, as set forth in a Statement of Work.

(m) “Maintenance Services” means the maintenance services Contractor has agreed to supply to CDCR under this Agreement, pursuant to a Statement of Work therefor.

(n) “Milestone” means a milestone for performance of Services set forth in a Statement of Work or Implementation Plan.

(o) “Phase” will be defined in each Implementation Plan, if applicable, to each Statement of Work.

(p) “RFP” has the meaning given to it in the Recitals.

(q) “Services” means the activities of Contractor and its subcontractor(s) necessary to fulfill Contractor’s obligations as set forth in this Agreement, including, without limitation, services to provide, install, integrate, implement and service the necessary Equipment and Software components of the System.

(r) “Service Requirements” means the requirements for any Services as set forth in the RFP and further defined in this Agreement and Statements of Work, including reporting requirements, management requirements, and requirements for business process reengineering Services.

(s) “Software” has the meaning given to it in the State Model Provisions and includes the Custom Software as set forth in Exhibit D and the Commercial Software set forth in Exhibit E and all software updates, software upgrades, additions, error corrections, modifications, enhancements and conversions thereof that are provided as part of the licensor’s warranty and/or support or maintenance services pursuant to this Agreement or any direct agreement with the licensor (collectively, “Software Updates”), and (b) any modifications and interfaces needed for the System to properly interoperate with the Equipment components of the System, the Interfacing Systems and Software Updates thereto.

(t) “Source Code” means the source code form of software, including the materials listed in Exhibit G, all of which, where applicable, will be on media able to be compiled, read and processed on the System.

(u) “Statement of Work” has the meaning given to it in Section 5.1.

(v) “System” as used herein and in the State Model Provisions means the Strategic

Offender Management System as generally described in the RFP and as fully described in the System Requirements.

(w) "System Requirements" means the Functional Requirements and Technical Requirements for the System as set forth in the RFP and further defined by agreement of the parties in this Agreement and the Statements of Work and in agreed upon specifications for the System, including specifications for Commercial Software and other Software. A copy of the System Requirements is attached hereto as Exhibit B, and incorporated herein by this reference upon completion.

(x) "Time and Material Rates" means the time and material rates set forth in Exhibit F attached hereto.

(y) "Trigger Event" has the meaning given to it in Section 4.2.4(b).

(z) "Warranty Period" has the meaning given to it in Section 9.1.

(aa) "Work Product" has the meaning given to it in Section 10.1.1.

3. PROJECT MANAGEMENT

3.1 Contractor Project Leader. Contractor will appoint a dedicated project leader (the "Contractor Project Leader") to coordinate all Contractor activities in connection with the Agreement and who will devote the necessary time to CDCR to satisfy Contractor's obligations hereunder. The Contractor Project Leader must have experience managing the implementation of systems similar to the System for other Contractor customers. The Contractor Project Leader will monitor the implementation of the System on an ongoing basis and will be available to discuss issues as they arise with CDCR personnel. The Contractor Project Leader will coordinate the efforts of all Contractor personnel and subcontractors working in connection with this Agreement. Contractor will not reassign or replace any Contractor Project Leader unless (a) CDCR consents to such reassignment or replacement, or (b) the individual voluntarily resigns from Contractor, is dismissed by Contractor for cause, or is unable to work due to death or disability (collectively, "Removal Conditions").

3.2 Key Personnel. For each Statement of Work, Contractor and CDCR will agree on the designation of certain Contractor positions and/or named individuals as "Key Personnel" who will provide the Services. CDCR may from time to time change the positions and/or named individuals designated as Key Personnel. Contractor will not, without CDCR's prior written consent, reassign any Key Personnel to perform other functions if doing so would require the alteration or reduction of such personnel's contribution to, or involvement with, Contractor's obligations under this Agreement. Prior to hiring or otherwise engaging any person who is designated as Key Personnel (each, a "Candidate"), Contractor will provide CDCR with (a) a summary of the Candidate's qualifications and a resume, (b) a description of the tasks the Candidate is to perform, (c) an opportunity to consult with Contractor regarding the Candidate, and (d) upon CDCR's request, an opportunity to interview the Candidate. Upon review of the Candidate's qualifications, CDCR may reasonably reject the Candidate on the grounds that the Candidate is not sufficiently qualified to perform the contemplated tasks. Contractor will obtain CDCR's prior written consent thirty (30) calendar days in advance of any reassignment of a Key Personnel resulting in alteration or reduction of time expended in performance of such person's duties under this Agreement. Except for a replacement or reassignment under the Removal Conditions, Contractor will not reassign or replace any Key Personnel (1) if such reassignment or replacement would

materially disrupt CDCR's operations, (2) until the completion of any projects to which the Key Personnel is assigned, and (3) without notice to CDCR as may be practicable under the circumstances.

3.3 Contractor Personnel. Unless otherwise agreed, Contractor personnel will perform Services at CDCR sites(s) during CDCR's regular work days and normal work hours. Contractor will assign such personnel to perform the Services hereunder with the experience, knowledge and availability to complete their assigned responsibilities. Contractor will assign the types and numbers of such personnel as set forth in the applicable Statement of Work. Contractor will provide to CDCR qualifications for its personnel assigned to CDCR. CDCR may evaluate all personnel assigned to perform Services under this Agreement and to accept or reject any individual(s) based upon the background or experience. In the event that any Contractor employee or subcontractor performing Services is found to be unacceptable to CDCR, CDCR will provide a written notice of the reasons therefor and Contractor will remove said employee or subcontractor from performing Services for CDCR and, if requested by CDCR, provide a qualified replacement. In the event Contractor reassigns any of its personnel assigned to perform Services under this Agreement, Contractor will promptly provide a qualified replacement acceptable to CDCR, ensuring continuity in the Services. CDCR will not be charged for any such replacement until such time as CDCR reasonably determines that the replacement has become knowledgeable regarding and is contributing to the Services.

3.4 CDCR Personnel. CDCR will assign personnel with the experience, knowledge and availability to complete their assigned responsibilities to work with Contractor's personnel for the purpose of participating in the implementation of the System, including a CDCR Project Leader (the "CDCR Project Leader"). The presence of the CDCR Project Leader and other CDCR personnel will in no way relieve Contractor of its responsibilities under this Agreement, including the responsibility to commit sufficient Contractor personnel to successfully perform its responsibilities hereunder.

3.5 Compensation and Benefits. Contractor will provide for the compensation and other benefits for its personnel, including severance, notice, payment in lieu of notice, health benefits, disability insurance, and workers' compensation coverage. Contractor, not CDCR, will remit, withhold and pay any and all taxes and contributions that an employer is legally required to pay with respect to the employment of employees of Contractor.

3.6 Conduct. While at CDCR locations, Contractor's personnel, agents, and subcontractors will: (a) observe CDCR business hours and holiday schedule; (b) comply with reasonable requests, standard rules, and regulations of CDCR communicated to Contractor regarding personal and professional conduct generally applicable to such locations; and (c) otherwise conduct themselves in a business-like manner. In the event that CDCR determines in good faith that a particular employee, contractor, or subcontractor of Contractor is not conducting himself or herself in accordance with this Section, CDCR may provide Contractor with written notice and documentation of such conduct. Upon receipt of such notice, Contractor will promptly investigate the matter and take appropriate action, which will include: (i) establishment of an evaluation period during which the individual will be given the opportunity to correct any problems; (ii) removing him or her from the project, in the event the individual fails to perform satisfactorily prior to expiration of the evaluation period; (iii) providing CDCR Project Leader with prompt notice of such removal; and (iv) replacing him or her with a similarly qualified individual.

3.7 Communications

3.7.1 Meetings. Contractor will keep the CDCR Project Leader fully advised and

informed at all times with respect to the progress of the Services and the results obtained therefrom. The Contractor Project Leader and Key Personnel will confer and/or meet with the CDCR Project Leader as requested. At least weekly the Contractor Project Leader and such other members of the project staff, as appropriate, will meet with the CDCR Project Leader to discuss project status, timelines, problems, and any other matters relating to the project.

3.7.2 Reports. Contractor will report to the CDCR Project Leader weekly on the overall status of the Services for the Project as a whole, completion of Deliverables, and other matters affecting the effective delivery of Services, in form and substance reasonably requested by the CDCR Project Leader.

4. THE SYSTEM

4.1 Equipment.

4.1.1 Sale and Delivery. Upon the terms and subject to the conditions of this Agreement, to the extent Contractor is required by a Statement of Work to provide Equipment to CDCR for the System, Contractor will sell to CDCR the Equipment identified in the applicable Statement of Work. Both parties agree to negotiate in good faith the fees for such Equipment, but in no event will the fee for any Equipment item be greater than Contractor's or Contractor's supplier's then-current list price for such item. Without limiting the warranties set forth elsewhere in this Agreement, Contractor warrants that all Equipment will be free of defects and in good operating condition, contain the manufacturer's latest engineering revision levels, and interoperate effectively and accurately with all Software and Interfacing Systems, and that upon purchase CDCR will acquire good and clear title to the Equipment being purchased hereunder, free and clear of all liens and encumbrances.

4.1.2 Upgraded Equipment. Contractor will promptly inform CDCR of a manufacturer's proposed or scheduled release of hardware which is an upgrade of any Equipment component provided hereunder, including the scheduled release date, performance specifications, a comparison of the upgraded hardware with the Equipment component hereunder, the differences in specifications and plans, if any, and Contractor's estimated difference in cost between the Equipment component(s) and those of the upgraded hardware. Prior to the scheduled delivery date of such Equipment component, CDCR may elect to substitute upgraded hardware for the Equipment component. If CDCR elects such substitution, CDCR will pay, or receive a credit for, any difference in Contractor's published list prices for the original Equipment component and the replacement upgraded hardware. In addition, if CDCR elects such substitution, Contractor will use commercially reasonable efforts to make all necessary upgrades and modifications to the System without any slippage in delivery dates, at no additional cost to CDCR.

4.1.3 Additional Contractor Equipment. Contractor will offer to or obtain for CDCR additional items of Equipment that may be used with the System or to expand the System at a _____ percent (__%) discount off of the then-current list price for such Equipment, or the lowest price that Contractor offers or is able to obtain for any of its other customers, whichever amount is lower. Contemporaneously with Contractor's announcement to any other customer of the anticipated release of any new piece of Equipment, Contractor will notify CDCR of its nature and potential uses. If Contractor orders any such new Equipment, Contractor will give or obtain for CDCR the highest priority on delivery and installation of such Equipment. Upon CDCR's agreement to purchase such Equipment, it will be deemed to be Equipment for purposes of this Agreement.

4.2 Software

4.2.1 Software Delivery. Upon the terms and subject to the conditions of this Agreement, Contractor will deliver to CDCR the Software listed in Exhibit D (Custom Software) and Exhibit E (Commercial Software).

4.2.2 Commercial Software. Contractor will not use or provide any Commercial Software hereunder without CDCR's prior written approval and unless: (a) Contractor is expressly permitted to use or provide such Commercial Software pursuant to written agreements with all third party rights holders; and (b) Contractor has acquired for Contractor and CDCR all rights, permissions, clearances, releases, or other authorizations necessary to use or provide such Commercial Software, as contemplated by this Agreement. Contractor will secure for CDCR, at Contractor's cost and in accordance with the State Model Provisions, license rights to the Commercial Software listed on Exhibit E, as a direct license between the licensor thereof and CDCR. Contractor will be responsible for all payments in connection with the Commercial Software, CDCR will have the right to review all Contractor agreements with third parties to ensure their acceptability, and Contractor will deliver such agreements to CDCR within five (5) days of CDCR's request therefor.

4.2.3 Compatibility. Notwithstanding anything in this Agreement to the contrary, Contractor will ensure that the Software is upgradeable and upwardly compatible with future models, releases or versions of Equipment provided or proposed by Contractor.

4.2.4 Source Code.

(a) Upon Final System Acceptance in accordance with this Agreement, Contractor will deliver to CDCR the Source Code for all the Custom Software. Until the termination of the Period of Maintenance Coverage, CDCR will maintain the Source Code in confidence protected by commercially reasonable security measures from wrongful access and use and may not access or use the Source Code except for purposes of verifying it, in accordance with subsection 4.2.4(c) below. Upon the termination of the Period of Maintenance Coverage, CDCR may access and use the Source Code to correct, update, upgrade, modify, enhance, create derivative works of, and otherwise maintain the Software for the purposes contemplated and permitted in this Agreement.

(b) Upon Acceptance of the Commercial Software in accordance with this Agreement, and as a condition of its use as part of the System provided to CDCR, Contractor will cause the licensor of the Commercial Software to deliver the complete Source Code for the Commercial Software in escrow to a third party escrow agent reasonably acceptable to the parties ("Escrow Agent") pursuant to a mutually acceptable escrow agreement between the licensor and CDCR. This escrow agreement will provide that CDCR may receive a copy of such Source Code immediately from the Escrow Agent upon CDCR's notification to the Escrow Agent of a Trigger Event, and may thereupon use the Source Code in the same manner as provided in subsection (a) above. The following are "Trigger Events":

(i) the licensor of the Software ceases doing business and its

business is not continued by another corporation or entity, or is continued by another corporation or entity which CDCR for reasonable cause deems unsatisfactory;

(ii) the licensor of the Software files a voluntary petition or has a voluntary petition filed against it under the United States Bankruptcy Code, as amended (the "Bankruptcy Code") or similar insolvency statute, makes an assignment for the benefit of its creditors generally or seeks the appointment of (or has appointed involuntarily) a receiver, becomes insolvent or bankrupt, admits in writing its inability to pay its debts as they mature or taken any action for the purpose of entering into winding-up, dissolution, insolvency, bankruptcy, reorganization or similar proceedings analogous in purpose or effect thereto, or any such action is instituted against it;

(iii) the licensor of the Software is debarred by the State of California or any agency or department thereof, including CDCR;

(iv) the licensor of the Software commits a material breach of its obligations related to this Agreement which remains uncured for thirty (30) days after written notice thereof;

(v) maintenance and support for the Software is no longer generally available to the licensor's customers for the Software; or

(vi) the licensor of the Software declines to provide any services that are essential to CDCR's use of the System or declines to provide modifications, customizations or enhancements to the Software requested by CDCR.

(c) Contractor will update, and will cause the licensor of the Software, as applicable, to update, the Source Code to include all Software Updates to ensure that it is at the same version of the Software then being utilized by CDCR, within thirty (30) days after the object code of such version is delivered to CDCR. CDCR may verify the Source Code during the Period of Maintenance Coverage. Contractor may participate in any such verification.

4.3 Documentation. Contractor will provide such proprietary and nonproprietary Documentation as is described as Deliverables in a Statement of Work. CDCR may duplicate the Documentation provided that CDCR reproduces the copyright which appears on such Documentation being duplicated.

4.4 Reliance. Contractor represents that the System, as specified herein, requires no hardware, software or services other than as described in this Agreement for the full and complete operation and use of the System in accordance with the terms hereof. If such additional items of hardware, software and/or services are required, Contractor will provide such items at no cost to CDCR. Contractor acknowledges that CDCR has relied and will rely on Contractor's experience and expertise in providing, installing, integrating, implementing and servicing the System under this Agreement.

5. SERVICES

5.1 Scope. Contractor will provide CDCR with Services relating to the installation, implementation, modification and customization of the System as such Services are described in one or more written statements of work signed by the parties (each, a "Statement of Work"). Statements of Work will describe the work to be done, the Deliverables, the results to be achieved, the cost, the start date, the particular personnel provided, the criteria for completion and acceptance and any other items required by the State Model Provisions. Contractor agrees that, except as otherwise set forth in this Agreement, any additional costs incurred by Contractor over and beyond the fixed prices set forth in the Statements of Work will not be passed on to CDCR and that any reference to Contractor personnel hours will not be interpreted or construed to require CDCR to pay any additional fees if such hours are exceeded by Contractor personnel.

5.2 Implementation Plan and Milestones. Each Statement of Work will contain an implementation plan ("Implementation Plan") setting forth the expectations of the parties as to the timing of the various stages of performance of the Services thereunder and applicable Milestones. Each Implementation Plan will address all aspects of the Services, including business process reengineering, knowledge transfer/training, testing, capacity planning, development and data conversion. In the event any Milestone is not met, Contractor will not earn and CDCR will not be required to remit the payment conditioned on such Milestone until such Milestone is met. Any extensions granted to Contractor to meet the delayed Milestones will be in CDCR's sole discretion, and in the event such extension is granted, CDCR will not be liable for, and Contractor will not be entitled to, any compensation for any costs or expenses incurred by Contractor as a result of such permitted extension. In the event that any performance or delivery of any Milestone set forth in a Statement of Work is not met due to a delay caused by Contractor, Contractor agrees, at no charge to CDCR, to commit such additional resources and personnel as will be necessary to ensure that such delay does not result in the slippage of later Milestones under the Statement of Work.

5.3 Changes. Either party may at any time propose a change to a Statement of Work. If Contractor believes that such change will increase Contractor's costs or delay completion, the parties will negotiate in good faith to try to accommodate such requests. Contractor will price any additional fees at the Time and Material Rates or, for fixed cost changes, based upon cost projections provided by reputable third party tools suitable for such purpose. No such change will be effective unless and until set forth in a written amendment to the Statement of Work which is approved and signed by the parties. Any such agreed modifications will be performed by Contractor in accordance with such amendment and this Agreement. Any failure to so agree to a proposed change will not impair the enforceability of the other terms herein or in any Statement of Work. If the parties fail to agree to a proposed change, Contractor will cooperate with CDCR and any third party vendor selected by CDCR as reasonably necessary to enable and facilitate the third party vendor's performance of the work.

5.4 Termination of SOW. CDCR may terminate any individual Statement of Work under this Agreement, in whole or in part, without terminating this Agreement, upon at least 15 days written notice to Contractor, for any or no cause. CDCR will pay for all Services rendered and related expenses incurred in accordance with this Agreement, as of the effective date of such termination. Upon such payment, Contractor will deliver to CDCR all Work Product, completed or in process, generated during the performance of the terminated Statement of Work.

6. ACCEPTANCE

6.1 Model Provisions. The terms of this Section 6 replace in all respects the terms of Section 16(e) of the General Provisions and any other contrary provision of the State Model Provisions.

6.2 Acceptance Criteria. All Deliverables will be subject to acceptance testing by CDCR to verify that such Deliverables satisfy the acceptance criteria mutually agreed to by CDCR and Contractor (the "Acceptance Criteria"). Generally, the Acceptance Criteria for each applicable Statement of Work will be developed to demonstrate to CDCR's reasonable satisfaction that (a) for Software Deliverables, all of the functions of and requirements for the Software Deliverable have been provided, the Software Deliverable is in conformity with the System Requirements therefor, and all performance standards for the Software Deliverables set forth in the applicable Statement of Work or the System Requirements have been met or exceeded; and (b) with respect to all other Deliverables, such Deliverables are compliant with all applicable System Requirements and Service Requirements. For any Services for which Acceptance Criteria are not specified in a Statement of Work, acceptance will be based on CDCR's reasonable satisfaction therewith.

6.3 Acceptance Criteria for Maintenance Services. The Maintenance Services provided by Contractor under a Statement of Work will meet or exceed the service levels set forth for such Services in the Statement of Work. Contractor will provide CDCR with reports sufficient to measure and report on each service level set forth in each Statement of Work in the form annexed thereto.

6.4 Acceptance Testing for Deliverables. Without limitation of Section 6.5, if Contractor is required to submit any Deliverables under a Statement of Work, then, unless otherwise set forth in such Statement of Work:

6.4.1 Testing. Acceptance testing for all the Deliverables will commence within ___ working days of the date on which Contractor notifies the CDCR Project Leader in writing that, in Contractor's opinion, a Deliverable has been satisfactorily completed, has been delivered, and is ready for acceptance testing by CDCR. Unless otherwise set forth in a Statement of Work, acceptance testing will proceed for a period of ___ consecutive days (the "Acceptance Period").

6.4.2 Corrections. In the event that a Deliverable does not conform to its Acceptance Criteria, CDCR will give Contractor written notice thereof. CDCR will cooperate with Contractor in identifying the reason for the failure. Contractor will, at no cost to CDCR, promptly correct the failure and its impacts on any other Deliverable. Upon completion of the corrective action, and at no additional cost to CDCR, the acceptance test will be repeated until the Deliverable has successfully conformed to the Acceptance Criteria.

6.4.3 Remedies. If the Deliverable does not conform to the Acceptance Criteria within ___ days after the end of the Acceptance Period, CDCR may (reserving all other remedies and rights under this Agreement and at law and in equity): (a) immediately terminate either this Agreement or the applicable Statement of Work, in whole or in part, pursuant to Section 23 of the General Provisions and, at CDCR's option, seek an alternative solution, or (b) require Contractor to continue to attempt to correct the differences.

6.5 Phased Implementation and Acceptance Testing of the System. The System will be installed and implemented in Phases in accordance with the Implementation Plans. Each Phase of the

System will be installed, tested and accepted in accordance with 6.5.1 through 6.5.3, and upon acceptance of all of the Phases, the entire System will be tested and accepted in accordance with Section 6.5.4. This testing may include any or all of the following: unit testing, functional testing, integration testing, system testing, security testing, regression testing, stress/load testing, performance testing and usability testing.

6.5.1 Step 1: Phase Installation and Contractor Testing. For each Phase, Contractor will install the designated components of the System at the CDCR site(s) in accordance with the applicable Implementation Plan. After installation, Contractor will conduct all necessary testing and all necessary programming to ensure that the Phase performs and functions in accordance with the applicable System Requirements. Upon completion of such installation and testing, Contractor will certify in writing to CDCR that such installation and testing have been completed and that the Phase is ready for CDCR to commence its Initial Phase Acceptance Test.

6.5.2 Step 2: Initial Phase Acceptance Test. After receipt of Contractor's installation certification for each Phase, CDCR will conduct an initial acceptance test of the Phase ("Initial Phase Acceptance Test"). At no cost to CDCR, Contractor personnel will be present during such Initial Phase Acceptance Test. Each Initial Phase Acceptance Test must demonstrate to CDCR's reasonable satisfaction that: (a) each of the functions for the System for such Phase, and all prior Phase(s), if any, have been provided and perform in accordance with this Agreement, including but not limited to the System Requirements, Documentation and the applicable Statement of Work; and (b) all applicable warranties have been met or exceeded. In the event the Phase passes the Initial Phase Acceptance Test ("Initial Phase Acceptance"), CDCR will notify Contractor thereof in writing.

6.5.3 Step 3: Phase Production Use Test. After Initial Phase Acceptance of each Phase of the System, CDCR will implement the Phase to run in a live operating environment ("Phase Production Use Test"), in which the Phase is operated for a period of ninety (90) consecutive days. Each Phase Production Use Test must demonstrate to CDCR's reasonable satisfaction, that: (a) each of the functions of the Phase, and all prior Phases, if any, have been provided and perform in accordance with this Agreement, including but not limited to the System Requirements, Documentation, and the applicable Statement of Work; (b) all applicable warranties have been met or exceeded. When each Phase Production Use Test is successfully completed, CDCR will so notify Contractor in writing ("Final Phase Acceptance").

6.5.4 Final System Acceptance. After Final Phase Acceptance of all of the Phases of the System, CDCR will run a final system acceptance test ("Final System Acceptance Test"), in which the System will operate for a period of ninety (90) consecutive days following Final Phase Acceptance of the last Phase. The Final System Acceptance Test must demonstrate, to CDCR's reasonably satisfaction, that (a) each of the functions of the System has been provided and performs in accordance with this Agreement, including but not limited to the System Requirements, Documentation, and the applicable Statement of Work; and (b) all applicable warranties have been met or exceeded. When the Final System Acceptance Test has been successfully completed, CDCR will so notify Contractor in writing ("Final System Acceptance").

6.5.5 Failures and Corrections. If any Phase fails to pass the Initial Phase Acceptance Test, Phase Production Use Test or the Final System Acceptance Test, as the case may be, CDCR will so notify Contractor in writing, specifying the nature of such failure in reasonable detail. Contractor will have ____ (__) calendar days in which to correct the problem after which CDCR will have _____ (__) calendar days to reconduct the applicable test(s) for the applicable periods described above. In the event

the System continues to fail the Initial Phase Acceptance Test, Phase Production Use Test or the Final System Acceptance Test, CDCR, at its sole option, may either (a) deem it a failure by Contractor to deliver the System and Contractor will promptly refund to CDCR all fees paid to Contractor relating to the System; or (b) allow Contractor to continue to attempt to resolve the problems in the System causing such failure.

6.6 Acceptance Testing Consultation. Contractor will provide on-site consultation Services to assist CDCR with planning and executing Acceptance Testing, as CDCR may request.

7. MAINTENANCE SERVICES

7.1 Provision of Maintenance Services. Contractor will provide maintenance services to CDCR free of charge during the Warranty Period, as provided in this Section 7 and any applicable Statement of Work ("Maintenance Services"). Thereafter, the Maintenance Services, the Period of Maintenance Coverage, applicable maintenance fees, and the terms governing performance and renewal thereof will be as set forth in Statements of Work. During the Warranty Period and the Period of Maintenance Coverage, Contractor will maintain the System in good working order, correct defects in materials and workmanship, and remedy any Software Failure or Equipment Failure, or any other failure, malfunction, defect or non-conformity in the System, including failures to meet the System Requirements. Contractor will not be responsible for the cost of remedying failures due solely to the negligence, errors or omissions of CDCR personnel (unless acting on the instruction or recommendation of Contractor), but Contractor will remedy such failures at Time and Material Rates, if requested by CDCR in writing to do so. Maintenance Services will be provided by telephone, web site access, direct connection and on-site visits, as the situation requires.

7.2 Software Updates and Enhancements. During the Warranty Period and as part of Maintenance Services, Contractor will provide to CDCR all Software Updates for the Software, including the Commercial Software, as they are made generally available to Contractor's customers and Contractor's licensor's customers, including all Documentation therefor. Such Software Updates will comply with the performance and warranty requirements for the Software under this Agreement. Contractor will provide to CDCR all Software Updates necessary to ensure that the Software remains compatible with newly-released and generally available versions of the Commercial Software that CDCR uses in conjunction with the Software, compatible with future models, releases or versions of Equipment proposed by Contractor and remains compliant with all Legal and Regulatory Requirements. Contractor agrees to make available at least one major release of the Software that includes significant enhancements and new functionality (an "Enhancement") per calendar year. These major releases are part of the Maintenance Services and will be provided to CDCR at no additional cost. Such Enhancements will be accompanied by Documentation describing their functionality and will at a minimum comply with the performance and warranty requirements for the Software under this Agreement. CDCR may choose not to install any or all offered Software Updates or Enhancements without diminishing its rights under this Agreement, and Contractor will nonetheless continue to maintain and support the Software and Documentation then being used by CDCR. Contractor will ensure that no Software Update or Enhancement will materially degrade the functionality, capabilities or features of the Software at the time of release and all such Software Updates and Enhancements will be backwardly compatible with previously installed versions of the Software and Equipment in use by CDCR. To the extent the Commercial Software is updated, Contractor will update all Software to reflect such updated Commercial Software, and if any Commercial Software is no longer available or supported, Contractor will promptly

and at its sole cost make such modifications to the remaining Software so as to provide CDCR with uninterrupted functionality of the System as described herein.

8. FEES AND PAYMENT

8.1 General. Unless otherwise specified, the Statements of Work will define and authorize Services on a fixed price basis. In calculating the fixed price relative to any Services, Contractor agrees that the rates used in its calculations will not exceed the Time and Material Rates. Subject to Section 8.2, Contractor will invoice CDCR monthly, in arrears, for fees for the Services and/or the Deliverables provided to CDCR and milestones achieved by Contractor, in U.S. dollars and in accordance with the schedule of payments set forth in the Statement of Work. No other amounts will be payable for the performance of the Services. To the extent CDCR agrees to reimburse Contractor for any out-of-pocket expenditure, such expenditures will be passed through to CDCR at actual cost with no markup. To be eligible for reimbursement, such expenses must be properly documented and incurred by Contractor in connection with providing the Services in accordance with CDCR's expense guidelines.

8.2 Invoicing and Payment for Services.. Unless otherwise provided in a Statement of Work:

8.2.1 Partial Payments for Deliverables. During the execution of a Milestone which involves the delivery to CDCR of identified Deliverables, the Contractor may submit periodically to CDCR invoices reflecting a pro-rata cost of the Milestones, determined on the basis of the lesser of either:

(a) the number of Deliverables provided to CDCR divided by the total number of Deliverables required to be delivered to CDCR, less a fifteen percent (15%) withhold, less any amounts previously invoiced; or

(b) the number of work-hours expended by the Contractor in the performance of the task divided by the number of work hours scheduled for the task, less a fifteen percent (15%) withhold, less any amounts previously invoiced.

8.2.2 Partial Pro-Rata Payments. For Milestones which do not involve delivery to CDCR of identified Deliverables, but which are of a continuing nature, Contractor may submit invoices reflecting a pro-rata cost of the Milestone, less a fifteen percent (15%) withhold, less any amount previously invoiced. Actual progress payment amounts for such Milestones must be based on at least equivalent Services rendered and, to the extent practicable, will be keyed to clearly identifiable stages of progress as reflected in written reports submitted with the invoices.

8.2.3 Milestone Completion. Upon completion of a Milestone in accordance with the acceptance criteria set forth herein, eighty-five percent (85%) of the full charge for such Milestone, less amounts previously invoiced to CDCR, may be submitted for payment. Nothing herein will be construed to waive or contradict any requirement of California Public Contract Code section 12112 or any similar or successor provision.

8.2.4 Work Authorizations. Services not specified in a Statement of Work may be performed only pursuant to a work authorization signed by CDCR. In no event will the total amount paid for such work exceed ten percent (10%) of the value of personal services anticipated by this Agreement.

8.2.5 Invoicing. Invoices prepared in accordance with this provision will not be submitted more frequently than monthly to CDCR. In the aggregate, invoices reflecting progress payments will not exceed eighty-five percent (85%) of the total price, with the balance to be invoiced upon Final System Acceptance. A Statement of Work may specify a withhold of more than fifteen percent (15%).

8.2.6 Acceptance Terms. In the event of a conflict between the terms of this Section 8 and those of Section 6 of this Agreement, Section 6 will govern.

8.3 Price Decline. The provisions of Sections 3 and 4 of the Purchase Special Provisions apply to both Equipment and Commercial Software.

9. WARRANTIES

9.1 Warranty Period. For purposes of this Agreement "Warranty Period" means the period of time commencing on the Effective Date and continuing for a period of twelve (12) months following the Final System Acceptance, or longer if extended pursuant to the terms of this Agreement or a Statement of Work.

9.2 General Warranty. During the Warranty Period, Contractor warrants to CDCR that: (a) the System will remain in good working order and perform all the functions and operate in accordance with this Agreement, including, but not limited to the System Requirements and Documentation; (b) the System will be fully operational and usable in accordance with the terms and conditions of this Agreement; (c) the System and each module, component and function thereof will fully interoperate with the Interfacing Systems as defined in the System Requirements; (d) the System will meet and enable CDCR to meet all Legal and Regulatory Requirements in effect as of the Effective Date of this Agreement and any subsequent Legal and Regulatory Requirements arising subsequent thereto; (e) the System and the performance of the Services will comply with all CDCR requirements set forth in the Statements of Work; and (f) the Services will comply with the Service Requirements. Contractor represents that it knows of no material problems or difficulties concerning the System that have not been disclosed to CDCR in this Agreement.

9.3 Specific Warranties. Contractor represents and warrants that:

(a) the System, upon delivery of each component thereof and at all times thereafter, will be free and clear of all liens, restrictions, claims, charges, security interests, or other encumbrances of any nature whatsoever which might materially and adversely impact CDCR's use of the Software and Equipment hereunder;

(b) no approval, authorization, consent, permission, or waiver to or from, or notice, filing, or recording to or with, any person, entity or governmental authority is necessary for the execution and delivery of this Agreement and the rights and licenses granted hereunder;

(c) no claim, action, suit, proceeding, inquiry, hearing, arbitration, administrative proceeding, or investigation (collectively, "Litigation") is pending or threatened against Contractor, its present or former directors, officers, or

employees, affecting, involving, or relating to the System or the Services; Contractor knows of no facts that could reasonably be expected to serve as the basis for Litigation against itself, its present or former directors, officers, or employees, affecting, involving, or relating to the System or the Services;

(d) there is no outstanding or threatened order, writ, injunction, or decree of any court, governmental agency, or arbitration tribunal against Contractor affecting, involving, or relating to the System or the Services to be performed hereunder, and Contractor is not in violation of any applicable federal, state, or local law, regulation, ordinance, governmental restriction, order, judgment, or decree affecting, involving, or relating to the System or the Services;

(e) the Documentation will at all times be complete, accurate and correct and will comport with generally accepted industry standards in describing the proper procedures for operating the System, and will provide sufficient information to enable CDCR personnel to operate the System;

(f) CDCR is not an alpha or beta site for the Equipment or the Software; and

(g) neither the execution nor performance of this Agreement, nor the licenses granted hereunder, will conflict with or violate any other license, instrument, contract, agreement, or other commitment or arrangement to which Contractor is a party or by which Contractor is bound.

9.4 Additional Warranties. The parties may agree in Statements of Work on additional warranties to apply to the System.

9.5 Remedies for Breach of Warranties. Except as otherwise provided in a Statement of Work or elsewhere in this Agreement, for any breach of the warranties provided in this Section 9, CDCR's exclusive remedy and Contractor's sole obligation will be limited to:

(a) re-performance, repair, or replacement of the nonconforming Deliverable (including without limitation an infringing Deliverable) or Service, and any Deliverable or Service whose function or utility is materially adversely affected by the nonconforming Deliverable or Service (a "Materially Impacted Deliverable") at no additional charge to CDCR; or

(b) should CDCR in its sole discretion consent, refund of all amounts paid by CDCR for the nonconforming Deliverable or Service and any Materially Impacted Deliverable, and payment to CDCR of any additional amounts necessary to equal its Cost to Cover. "Cost to Cover" means the cost, properly mitigated, of procuring Deliverables or Services of equivalent capability, function, and performance as required. The payment obligation in this subsection will not exceed the limits on Contractor's liability set forth in Section 26 of the General Provisions.

9.6 Disclaimer. EXCEPT FOR THE EXPRESS WARRANTIES SPECIFIED IN THIS AGREEMENT, CONTRACTOR MAKES NO WARRANTIES EITHER EXPRESS OR IMPLIED,

INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

10. PROPRIETARY RIGHTS

10.1 Rights in Work Product. Notwithstanding anything to the contrary in Section 37 of the General Provisions:

10.1.1 Ownership by Contractor. If and to the extent the parties agree in a Statement of Work that this Section 10.1.1 will apply, all inventions, discoveries, intellectual property, technical communications and records originated or prepared by Contractor pursuant to this Agreement (including Custom Software, papers, reports, charts, computer programs, and other Documentation or improvements thereto), and Contractor's administrative communications and records relating to this Agreement (collectively, the "Work Product"), will be Contractor's exclusive property. In consideration of Contractor's retention of ownership of the Work Product, Contractor (a) hereby grants to CDCR and the State of California Government Purpose Rights as defined in and in accordance with Section 37 of the General Provisions, and (b) will provide to CDCR, at no charge (regardless of whether or not Contractor is then providing Maintenance Services to CDCR for the Work Product or any portion thereof), any Software Updates to the Work Product or any work product based on or derivative of the Work Product, at the same time that such Software Updates are provided by Contractor to any third party customer. This Section 10.1.1 will survive the termination of this Agreement.

10.1.2 Ownership by CDCR. If and to the extent that the parties agree in a Statement of Work that this Section 10.2.1 will apply, and notwithstanding any other provision of this Agreement, ownership of all Work Product and all copyright, patent and trade secret rights inherent therein and appurtenant thereto, are hereby assigned to CDCR, and Contractor will take at its expense any reasonably necessary action to perfect and protect CDCR's rights therein, including execution and delivery of any further documents which may be necessary to vest title thereto in CDCR, its successors, assigns or nominees. Notwithstanding any other provision of this Agreement, the foregoing will not preclude Contractor from independently developing and coding similar customizations (as long as CDCR's proprietary rights are not infringed, misappropriated or violated in so doing) for other clients of Contractor who request such similar customizations or modifications.

10.2 Pre-Existing Materials. For avoidance of doubt, software and other materials developed or otherwise obtained by or for Contractor or its affiliates independently of this Agreement or applicable purchase order ("Pre-Existing Materials") do not constitute Work Product. If Contractor creates derivative works of Pre-Existing Materials, the elements of such derivative works created pursuant to this Agreement constitute Work Product, but other elements do not. Nothing in this Section 10 will be construed to interfere with Contractor's or its affiliates' ownership of Pre-Existing Materials.

10.3 Confidentiality of Data. Notwithstanding anything to the contrary in Section 34 of the General Provisions:

(a) All financial, statistical, personal, technical and other data and information relating to the operations, products or services of a party (the "Discloser") which are made available to the other party (the "Recipient") in order to carry out this Agreement, or which become available to the Recipient in carrying out this Agreement, will be protected by the Recipient from

unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the Recipient's own confidential information.

(b) Due to the highly technical and sensitive nature of the subject matter of this Agreement, each party will treat all information obtained from the other party under this Agreement or to which it has access under this Agreement as the Discloser's confidential information, unless it falls within one of the exceptions described in the following sentence. The Recipient will not be required under the provisions of this Section to keep confidential any data or information which is or becomes publicly available other than by breach by the Recipient of its obligations hereunder, is already rightfully in the Recipient's possession without restriction on use or disclosure, is independently developed by the Recipient outside the scope of this Agreement, or is rightfully obtained from third parties without restriction on use or disclosure.

11. REMEDIES

11.1 Specific Performance. In addition to seeking damage remedies for Contractor breaches, CDCR may seek to have the provisions of this Agreement specifically enforced by any court of competent jurisdiction, all without the need to post a bond or other security to prove any amount of actual damages, it being acknowledged and agreed that any such breach or threatened breach may cause irreparable injury to CDCR and that monetary damages will not provide an adequate remedy to CDCR.

11.2 Liquidated Damages. The parties agree that any delay in Contractor's performance under this Agreement will interfere with the proper implementation of the System and of CDCR's technology platform, to the loss and damage of CDCR. From the nature of the case, it would be impracticable and extremely difficult to fix the actual damages sustained in the event of any such delay. Contractor will be liable for any liquidated damages for late performance (including late delivery) specified in a Statement of Work if Contractor fails to provide a Service or deliver a Deliverable, ready for use in substantial conformance with its specifications, on or before the Milestone therefor. CDCR and Contractor presume that in the event of any such delay the amount of damage which will be sustained from a delay will be the amounts set forth in the Statement of Work, and Contractor will pay such amounts as liquidated damages and not as a penalty. Amounts due CDCR as liquidated damages may be deducted by CDCR from amounts payable to Contractor. CDCR will notify Contractor in writing of any claim for liquidated damages pursuant to this Section on or before the date CDCR deducts such sums from money payable to Contractor. Liquidated damages received hereunder are not intended to be nor will they be treated as a partial or full waiver or discharge of any right or remedy of CDCR provided hereunder or by law.

12. CONTRACTOR RESPONSIBILITIES

12.1 Section 365(n). All licenses granted under or pursuant to this Agreement by Contractor to CDCR are, and will otherwise be deemed to be, for purposes of Section 365(n) of the Bankruptcy Code licenses to rights to "intellectual property" as defined in the Bankruptcy Code. The parties agree that CDCR, as licensee of such rights under this Agreement, will retain and may fully exercise all of its rights and elections under the Bankruptcy Code. Contractor will obtain the agreement of any third-party

licensors of the Commercial Software that, in the event of the commencement of bankruptcy proceeding by or against Contractor or Contractor's licensors, CDCR will be entitled to retain all of its rights to the Commercial Software pursuant to such Section 365(n).

12.2 Prime Contractor. Contractor is the prime contractor under this Agreement and as such assumes full responsibility for the delivery and performance of the Services and System in accordance with the terms of this Agreement, including, but not limited to any Equipment, Software and Services provided by its suppliers, subcontractors or third parties. Notwithstanding anything to the contrary contained herein, CDCR's approval of a subcontractor will not operate as a waiver of any right CDCR may have against Contractor.

12.3 Subcontractors.

12.3.1 Conditions. Except as expressly provided herein or with the prior written consent of CDCR in each instance, Contractor may not delegate or subcontract the performance of its obligations under this Agreement. All subcontracts will be subject to CDCR's prior written authorization. All such approved subcontracts will provide that:

(a) nothing contained in such agreement will impair the rights of CDCR;

(b) CDCR is an intended third-party beneficiary of subcontractor's obligations therein, with the power to enforce them directly, but that in all other respects nothing contained therein or in this Agreement creates any contractual relationship between the subcontractor and CDCR;

(c) the subcontractor agrees to be bound by confidentiality provisions consistent with those set forth in this Agreement; and

(d) the subcontractor agrees that Contractor may assign such subcontract to CDCR if requested by CDCR upon termination of this Agreement.

12.3.2 Responsibility. Contractor agrees that it is fully responsible to CDCR for the acts and omissions of its subcontractors and of persons either directly or indirectly employed or engaged by them, including compliance with the terms of this Agreement. Contractor will ensure that subcontractors are covered by workers compensation and other insurance as required by applicable law. Contractor will defend, indemnify and hold harmless CDCR and its affiliates from and against all claims or lien rights made or asserted by subcontractors and suppliers arising out of the performance of this Agreement. Contractor will be responsible for all payments to its subcontractors. CDCR may withdraw its consent to a subcontract if the subcontractor materially impairs the performance of this Agreement. CDCR will so notify Contractor, and CDCR and Contractor will work together in good faith to resolve the situation which may include replacement of the subcontractor.

12.3.3 Assignment. In the event of a termination of this Agreement for any reason, and upon request by CDCR, Contractor hereby agrees to assign to CDCR, some or all agreements between Contractor and its subcontractors for which CDCR requests such assignment, in its discretion.

12.4 CDCR Property. Contractor will be liable for any damage to or destruction of CDCR equipment, facilities, or software and loss, theft or destruction to any of CDCR data due to the acts or

omissions of Contractor, its subcontractors and its and their employees or agents. Contractor will (a) adequately mark or otherwise identify CDCR data as CDCR's property, (b) store CDCR data separately from Contractor's property or the property or data of any third party, and (c) promptly remove or return CDCR data at CDCR's request.

12.5 Most Favored Customer. For the complete period covered by this Agreement, Contractor agrees to treat CDCR as a most favored customer. Contractor represents that all of the prices, terms, warranties and benefits granted by Contractor hereunder in the aggregate are comparable to or better than the prices, terms, warranties and benefits previously offered by it to any other customer of Contractor. If, during the term of this Agreement, Contractor will enter into arrangements with any other customer providing such customer more favorable terms, Contractor will notify CDCR of such terms and this Agreement will thereupon be deemed amended to provide the same terms to CDCR for any subsequent purchases of goods and services by CDCR from Contractor.

12.6 Performance Bond. At all times during the term of any Statement of Work, Contractor will maintain in effect a Performance Bond guaranteeing the performance of Contractor's obligations hereunder in the face amount of 30% of the total amount to be paid to Contractor under this contract, in a form approved by CDCR.

12.7 Contractor Evaluation. In accordance with the California Government Code, Contractor performance evaluation will be completed within the guidelines of the State Contracting Manual Volume 1, Section 3.02.5. CDCR, upon Contract completion, will complete and forward the Contractor evaluation to the Department of General Services.

12.8 Conflict of Interest. If Contractor becomes aware of a financial conflict of interest that may foreseeably allow an individual or organization involved in this Agreement to materially benefit from CDCR's adoption of an actions recommended hereunder, Contractor must inform CDCR in writing, within ten (10) working days. If, in CDCR's judgment, the financial interest will jeopardize the objectivity of the recommendations, CDCR will have the option of terminating this Agreement on written notice. Failure to disclose a relevant financial interest on the part of Contractor will be deemed grounds for termination of the Agreement with all associated costs to be borne by Contractor and, in addition, Contractor may be excluded from participating in the State's bid processes for a period of up to 360 calendar days in accordance with Public Contract Code section 12102(j).

13. RESPONSIBILITIES OF CDCR.

13.1.1 Facilities. CDCR will provide (a) normal office working facilities and equipment reasonably necessary for Contractor performance under this Agreement; (b) required information, data, documentation, and test data to facilitate the Contractor's performance of the work, and (c) such additional assistance and services as is specifically set forth in a Statement of Work.

13.1.2 Delays. Contractor will not be responsible for any delay, cost increase, or other consequence to the extent that it is caused by CDCR's failure to fulfill its responsibilities set forth herein. In the event of any claim for equitable adjustment to price, schedule, or both, the parties will negotiate in good faith regarding execution of an amendment. If Contractor determines that a delay exists or is probable due to a failure of CDCR, Contractor will promptly notify CDCR in writing.

14. TERMINATION

14.1 Events of Default. Without limitation of any other grounds for termination set forth in the General Provisions, each of the following will constitute a default hereunder permitting CDCR's termination of this Agreement in accordance with Section 23 of the General Provisions:

(a) slippage of any Milestone prior to Final System Acceptance by more than **[_____ (__)]** days, provided the slippage is not due to the fault of CDCR;

(b) inability of the System or any component thereof to pass any Acceptance Test as set forth in this Agreement;

(c) failure of the System or any component thereof to operate satisfactorily for the Phase Production Use and Final System Acceptance periods in accordance with Sections 6.5.3 and 6.5.4 hereof;

(d) a material adverse change in the financial condition of Contractor which affects its ability to perform this Agreement, Contractor's filing of voluntary petition or the filing of a voluntary petition filed against it under the Bankruptcy Code, or similar insolvency statute, an assignment for the benefit of Contractor's creditors generally, or the appointment of a receiver for Contractor; or

(e) after CDCR's acceptance of a Phase of the System or after Final System Acceptance, in the event that essential functions of the System become inoperable, or the System remains operable but material functions are disabled, and Contractor fails within ten (10) days of receipt of notice from CDCR either to correct the problem or to submit an action plan acceptable to CDCR for correcting the problem.

14.2 Effect of Termination. Without limitation of any other effects of termination set forth in the General Provisions, if CDCR terminates this Agreement it may choose to retain the Software with respect to any or all Phases or parts thereof, in which event termination will be effective only as to the Phase or part not retained by CDCR and this Agreement and the licenses granted herein will remain in full force and effect as to retained Phases and parts. In the event this Agreement is terminated by CDCR prior to Acceptance of a Phase, Contractor will refund to CDCR all payments made hereunder with respect to such Phase. In the event of the expiration, suspension, or termination of Contractor's duties under this Agreement, Contractor will cooperate in a timely manner with CDCR in providing whatever assistance CDCR reasonably requests.

14.3 Survival. All provisions of this Agreement, that by their nature or express terms survive termination, will continue thereafter until fully performed, including without limitation Sections __, __, __, __ and __.

15. DISPUTES.

15.1 Mediation. If Contractor does not accept the final decision of the State rendered or deemed rendered under Section 41(c) of the General Provisions, then the dispute will be subject to non-binding mediation by a single mediator in accordance with this Section. Either party may demand mediation by written notice to JAMS (a national mediation services company), including a description of the dispute, with a concurrent copy to the other party. Notices to JAMS will be sent to, and all mediation hearings will be held in, its office in Sacramento, California or, if no such office then exists, its office in San Francisco, California. The single mediator will be subject to the mutual approval of the parties and will, to the fullest extent available, be a retired judge and/or trained and expert in the subject area of the asserted claims. In addition to the standard JAMS mediation procedures, the parties will instruct the mediator to apply the evidence to the parties' rights and obligations under this Agreement in a manner consistent with California law, and to report his/her fact findings and legal conclusions to the parties in writing ("Mediation Report"), with citations to legal authorities where appropriate. The parties will participate in good faith in the mediation and will use their reasonable efforts to reach a resolution within such period. Each party will make available in a timely fashion a representative with authority to resolve the dispute. In the event that the dispute has not been resolved within three (3) months, the mediation will continue if the parties mutually so desire. Except as otherwise set forth herein, the mediation will be conducted in accordance with JAMS' rules and procedures for commercial mediation. If, at the time of the dispute, JAMS does not exist or offer such services, the parties will use another mediation service of comparable stature. The fees and expenses of the mediator and the mediating service will be shared equally by the parties, and each party will be responsible for the cost of its own efforts, personnel, counsel and experts in connection with such mediation.

15.2 Final Decision. If the dispute is not resolved in mediation, then the State's final decision rendered or deemed rendered under Section 41(c) of the General Provisions will be conclusive and binding regarding the dispute unless Contractor commences an action in a court of competent jurisdiction to contest such decision within 90 days following the date of the Mediation Report, or one (1) year following the accrual of the cause of action, whichever is later.

15.3 Exceptions. Notwithstanding the foregoing, either party may seek injunctive, specific performance, or other equitable relief to protect its rights under this Agreement, in any court of competent jurisdiction.

16. NOTICES. Wherever under this Agreement one party is required or permitted to give notice to the other, such notice will be deemed given when delivered in hand, when telecopied or faxed and receipt confirmed, when sent by overnight courier service to the address specified below, or when mailed by United States mail, registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

In the case of CDCR:
California Prison Health Care Receivership
P. O. Box 4038
Sacramento, CA 95812-4038
Attention: General Counsel
Fax: (916) 323-1257
Phone: (916) 323-1923

With a copy to:
_____
_____
_____
_____

In the case of Contractor:
_____
_____
_____
_____

With a copy to:
_____
_____
_____
_____

Either party hereto may from time to time change its address for notification purposes by giving the other written notice of the new address and the date upon which it will become effective.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement the date and year first written above by their fully authorized representatives.

STATE OF CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION	**[CONTRACTOR]**
By:_____	By:_____
Name:_____	Name:_____

Title:_____ Title:_____

Table of Exhibits

Exhibit	Description
A	State of California Model Provisions
B	System Requirements
C	Interfacing Systems
D	Custom Software
E	Commercial Software
F	Time and Material Rates
G	Source Code Materials

EXHIBIT A

STATE OF CALIFORNIA MODEL PROVISIONS

EXHIBIT B

SYSTEM REQUIREMENTS

EXHIBIT C

INTERFACING SYSTEMS

EXHIBIT D

CUSTOM SOFTWARE

EXHIBIT E

COMMERCIAL SOFTWARE

EXHIBIT F

TIME AND MATERIAL RATES

EXHIBIT G

SOURCE CODE MATERIALS

1. Source material in human readable format, from which object code can be compiled or assembled, including:

   (a) source code

   (b) system tray pop-up source code

   (c) user interface source code

   (d) kernel source code

   (e) architecture document

   (f) test plan

   (g) compilers

   (h) executable object code

   (i) knowledgebase

   (j) bug list

2. Programmer design notes and other material relating to instructions for use

3. Engineer's technical notes and memoranda regarding design

4. Technical publications regarding use

5. Annotated listings

6. Flow charges

7. Conversion tools

8. Supporting documentation

9. Tools and technology used to build, test and debug

10. All other information reasonably needed to support or modify