

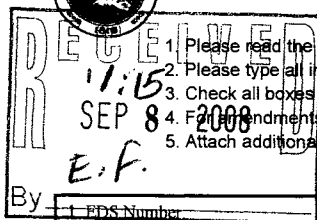
12774

SEP 08 2008

EXECUTIVE DOCUMENT SUMMARY

State Form 41221 (R10/4-06)

Instructions for completing the EDS and the Contract process.



1. Please read the guidelines on the back of this form.
2. Please type all information.
3. Check all boxes that apply.
4. For amendments / renewals, attach original contract.
5. Attach additional pages if necessary.

3816

9/8/08

AGENCY INFORMATION

14. Name of agency:
Department of Health

15. Requisition Number:

16. Address: 2 N. Meridian Street
Indianapolis, IN 46204

AGENCY CONTACT INFORMATION

17. Name:
Robert Jones

18. Telephone #:
233-7388

19. E-mail address:
rjones@isdh.in.gov

COURIER INFORMATION

20. Name:
Steve Martin

21. Telephone #:
233-7573

22. E-mail address:
smartin@isdh.in.gov

VENDOR INFORMATION

23. Vendor ID # 0000002492

24. Name:
GENESIS SYSTEMS INC

25. Telephone #:
717-909-8512

26. Address: 3601 NORTH PROGRESS AVE
SUITE 200
HARRISBURG, PA 17110

27. E-mail address: ewoollever@genesisisinfo.com

28. Is the vendor registered with the Secretary of State? (Out of State Corporations, must be registered) ☒ Yes ☐ No

29. Primary Vendor: M/WBE
Minority: ☐ Yes ☒ No
Women: ☐ Yes ☒ No

30. If yes, list the %:
Minority: _____ %
Women: _____ %

31. Sub Vendor: M/WBE
Minority: ☐ Yes ☒ No
Women: ☐ Yes ☒ No

32. If yes, list the %:
Minority: _____ %
Women: _____ %

33. Is there Renewal Language in the document? ☒ Yes ☐ No

34. Is there a "Termination for Convenience" clause in the document? ☒ Yes ☐ No

By: E.F.
EDS Number:
A70-9-0508

2. Date prepared:
8/26/2008

3. CONTRACTS & LEASES

Professional/Personal Services _____ Contract for procured Services ☒
Grant _____ Maintenance ☒
Lease _____ License Agreement _____
Attorney _____ Amendment# _____
MOU _____ Renewal # _____
QPA _____ Other _____

FISCAL INFORMATION

4. Account Number:
3610-14660.537800

5. Account Name:
PREV HLTH & HLTH SER BLC

6. Total amount this action:
\$64,333.00

7. New contract total:
64,333.00

8. Revenue generated this action:
\$0.00

9. Revenue generated total contract:
\$0.00

10. New total amount for each fiscal year:

Year 2009 \$64,333.00
Year _____ \$ _____
Year _____ \$ _____
Year _____ \$ _____

TIME PERIOD COVERED IN THIS EDS

11. From (month, day, year):
1/1/2008

12. To (month, day, year):
9/10/2008

13. Method of source selection: _____ Negotiated
_____ Bid/Quotation _____ Emergency ☒ Special Procurement
_____ RFP# _____ Other (specify) _____

35. Will the attached document involve data processing or telecommunications systems(s)? ☒ Yes: IOT or Delegate has signed off on contract

36. Statutory Authority (Cite applicable Indiana or Federal Codes):
IC 16-37-1-1 THROUGH 16-317-4-4 VITAL STATISTICS

37. Description of work and justification for spending money. (Please give a brief description of the scope of work included in this agreement.)
This addendum and support agreement will be an extension of original contract regarding maintenance for the Vital Records System. Addendum and support agreement will pay for extended maintenance based on provided contract dates that will support the critically needed updated web based software used by Vital Records at the Indiana State.

38. Justification of vendor selection and determination of price reasonableness:
Sole source letter attached. Genesis is the only provider of an "out-of-the-box" vital records software system successfully implemented in the Vital Records Divisions of Department of Health in other states. Genesis currently provides software services to ISDH and is familiar with our needs. The price has been negotiated with reference to the price paid by the State of South Carolina for a similar system.

39. If this contract is submitted late, please explain why: (Required if more than 30 days late.)

Due to an oversight in the previous contract and changes in funding sources it was recently identified that services included in the addendum were not in a budgeted line item. The work has been on-going because of a previous contract; therefore we need a mechanism to pay them.

40. Agency fiscal officer or representative approval
[Signature]

41. Date Approved
9-5-08

42. Budget agency approval
[Signature: Michael F. Compton]

43. Date Approved
9/10/08

44. Attorney General's Office approval
[Signature]

45. Date Approved
9-10-08

46. Agency representative receiving from AG

47. Date Approved



32161-000

Ed
9/5/58

ADDENDUM

This Addendum is entered into by and between Indiana State Department of Health ("the State") and the entity designated as "Contractor", below.

The purpose of this Addendum is to modify, delete, or amend certain terms and conditions set forth in the attached Form Contract prepared by Contractor (the "Form Contract"). This Addendum and the Form Contract are incorporated into each other and, when read together, shall constitute one integrated document. Any inconsistency, conflict, or ambiguity between this Addendum and the Form Contract shall be resolved by giving precedence and effect to this Addendum.

Contractor Name: Genesis Systems, Inc.

Contractor Address: 3601 N. Progress Ave.
Harrisburg, PA 17110

Title of Form Contract: Genesis Systems, Inc. Warranty Continuation and Support Agreement

1. Form Contract/Duties of Contractor.

Attached Form Contract consists of 7 pages with terms on both sides.

2. Term.

Contract term begins on January 1, 2008 and ends September 10, 2008.

3. Consideration.

Total consideration for term of the Contract Form Contract is sixty-four thousand three hundred thirty-three dollars and no cents (\$ 64,333.00).

By mutual agreement of the parties, the following terms and conditions are deleted from the Form Contract:

- A. Any provision requiring the State of Indiana to provide insurance
- B. Any provision requiring the State of Indiana to provide indemnity
- C. Any provision providing that the Contract be construed in accordance with laws other than those of the State of Indiana
- D. Any provision providing that suit be brought in any state other than Indiana
- E. Any provision providing for resolution of contract disputes
- F. Any provision requiring the State of Indiana to pay any taxes
- G. Any provision requiring the State of Indiana to pay penalties, liquidated damages, interest or attorney's fees
- H. Any provision modifying the statute of limitations provided by Indiana statute.
- I. Any provision relating to the time within which a claim must be made.
- J. Any provision requiring payment of consideration in advance unless authorized by an exception listed in IC 4-13-2-20
- K. Any provision limiting disclosure of the contract in violation of the Access to Public Records Act, IC 5-14-3.
- L. Any provision giving the Form Contract precedence over this Addendum

The following terms and conditions are incorporated into and made a part of the Form Contract:

4. Access to Records.

The Contractor and its subcontractors shall maintain all books, documents, papers, accounting records, and other evidence (Records) pertaining to costs incurred, for inspection by the State or by any other authorized representative of the State and copies thereof shall be furnished at no cost to the State if requested. The Contractor and its subcontractors shall make all Records available at their respective offices at all reasonable times during the Contract period and for three (3) years from the date of final payment under the Contract or longer if an audit has been completed and all audit exceptions have not been cleared by the State.

5. Assignment; Successors.

The Contractor binds its successors and assignees to all the terms and conditions of this Contract. The Contractor shall not assign or subcontract the whole or any part of the Form Contract without the State's prior written consent. The Contractor may assign its right to receive payments to such third parties as the Contractor may desire without the prior written consent of the State, provided that Contractor gives written notice (including evidence of such assignment) to the State thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under the Form Contract and shall not be made to more than one party.

6. Audits.

If required and following the expiration of this Contract, the Contractor shall arrange for a financial and compliance audit of funds provided by State pursuant to this Contract. Such audit is to be conducted by an independent public or certified public accountant (or as applicable, the Indiana State Board of Accounts), and performed in accordance with Indiana State Board of Accounts publication entitled "Uniform Compliance Guidelines for Examination of Entities Receiving Financial Assistance from Governmental Sources," and applicable provisions of the Office of Management and Budget Circulars A-133 (Audits of States, Local Governments, and Non-Profit Organizations). The Contractor is responsible for ensuring that the audit and any management letters are completed and forwarded to the State in accordance with the terms of this Contract. Audits conducted pursuant to this paragraph must be submitted no later than nine (9) months following the close of the Contractor's fiscal year. Contractor agrees to provide the Indiana State Board of Accounts and the State an original of all financial and compliance audits. The

audit shall be an audit of the actual entity, or distinct portion thereof that is the Contractor, and not of a parent, member, or subsidiary corporation of the Contractor, except to the extent such an expanded audit may be determined by the Indiana State Board of Accounts or the State to be in the best interests of the State. The audit shall include a statement from the Auditor that the Auditor has reviewed this Contract and that the Contractor is not out of compliance with the financial aspects of this Contract.

7. Authority to Bind Contractor.

The signatory for the Contractor represents that he/she has been duly authorized to execute this Addendum on behalf of the Contractor and has obtained all necessary or applicable approvals to make this Addendum and the Form Contract fully binding upon the Contractor when his/her signature is affixed, and certifies that the Form Contract is not subject to further acceptance by Contractor when accepted by the State of Indiana.

8. Changes in Work

In the event the State requires a major change in the scope, character or complexity of the work after the work has begun, adjustments in compensation to the Contractor shall be determined by the State in the exercise of its honest and reasonable judgment. The Contractor shall not commence any additional work or change the scope of the work until authorized in writing by the State. No claim for additional compensation shall be made in the absence of a prior written approval executed by all signatories hereto.

9. Compliance with Laws.

A. The Contractor shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment of any state or federal statute or the promulgation of rules or regulations thereunder after execution of this Addendum and the Form Contract shall be reviewed by the State and the Contractor to determine whether the provisions of either require formal modification.

B. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State, as set forth in IC § 4-2-6 *et seq.*, IC § 4-2-7, *et seq.*, the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <http://www.in.gov/ig/>. If the Contractor or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate the Form Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under Indiana Code § 4-2-6 and IC § 4-2-7.

C. The Contractor certifies by signing this Addendum, that neither it nor its principal(s) is presently in arrears in payment of its taxes, permit fees or other statutory, regulatory or judicially required payments to the State. Further, the Contractor agrees that any payments in arrears and currently due to the State of Indiana may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or the Form Contract suspended until the Contractor is current in its payments and has submitted proof of such payment to the State.

D. The Contractor warrants that it has no current or pending or outstanding criminal, civil, or enforcement actions initiated by the State pending, and agrees that it will immediately notify the State of any such actions. During the term of such actions, Contractor agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Addendum and the Form Contract.

E. If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the State of Indiana or its agencies, and the State decides to delay, withhold, or deny work to the Contractor, the Contractor may request that it be allowed to continue, or receive work, without delay. The Contractor must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties. Any payments that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest under IC 5-17-5.

F. The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, and approvals, as well as comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination of the Agreement and denial of further work with the State.

G. The Contractor hereby affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports with the Indiana Secretary of State.

H. As required by IC 5-22-3-7:

(1) the Contractor and any principals of the Contractor certify that (A) the Contractor, except for de minimis and nonsystematic violations, has not violated the terms of (i) IC 24-4.7 [Telephone Solicitation of Consumers], (ii) IC 24-5-12 [Telephone Solicitations], or (iii) IC 24-5-14 [Regulation of Automatic Dialing Machines] in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) the Contractor will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.

(2) The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor: (A) except for de minimis and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.

10. Condition of Payment.

All services provided by the Contractor under the Form Contract must be performed to the State's reasonable satisfaction, as determined at the discretion of the undersigned State representative and in accordance with all applicable federal, state, local laws, ordinances, rules, regulations and Form Contract. The State shall not be required to pay for work found to be unsatisfactory, inconsistent with the Form Contract or performed in violation of any federal, state, or local statute, ordinance, rule or regulation.

11. Confidentiality of State Information.

The Contractor understands and agrees that data, materials, and information disclosed to Contractor may contain confidential and protected information. The Contractor covenants promises and assures that data, material, and information gathered, based upon, or disclosed to the Contractor for the purpose of this Contract, will not be disclosed to others or discussed with third parties without the prior written consent of the State.

The parties acknowledge that the services to be performed by Contractor for the State under this contract may require or allow access to data, materials, and information containing Social Security numbers maintained by the State in its computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the Contractor and the State agree to comply with the provisions of IC 4-1-10 and IC 4-1-11. If any Social Security number(s) is/are disclosed by Contractor, Contractor agrees to pay the cost of the notice of

disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this contract.

12. Continuity of Services - Deleted

13. Debarment and Suspension.

A. The Contractor certifies that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into the Form Contract by any federal agency or by any department, agency or political subdivision of the State. The term "principal" for purposes of the Form Contract means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor.

B. The Contractor also further certifies that it has verified the suspension and debarment status for all sub-contractors receiving funds under the Form Contract and shall be solely responsible for any recoupments, paybacks and or penalties that might arise from non-compliance. The Contractor shall immediately notify the State if any sub-contractor becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the sub-contractor for work to be performed under this Contract.

14. Default by State.

If the State, sixty (60) days after receipt of written notice, fails to correct or cure any breach of the Form Contract, then the Contractor may cancel and terminate the Form Contract and institute the appropriate measures to collect all monies due up to and including the date of termination.

15. Disputes.

A. Should any disputes arise with respect to the Form Contract, the Contractor and the State agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.

B. The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all its responsibilities under this Form Contract that are not affected by the dispute. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work without delay, any additional costs incurred by the State or the Contractor as a result of such failure to proceed shall be borne by the Contractor, and the Contractor shall make no claim against the State for such costs. If the State and the Contractor cannot resolve a dispute within ten (10) working days following notification in writing by either party of the existence of a dispute, then the following procedure shall apply:

1. The parties agree to resolve such matters through submission of their dispute to the Commissioner of the Indiana Department of Administration. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the Contractor and the State within ten (10) working days after presentation of such dispute for action. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be

reconsidered. If no reconsideration is provided within ten (10) working days, the parties may mutually agree to submit the dispute to arbitration for a determination, or otherwise the dispute may be submitted to an Indiana court of competent jurisdiction.

2. The State may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the State to the Contractor of one or more invoices not in dispute in accordance with the terms of this Form Contract will not be cause for Contractor to terminate the Form Contract, and the Contractor may bring suit to collect these amounts without following the disputes procedure contained herein.

16. Drug-Free Workplace Certification.

The Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the State within ten (10) days after receiving actual notice that the Contractor or an employee of the Contractor in the State of Indiana has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of the Form Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total contract amount set forth in the Form Contract is in excess of \$25,000.00, Contractor hereby further agrees that the Form Contract is expressly subject to the terms, conditions, and representations of the following certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the Indiana Department of Administration is requiring the inclusion of this certification in all contracts and grants from the State in excess of \$25,000.00. No award of a contract shall be made, and no contract, purchase order or agreement, the total amount of which exceeds \$25,000.00, shall be valid, unless and until this certification has been fully executed by the Contractor and made a part of the contract or agreement as part of the contract documents.

The Contractor certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- B. Establishing a drug-free awareness program to inform it's employees of (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

D. Notifying in writing the State within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;

E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

17. Employment Option - Deleted

18. Force Majeure

In the event that either party is unable to perform any of its obligations under this contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this contract.

19. Funding Cancellation.

When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of the Form Contract, the Form Contract shall be canceled. A determination by the Director of SBA that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

20. Governing Laws.

This Addendum and the Form Contract shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana.

21. Indemnification.

The Contractor agrees to indemnify, defend, and hold harmless the State, its agents, officers, and employees from all claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Contractor and/or its subcontractors, if any, in the performance of the Contract. The State shall not provide such indemnification to the Contractor.

22. Independent Contractor.

Both parties hereto, in the performance of this contract, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or

agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property arising out of the acts or omissions of the agents, employees or subcontractors of the other party.

The Contractor shall be responsible for providing all necessary unemployment and workers' compensation insurance for the Contractor's employees

23. Information Technology Enterprise Architecture Requirements.

If Contractor provides any information technology related products or services to the State, Contractor shall comply with all Indiana Office of Technology (IOT) standards, policies, and guidelines, which are online at <http://iot.in.gov/architecture/>. Contractor specifically agrees that all hardware, software, and services provided to or purchased by the State shall be compatible with the principles and goals contained in the electronic and information technology accessibility standards adopted under Section 508 of the Federal Rehabilitation Act of 1973 (29 U.S.C. 794d) and IC 4-13.1-3. Any deviation from these architecture requirements must be approved in writing by IOT in advance. The State may terminate the Form Contract for default if Contractor fails to cure a breach of this provision within a reasonable time.

24. Insurance

A. The Contractor shall secure and keep in force during the term of this Contract, the following insurance coverage, covering the Contractor for any and all claims of any nature which may in any manner arise out of or result from this Contract:

1. Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits of \$700,000 per person and \$5,000,000 per occurrence unless additional coverage is required by the State. The State is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this Contract.
2. Automobile liability with minimum liability limits of \$700,000 per person and \$5,000,000 per occurrence. The State is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this Contract.
3. The Contractor shall provide proof of such insurance coverage by tendering to the undersigned State representative a certificate of insurance prior to the commencement of this Contract and proof of Workers compensation coverage meeting all statutory requirements of IC 22-3-2. In addition, proof of an "all states endorsement" covering claims occurring outside the State is required if any of the services provided under this Contract involve work outside of Indiana.

B. The Contractor's insurance coverage must meet the following additional requirements:

1. The insurer must have a certificate of authority issued by the Indiana Department of Insurance.
2. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.

3. The State will be defended, indemnified and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the State under this Contract shall not be limited by the insurance required in this Contract.
4. The insurance required in this Contract, through a policy or endorsement(s), shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State agency.
5. Failure to provide insurance as required in this Contract may be deemed a material breach of contract entitling the State to immediately terminate this Contract.

The Contractor shall furnish a certificate of insurance and all endorsements to the undersigned State agency prior to the commencement of this Contract.

25. Key Person(s) -- Deleted

26. Licensing Standards.

The Contractor, its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the Contractor pursuant to this Contract. The State will not pay the Contractor for any services performed when the Contractor, its employees or subcontractors are not in compliance with such applicable standards, laws, rules or regulations. If any license, certification or accreditation expires or is revoked, or any disciplinary action is taken against an applicable license, certification or accreditation, the Contractor shall notify the State immediately and the State, at its option, may immediately terminate this Contract.

27. Merger & Modification

This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by all necessary parties.

28. Minority and Women's Business Enterprises Compliance.

The Contractor agrees to comply fully with the provisions of 25 IAC 5 and any participation plan or subcontractor commitment that may have been submitted to the State. The following MBE's and WBE's listed on the Minority and Women's Business Enterprises Division directory of certified firms will be participating in this Contract.

<u>MBE/WBE</u>	<u>PHONE</u>	<u>COMPANY NAME</u>	<u>SCOPE OF PRODUCTS and/or SERVICES</u>	<u>UTILIZATION DATE</u>	<u>AMOUNT</u>

The Contractor agrees to submit a copy of the agreement entered into between the Contractor and each MBE/WBE subcontractor where the State took the selection of the MBE/WBE by the Contractor into consideration when issuing the procurement award. The copy of the agreement must be submitted to the MWBE Division in IDOA within ninety (90) days of the execution of the contract between the Contractor and the State. The Contractor also agrees to send all amendments, changes, and terminations to these agreements to the MWBE Division in IDOA within ninety (90) days of their execution. Failure to provide a copy of the agreement or subsequent amendment, change, and termination may result in exclusion from future State procurements. If the Contractor is not excluded from future procurements, the actions or inactions of the Contractor with regard to the above will be taken into account in all phases and scoring in future procurements. In addition, the Contractor must obtain the approval of the Division before changing any MBE/WBE participation plan submitted in connection with this Contract.

29. Nondiscrimination. Pursuant to the Indiana Civil Rights Law, specifically including IC 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee or applicant's: race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). Furthermore, Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services.

The Contractor understands that the State is a recipient of federal funds, and therefore, where applicable, Contractor and any subcontractors agree to comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246.

30. Notices

Whenever any notice, statement or other communication is required under this Contract, it shall be sent to the following addresses, unless otherwise specifically advised.

A. Notices to the State shall be sent to:

Indiana State Department of Health
ATTN: Contract and Audit Section
2 North Meridian Street, Section 2-C
Indianapolis, IN 46204

B. Notices to the Contractor shall be sent to:

Richard Huber
C.E.O. and Treasurer
Genesis Systems, Inc.
6301 N. Progress Avenue
Harrisburg, PA 17110

C. As required by IC 4-13-2-14.8, payments to the Contractor shall be made via electronic funds transfer in accordance with instructions filed by the Contractor with the Indiana Auditor of State.

31. Order of Precedence.

Any inconsistency or ambiguity between this Addendum and the Form Contract shall be resolved by giving precedence to this Addendum.

32. Ownership of Documents and Materials.

All documents, records, programs, data, film, tape, articles, memoranda, and other materials developed under this contract shall be considered "work for hire" and the Contractor transfers any ownership claim to the State of Indiana and all such materials will be the property of the State of Indiana. Use of these materials, other than related to contract performance by the Contractor, without the prior written consent of the State, is prohibited. During the performance of the services specified herein, the Contractor shall be responsible for any loss of or damage to these materials developed for or supplied by the State and used to develop or assist in the services provided herein while the materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense. Full, immediate, and unrestricted access to the work product of the Contractor during the term of this contract shall be available to the State.

33. Payments.

All payments shall be made in arrears in conformance with State fiscal policies and procedures and, as required by IC 4-13-2-14.8, by electronic funds transfer to the financial institution designated by the Contractor in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by IC 4-13-2-20.

B. If Contractor is being paid in advance for the maintenance of equipment and/or software, pursuant to IC 4-13-2-20(b)(14), Contractor agrees that if it fails to perform the maintenance required under this Contract, upon receipt of written notice from the State, it shall promptly refund the consideration paid, pro-rated through the date of non-performance.

C. All accounts will be closed sixty (60) days after the end of the Contract period. Any invoice submitted after sixty (60) days will not be reimbursed by the State.

34. Penalties/Interest/Attorney's Fees.

The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by Indiana law, in part, IC 5-17-5, IC 34-54-8, and IC 34-13-1.

Notwithstanding the provisions contained in IC 5-17-5, any liability resulting from the State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

35. Renewal Option.

This contract may be renewed under the same terms and conditions subject to the approval of the Commissioner of the Department of Administration and the State Budget Director in compliance with IC 5-22-17-4. The term of the renewed contract may not be longer than the term of the original contract. Any provision for automatic renewal is void.

36. Security and Privacy of Health Information

If any final regulation or body of regulations relating to the administrative simplification provision of the Health Insurance Portability and Accountability Act of 1996 ("Final HIPAA Regulations"), or any amendment or judicial or administrative interpretation of the Final HIPAA Regulations prohibits, restricts, limits or materially and adversely affects either party's right or obligations hereunder, the parties shall negotiate, in good faith, reasonable revisions to this Contract. The purpose of the negotiations shall be to revise the Contract so that the affected party can comply and/or act in accordance with such Final HIPAA Regulations, or amendment or judicial or administrative interpretation thereof and avoid or mitigate such prohibition, restriction, limitation or material and adverse effect. If the parties fail to agree to such revisions within forty-five (45) days after written notice from the affected party requesting negotiations under this paragraph, this Contract shall terminate. If so terminated the Contractor shall return or destroy all protected health information received from, created or received by the Contractor on behalf of the State.

The Contractor shall retain no copies of such information in any form if feasible. If not feasible, the Contractor bears the responsibility of ensuring that the protected health information is maintained in a secure and confidential manner.

37. Severability.

The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provision of this contract.

38. Substantial Performance.

This contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any modification thereof.

39. Taxes.

The State is exempt from state and local taxes and many federal taxes. The State will not be responsible for any taxes levied on the Contractor as a result of this Contract.

40. Termination for Convenience.

The Form Contract may be terminated, in whole or in part, by the State whenever, for any reason, the State determines that such termination is in its best interest. Termination of services shall be effected by delivery to the Contractor of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The Contractor shall be compensated for services properly rendered prior to the effective date of termination. The State will not be liable for services performed after the effective date of termination. The Contractor shall be compensated for services herein provided but in no case shall total payment made to the Contractor exceed the

original contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date.

41. Termination for Default

- A. With the provision of thirty (30) days notice to the Contractor, the State may terminate this contract in whole or in part, if the Contractor fails to:
1. Correct or cure any breach of this contract;
 2. Deliver the supplies or perform the services within the time specified in this contract or any extension;
 3. Make progress so as to endanger performance of this contract; or
 4. Perform any of the other provisions of this contract.
- B. If the State terminates this contract in whole or in part, it may acquire, under the terms and in the manner the State considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.
- C. The State shall pay the contract price for completed supplies delivered and services accepted. The Contractor and the State shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the State determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.
- D. The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this contract.

42. Travel.

No expenses for travel will be reimbursed unless specifically permitted under the scope of services or consideration provisions. Expenditures made by the Contractor for travel will be reimbursed at the current rate paid by the State and in accordance with the State Travel Policies and Procedures as specified in the current Financial Management Circular. Out-of-state travel requests must be reviewed by the State for availability of funds and for appropriateness per Circular guidelines.

43. Waiver of Rights.

No right conferred on either party under this contract shall be deemed waived and no breach of this contract excused, unless such waiver or excuse shall be in writing and signed by the party claimed to have waived such right. Neither the State's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the Contractor's negligent performance of any of the services furnished under this Contract.

44. Work Standards.

The Contractor agrees to execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this contract, the State may request in writing the replacement of any or all such individuals and Contractor shall grant such request.

45. Federal Funding Information.

- | | |
|---|------------------------------------|
| a) C.F.D.A. Title - Preventive Health Services Part A, Title XIX, PHS ACT | d) Award No. - 2007-B1-IN-PRVS-01 |
| b) C.F.D.A No. - 93.991 | e) Award Year - FFY 2007 |
| c) Award Name - Public Health Block Grant | f) Federal Agency - DHHS, PHS, CDC |

In contracts funded by the United States Department of Health and Human Services, the Contractor agrees to comply with the provisions of the Code of Federal Regulations (CFR) Title 45 Parts 74, 92, and 96, where applicable.

46. Federal Funds Disclosure Requirements.

The Contractor agrees that when issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs supported in whole or in part by contract funds, they will clearly state a) the percentage of the total costs of the program or project which will be financed with federal money, b) the dollar amount of federal funds for the project or program, as set out in Paragraph 2 of this Contract, and c) the percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources. "Nongovernmental sources" means sources other than state and local governments and federally recognized Indian tribes.

47. Federal Lobbying Requirements.

- A. The Contractor certifies that to the best of its knowledge and belief that no federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal Contract, contract, loan, or cooperative agreement, the Contractor shall complete and submit "Disclosure Form to Report Lobbying" in accordance with its instructions.

- C. The Contractor shall require that the language of subparagraphs A) and B) be included in the language of all subcontracts and that all subcontractors shall certify and disclose accordingly.

48. Remedies Not Impaired.

No delay or omission of the State in exercising any right or remedy available under this Contract shall impair any such right or remedy, or constitute a waiver of any default, or any acquiescence thereto.

49. State Boilerplate Affirmation Clause.

I swear or affirm under the penalties of perjury that I have not altered, modified or changed the State's Boilerplate contract clauses (as contained in the March 2008 OAG/IDOA *Professional Services Contract Manual*) in any way except for the following clauses which are identified by name below:

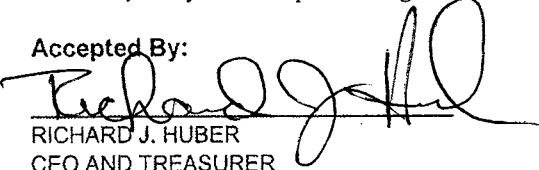
Access to Records
Audits
Payments
Security and privacy of Health Information
Condition of Payment
Continuity of Services – Deleted
Employment Option – Deleted
Key Persons – Deleted

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that he/she is the Contractor, or that he/she is the properly authorized representative, agent, member or officer of the Contractor, that he/she has not, nor has any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract.

In Witness Whereof, Contractor and the State have, through their duly authorized representatives, entered into this Contract. The parties, having read and understood the foregoing terms of this Contract, do by their respective signatures dated below hereby agree to the terms thereof.

Accepted By:


RICHARD J. HUBER
CEO AND TREASURER
GENESIS SYSTEMS, INC

DATE:

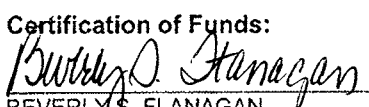
9/3/2008

Approved By:


SANDRA WEBB
IT DIRECTOR
INFORMATION TECHNOLOGY SERVICES
INDIANA STATE DEPARTMENT OF HEALTH

DATE:

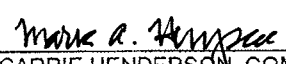
Certification of Funds:


BEVERLY S. FLANAGAN
DEPUTY DIRECTOR OF BUSINESS PROCESSES
DIVISION OF FINANCE
HUMAN HEALTH & OPERATIONAL SERVICES
COMMISSION
INDIANA STATE DEPARTMENT OF HEALTH

DATE:

September 5, 2008

Approved:


CARRIE HENDERSON, COMMISSIONER
DEPARTMENT OF ADMINISTRATION
STATE OF INDIANA

DATE:

9/8/2008

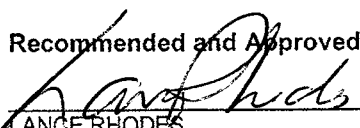
Approved as to Form and Legality:


STEPHEN CARTER
ATTORNEY GENERAL OF INDIANA

DATE:

9-10-08

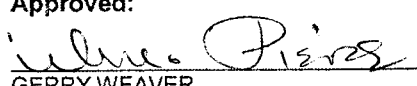
Recommended and Approved By:


LANCE RHODES
CHIEF OF STAFF
HUMAN HEALTH & OPERATIONAL SERVICES
COMMISSION
INDIANA STATE DEPARTMENT OF HEALTH

DATE:

9/5/08


Approved:


GERRY WEAVER
CHIEF INFORMATION OFFICER
INDIANA OFFICE OF TECHNOLOGY

DATE:

8-Sep-2008

Approved:


CHRISTOPHER A. RUHL, DIRECTOR
STATE BUDGET AGENCY
STATE OF INDIANA

DATE:

9/9/08

GENESIS SYSTEMS, INC. WARRANTY CONTINUATION AND SUPPORT AGREEMENT

This software warranty continuation and Support Agreement (the "Agreement") is between Genesis Systems, Inc. ("GENESIS"), 3601 N. Progress Ave. Harrisburg, PA 17110, and [Click here and type name] ("CUSTOMER"), [Click here and type address], effective as of [Click here and type date]. GENESIS and Customer agree as follows:

1. Definitions:

a. *Software:* Software supplied by GENESIS includes but is not limited to: WebLE™, WebVRS™, WebEBC™, WebEDC™, WebEFDCTM, WebITOPS™, WebMAR™, WebDIV™, WebFEE™, WinEBC™, WinVRS™, WinRECEIVE™, WinMAR™, EBC™ for DOS, ECODE™ for DOS, RECEIVE™ for DOS, ELC™ for DOS, Town Clerk™, DataFlex™ and DragIt™; which are all trademarks owned by Genesis Systems, Inc..

b. *Telephone Support:* Calls received during normal support hours (Monday through Friday, 9:00 AM to 7:00 PM, EST) are answered directly by a support technician. The support technician will assign an event number. If a support technician is not immediately available, the call will be placed in a callback queue, with a priority rating as determined by the Technical Support Manager. The priority rating will be highest for issues causing non-operability of the software with the lowest priority given to aesthetic issues. Every effort will be made to have the support issue addressed within two hours of the original call. Calls received after normal support hours are received by an automated answering system, which pages a support technician. The support technician will return the call as soon as possible. Services provided by a support technician that qualify as functional corrections or performance corrections, as well as, services that do not qualify as "Technical Support" constitute Telephone Support. The aforementioned policies and procedures apply only to those entities with a current support Agreement.

c. *Technical Support:* Operator error (i.e., turning off the computer at the wrong time) or hardware failure under some circumstances can cause physical damage to the data stored by the program. In these cases, the data file must be physically repaired so that as much data as possible can be recovered. This work or any other work that requires one of our technicians to use a keyboard to make changes to the GENESIS software files on a customer's or client's system is defined as technical support. Technical support also includes telecommunications support where GENESIS technicians connect with the facility via telephone modem to transfer files, free up hard drive space, etc. All assistance provided, regarding the configuring of reports and screens, with respect to DragIt and DataFlex is categorized as technical support. Technical Support does not include any work meeting the definitions listed at e, f, g, h, and i below. The aforementioned policies and procedures apply only to those entities with a current support Agreement.

* The diagnosis of a problem(s) will be determined to be either Telephone Support or Technical Support depending on the type of effort required by a support technician to diagnosis the problem(s). Such determination shall be made solely by Genesis Systems, Inc.

d. *Basic Function:* The basic function of the software is specified in the design documents.

e. *Functional Correction:* A functional correction is a modification to the software implemented to make the software perform its basic function in accordance with the design specifications. Functional corrections relate to corrections of the software, which are necessary to provide accurate data entry, accurate printing, and accurate data transfer.

f. *Performance Correction:* A performance correction is a modification to the software implemented to correct a feature of the software that is not directly related to impairment of basic function.

A performance correction is indicated if the software is not operating as intended by GENESIS or as detailed in the design specifications but the variance does not have direct impact on the basic function of the software (i.e., data capture, certificate printing and data transfer). These corrections are distinct from functional corrections in that a performance correction is not required in order for the software to fulfill its basic function of data capture, accurate printing of the certificate and accurate transmission of the data function.

g. *Functional Change:* A functional change involves modifications to the software made necessary by changes required by Laws, Regulations, Internal Procedures etc., changes in the state's mainframe database, or changes in other destination databases. Functional changes are required in order to permit the software to continue to fulfill its basic function in the light of other external changes. Functional changes require additional design specifications that detail the necessary modifications and which in combination with existing specifications become the new design document.

h. *Performance Change:* A performance change is a modification to the software implemented to improve an existing feature of the software that is not directly related to basic function. Performance changes are primarily made to satisfy preferences, improve efficiency, or to improve the ease of use of the software. Performance changes affect how the software operates but are not required in order for the software to continue to fulfill its basic function.

i. *Enhancement:* An enhancement to the program is the addition of a feature beyond the original design. Enhancements are usually added from time to time as suggestions are received from existing installations. Enhancements add to the usefulness of the program but are not required to allow the program to fulfill its basic function. Enhancements add features to the software that were not already there. Enhancements are limited to changes in the existing product operation on the same computer and accessed from the same main menu as the existing software.

j. *Software Update:* A software update is a new version of the software containing functional corrections or performance corrections. An update either corrects an existing defect (functional or performance) or provides a change needed to allow the software to continue to fulfill its basic function.

k. *Software Upgrade:* A software upgrade is a new version of the software containing functional changes, enhancements and/or performance changes. An upgrade is not necessary for the software to continue to fulfill its basic function. Upgrades are not provided as part of this Support Agreement, and will be accomplished only through a separate quote and acceptance process.

l. Distribution of functional corrections and performance corrections will be at the expense of GENESIS.

m. Distribution of functional changes, performance changes, and enhancements is \$40.00 per copy. Telephone follow-up of a distribution is \$40.00 per copy. As an alternative, the Customer may choose to perform the distribution on its own after receiving an updated master set, or the Customer may choose to have GENESIS hold and coordinate performance changes to coincide with GENESIS' distribution with an update containing performance or functional corrections at no additional cost to the Customer.

2. **Support Level.** GENESIS shall provide **telephone support** based on the Plan and Level selected by the Customer:

Plan Options

GOLD PLAN – Unlimited 24/7-telephone support of GENESIS supplied software as described herein. Incoming calls between 9:00 AM and 7:00 PM Eastern Standard Time during the business day period are answered directly by a technical support specialist. After hours, our on call support specialist responds to calls within 2 hours of the original call. Technical support, or programmers or systems analyst or database administrator's time to perform development and/or coding to resolve reported

issues, will be billed at GENESIS current hourly rate. If prepaid hours are available they will be reduced by the actual hours used.

SILVER PLAN -- Unlimited 24/5-business day telephone support of GENESIS supplied software as described herein including functional corrections and performance corrections. Incoming calls between 9:00 AM and 7:00 PM Eastern Standard Time during the business day period are answered directly by a technical support specialist. After hours, our on call support specialist responds to calls within 2 hours of the original call. Technical support, or programmers or systems analyst or database administrator's time to perform development and/or coding to resolve reported issues, will be billed at GENESIS current hourly rate. If prepaid hours are available they will be reduced by the actual hours used.

BRONZE PLAN -- Limited business day telephone support between 9:00 AM and 7:00 PM Eastern Standard Time of GENESIS supplied software as described herein. Technical support, or programmers or systems analyst or database administrator's time to perform development and/or coding to resolve reported issues, will be billed at GENESIS current hourly rate. If prepaid hours are available they will be reduced by the actual hours used.

Level Options

TIER 1 -- This level of support is defined as direct calls originating from an End User of the GENESIS software product identified in item 4. In this capacity GENESIS will offer the corresponding support as stated in the customers selected Support Plan Option to the end user of the software product who directly contacts GENESIS technical support.

TIER 2 -- This level of support is defined as direct calls originating from the customer as defined by this Agreement. In this capacity, the customer will take direct calls from the end user of the GENESIS software product identified in item 4. GENESIS will offer the corresponding support as stated in the customers' selected Support Plan Option only to the Customer and not directly to the End User.

Telephone support will be provided to locations as outlined in Appendix A.

3. The Customer may select from the following Option:

- A. Option A - _____ hours of **development and/or technical support time** at the Staff Title(s) selected from Appendix B (attached hereto). **If prepaid**, such hours shall be billed at a **five percent (5%) discount** to the rates listed in Appendix B.

UNUSED PREPAID HOURS SHALL NOT SURVIVE THE TERM OF THIS AGREEMENT.

4. The Customer has selected the BRONZE Plan, Tier 2 Level support for the GENESIS supplied software with Option:

Option A. (if selected) N/A hours per Staff Title of _____ (see Appendix B)
N/A hours per Staff Title of _____ (see Appendix B)

5. **Notification and Cooperation.** Customer shall promptly notify GENESIS of all circumstances requiring support. Such notice shall detail the name of person requesting support, the installation name, serial number of the Software, the circumstance, the conditions under which it occurred and, if known, its source. Customer shall cooperate in all reasonable ways with GENESIS, including by providing such access, computer time information, equipment, staff and facilities as may be reasonably necessary to identify, reproduce and remedy the circumstances.
6. **Taxes.** Customer shall pay all international, federal, state or local tariffs, duties, withholdings and taxes (other than taxes on GENESIS' net income), including and without limitation, sales, use, excise, privilege, ad valorem and property taxes, or amounts in lieu thereof, based on the products, their use or

any services performed hereunder, whether such tariffs, duties or taxes are now or hereafter imposed by said jurisdictions, except to the extent that Customer is exempt from such taxes.

7. **Termination.** GENESIS may terminate this Agreement, and renewal, for any of the following:
- (a) Failure to pay the support fee; (b) Failure to pay any outstanding debt owed by the Customer to GENESIS under this, or any other agreement with GENESIS; or (c) Upon ninety days prior notice GENESIS may at any time discontinue support.

8. **Warranty.**

a. All software development performed by GENESIS is warranted for ninety (90) days after the product containing the new development is installed at the End User site ("Initial Warranty Period"). During this time any defect found in the software that requires correction (either functional or performance as defined above and whether related to the new development or not) will be corrected at no charge for either the work required to correct the software or the distribution of the resulting update. Once the Initial Warranty Period has expired, GENESIS reserves the right to charge for work done to make and distribute functional or performance corrections unless such work and distribution is covered by a Support Agreement that has been continuously in effect since the expiration of the Initial Warranty Period.

b. GENESIS warrants that in the event that no recovery can be effected on a support call, the Customer will not be billed for the time spent attempting recovery. Except as provided in paragraph 8a of this agreement, GENESIS does not guarantee that any service/product that it provides to the Customer will be effective and therefore does not warrant any of the services/products provided under this Agreement. GENESIS shall have no liability under this Agreement to Customer or any other party for any loss or damage including, without limiting the generality of the foregoing, any direct, general, incidental, indirect, special, or consequential damages, resulting from the failure of GENESIS to comply with any warranties set forth in this Agreement.

c. **GENESIS' WARRANTY IN THIS AGREEMENT IS IN LIEU OF ALL OTHER WARRANTIES EXPRESSED OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL GENESIS BE LIABLE TO CUSTOMER FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, WORK STOPAGE, LOST PROFITS, LOST DATA OR COMPUTER HARDWARE OR SOFTWARE DAMAGE, FAILURE OR MALFUNCTION.**

d. Customer agrees that all data transmissions, searches, requests or queries to or from the database shall be through Genesis' proprietary software only. Genesis shall have the right to audit, at its own expense, all inputs and outputs of the database. Any transmission of data or any searches, requests or queries to or from the database by means other than Genesis' proprietary software or other means approved by Genesis in writing shall immediately void the warranty granted hereunder and relieve Genesis of any liability if support services can not be successfully provided.

e. Neither this Section 8, nor this Agreement as a whole, shall result in any limitation of liability for personal injury or death resulting from the fault of GENESIS, its employees or agents. Additionally, GENESIS shall be responsible for physical hardware damage caused by the fault of GENESIS, its employees, or its agents in making repairs to data files or software, except in the limited circumstances where GENESIS has explained there is reasonable risk of such damage and obtained the Department's or facility's written permission to proceed relative to the location of the equipment (Customer or facility) in the specific instance.

9. **Waivers.** The failure or delay of any party to exercise any right or option arising out of a breach of this Agreement shall not be deemed a waiver of any right or option with respect to any subsequent or different breach, or the continuance of any existing breach, after demand for strict performance.

10. **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties and supersedes all previous Agreements and understanding relating to the work. The Agreement may not be altered, amended, or modified except by a written instrument signed by the duly authorized representatives of both parties.
11. **Interpretation.** To the fullest extent possible each provision of this Agreement shall be interpreted in such fashion as to be effective and valid under applicable law. If any provision of this Agreement is declared void or unenforceable for particular facts or circumstance, such provision shall remain in full force and effect for all other facts and circumstances. If any provision of this Agreement is declared entirely void or unenforceable, such provision shall be deemed severed from this Agreement, which shall otherwise remain in full force and effect.
12. **Applicable Law.** The validity, construction and performance of this Agreement shall be governed by and construed in accordance to the laws of the Commonwealth of Pennsylvania. The parties consent and submit to the jurisdiction and venue of the state and federal courts located in Dauphin County of the Commonwealth of Pennsylvania.
13. **Fee.** Upon payment of the following fee, sites listed in Appendix A and any additional facilities installing the GENESIS supplied software during the term of the Agreement will be serviced for the remainder of this Agreement.

Fee: Fee is set forth in the Addendum to this Form Contract.

14. **Term.** The Term of this Agreement is January 1, 2008 through September 10, 2008.

The parties hereby agree to be legally bound by the terms and conditions set forth herein:

Authorized Signatures:

For the Contractor:

Name

Treasurer

Title

Date

For the Department:

(Name)
(Title)

Date

For the Division:

(Name)
(Title)

Date

APPENDIX A

LISTING OF FACILITIES/LOCATIONS TO BE SERVED

Not applicable as services are provided to the State.

APPENDIX B

Staff Pricing Schedule as of 01/01/08

Staff Title	Location	Hourly Rate US Dollars
Subject Matter Specialist	Genesis	\$315.00
Project Director	Genesis	\$215.00
Project Manager	Genesis	\$205.00
Business Analyst	Genesis	\$190.00
SQL Database Administrator	Genesis	\$190.00
Oracle Database Administrator	Genesis	\$245.00
Sr. Web Programmer	Genesis	\$200.00
Jr. Web Programmer	Genesis	\$190.00
Sr. Citrix Technicians	Genesis	\$205.00
Jr. Citrix Technicians	Genesis	\$190.00
Sr. Programmer	Genesis	\$180.00
Jr. Programmer	Genesis	\$170.00
Operator	Genesis	\$165.00
Testing Technician	Genesis	\$115.00
Help Desk Analyst	Genesis	\$115.00
Documentation Specialist	Genesis	\$165.00
Assistant Documentation Analyst	Genesis	\$115.00
Project Trainer	Genesis	\$165.00
Assistant Trainer	Genesis	\$115.00
Data Entry Specialist	Genesis	\$100.00
NON-CUSTOMER TECHNICAL SUPPORT	1 ST HOUR OF TECHNICAL SUPPORT-2 HOUR MINIMUM	\$315.00
All additional Technical Support Services		Billable at the above hourly rates for the technicians involved

On-site travel and subsistence costs are in addition to the above referenced rates.