

**AGREEMENT FOR PURCHASE OF
CLOSED CIRCUIT TELEVISION SYSTEM
BY AND BETWEEN
THE PHILADELPHIA PARKING AUTHORITY
AND _____.**

PPA Contract No. _____

This AGREEMENT (the "Agreement") executed this ___ day of _____ 2013 between **The Philadelphia Parking Authority**, a body corporate and politic, (the "Authority") with its principal place of business at 3101 Market Street, Philadelphia, PA 19104, and _____, a _____ corporation ("Contractor") with its principal place of business at _____.

BACKGROUND

WHEREAS, the Authority has undertaken to provide an efficient, modern and reliable Surveillance Camera System to integrate with the existing revenue control system **at its Philadelphia International Airport parking facilities;**

WHEREAS, in order to procure such a Closed Circuit Surveillance Camera System the Authority issued a Request for Proposals "CCTV" Proposal No. CCTVECONBUSPHL.2013, and Addendum _____ (the "RFP") on _____;

WHEREAS, Contractor submitted a conforming Proposal to the RFP on _____ and is in the business of designing, producing, integrating, installing, implementing and maintaining systems of the type that the Authority wishes to purchase;

WHEREAS, Contractor has proposed that it will design, develop, produce, install, integrate, and implement the Surveillance Camera System, train Authority employees and consultants to use and operate the Surveillance Camera System, and will provide maintenance and support for the Surveillance Camera System;

WHEREAS, after due consideration and deliberation within the Authority, Contractor was selected to provide the Surveillance Camera System upon the successful negotiation of this Agreement; and

WHEREAS, the Authority desires to engage Contractor for such purposes.

NOW, THEREFORE, in consideration of the promises and of the mutual agreements herein contained, the parties, intending to be legally bound, hereby agree as follows:

**ARTICLE I
DEFINITIONS**

I.1 "Acceptance Criteria"

shall mean written performance criteria specific to each phase of the Schedule that verify that the phase meets the relevant System Requirements and System Specifications. Authority Acceptance Criteria shall be prepared by the Authority with the assistance of Contractor.

I.2 "Agreement"

shall mean this Agreement, including all Exhibits attached to this Agreement.

I.3 "Authority Data"

shall mean the data being captured, processed, managed, tracked or stored by the System.

I.4 "Authority Project Manager"

shall have the meaning set forth in Section 2.6.

I.5 "Authority Provided Resources"

shall mean any information, documents, or data provided by Authority, including but not limited to the RFP.

I.6 "Authority Specifications"

shall mean the description of the Authority required features, functions and performance characteristics for the System (including certain components of the System) set forth in the RFP or any other form provided by the Authority.

I.7 "Contractor"

shall mean the entity designated at the beginning of this Agreement as the "Contractor."

I.8 "Contractor Project Manager"

shall have the meaning set forth in Section 2.3.

I.9 "Contractor Proposal"

I.10 shall mean the documents submitted by Contractor in response to the RFP, including any supplemental submittals attached hereto as Exhibit "A" and incorporated herein throughout by reference.

I.11 "COTS Software"

shall mean the commercially available off-the-shelf software programs listed in Exhibit "A".

I.12 "Detailed Design Specifications"

shall mean all documents in which design, development, production, installation, integration, implementation or maintenance of the System is addressed, including but not limited to the Technical Requirements and System Specifications, electrical and mechanical schematic diagrams, programming specifications, flow charts, Source Code Documentation, reliability criteria, screen and report design specifications, Acceptance Criteria, System Test Procedures, test plans, training materials and user documentation.

I.13 "Developed Software"

shall mean all Software included in the System that is not COTS Software or Prior Existing Software and shall include, without limitation, those portions of the Software written for the Authority by Contractor or third parties on Contractor's behalf in connection with the design, development, production, installation, integration, implementation and maintenance of the System.

I.14 "Economy Bus Shelters" shall mean the sixteen (16) bus shelters situated within the PPA's Economy Parking Lot at the Philadelphia International Airport Economy Parking Lot off of Island Avenue, Philadelphia, Pennsylvania and the Administration Building located in the Economy Parking Lot.

I.15 "Effective Date"

shall mean the date of this Agreement first set forth above.

I.16 "Escrow Materials"

shall have the meaning set forth in Section 8.3 hereof.

I.17 "Expenses"

shall have the meaning set forth in Section 4.3 hereof.

I.18 "Final System Acceptance"

shall mean completion of the Final Acceptance Period, testing and written acceptance by the Authority as provided in Section 6.6 hereof.

I.19 "Final Acceptance Period"

shall mean at least a 30-day period following Final System Acceptance during which the Authority tests the System in operation, as described in Section 6.6 hereof.

I.20 "Fixed Fee"

shall have the meaning set forth in Section 4.1 hereof.

I.21 "Hardware"

shall mean all electronic or mechanical hardware and other equipment included as part of the System, including third-party hardware, as set forth in Exhibit "A".

I.22 "Indemnities"

shall have the meaning set forth in Article XIV hereof.

I.23 "Initial Warranty Period"

shall mean the period beginning with the first delivery of any portion of the System for testing and ending one (1) year after Final System Acceptance.

I.24 "Main Toll Plaza" shall mean the thirty (30) exit lanes for the main parking garages at the Philadelphia International Airport, Philadelphia, Pennsylvania.

I.25 "Prior Existing Software"

shall mean any portion of the Software, other than COTS Software, created prior to commencement of design and development of the System, which Contractor specifically identifies to the Authority in writing on Exhibit "A" or which is otherwise required to be provided in order for Contractor to deliver the System.

I.26 "Project"

shall mean design, development, production, installation, integration, and implementation by Contractor of the System, and the training by Contractor of Users to use and operate the System, and maintenance of the System during the Initial Warranty Period.

I.27 "Proprietary Information"

shall have the meaning defined in Section 13.1 hereof.

I.28 "Punch List" shall mean a list of correctable problems determined and developed by the Authority's Project Manager or between the Authority's Project Manager and Contractor's Project Manager as permitted by this agreement.

I.29 "RFP"

shall mean The Philadelphia Parking Authority's Request for Proposals "CCTV" Proposal No. CCTVECONBUSPHL.2013 and Addendum _____ that was issued on _____, and all Exhibits annexed thereto and all amendments thereof a copy of which is attached hereto as Exhibit "B" and incorporated herein throughout by reference.

I.30 "Schedule"

shall mean the schedule for the Project set forth in Section 2.2 hereof.

I.31 "Scheduled Completion Date"

shall mean _____.

I.32 “Significant Failure” shall mean any defect that impacts the full functionality of the System or equipment, resulting in loss of information (including basic monitoring), data or an inconvenience to the Authority for a duration period in excess of one (1) hour.

I.33 “Software”

shall mean the integrated operating system, interface applications, database applications, workflow applications and any other software provided by Contractor, comprised of Developed Software, Prior Existing Software, COTS Software and any software preinstalled on or included as part of the Hardware, in machine-executable form, and related user documentation and any enhancements, modifications, or revisions of the foregoing and all copies of the foregoing.

I.34 “Source Code”

shall mean the source language version in human readable form of the Software.

I.35 “Source Code Documentation”

shall mean flow charts, programmer’s notes and other materials necessary to document properly the Source Code so as to enable a computer programmer to compile, operate, maintain, develop and modify the Software.

I.36 “Subcontractor”

shall be a subcontractor providing services, software, or hardware for the Project, who has been approved by the Authority as provided in Article III hereof.

I.37 “Subcontractor Agreement”

shall mean a written agreement between Contractor and a Subcontractor entered into in connection with the Project, approved by the Authority in its sole discretion.

I.38 “Support and Maintenance Agreement”

shall mean the agreement described in Section 10.2.

I.39 “System”

shall mean the new Philadelphia International Airport Parking Surveillance Camera System, as described by the Technical Specification set forth in the RFP, Proposal and this Agreement. For purpose of clarification, and not by way of limitation, the System shall include all manuals or documentation set forth in the Technical Requirements and shall in all cases be composed entirely of new equipment.

I.40 “System Integration” shall mean the seamless interfacing and complete functionality between the System and the ACS Revenue Control System at the Philadelphia International Airport.

I.41 "System Test Acceptance"

shall mean successful completion of the System Test Procedures as acknowledged in writing by the Authority as described in Section 6.3, 6.4 and 6.5 hereof.

I.42 "System Test Procedures"

shall mean the test procedures that verify whether the System meets all of the System Specifications and System Requirements.

I.43 "System Specifications"

" shall mean the description of the System as set forth the in the RFP, Proposal and this Agreement.

I.44 "Technical Requirements"

shall mean the functional, technical and operational requirements of the System as set forth in the RFP, Proposal and this Agreement.

I.45 "Users"

shall mean the users of the System, namely, Authority employees, and consultants.

I.46 "Work Product"

shall mean all Developed Software, Source Code for Developed Software and any other materials or works or authorship, in whatever form, developed or created by Contractor (or Contractor's Subcontractor(s)) for the Authority hereunder and any inventions, improvements, or discoveries therein, whether or not patentable, but excluding any Authority Data, Authority Provided Resources and Authority Specifications.

ARTICLE II
SERVICES AND SCOPE OF WORK

II.1 The Project

Contractor agrees to deliver the System and complete the Project in accordance with the terms of this Agreement.

II.2 The Schedule

(a) The Project shall be completed as follows:

PHASE DATE DUE

EVENT

MILESTONE PAYMENTS

1.	_____	Notice to Proceed	5% (\$_____)
2.	_____	Design presentation and proof of concept.	
3.	_____	Complete Installation of Equipment	25% (\$_____)
4.	_____	System Testing	20%
	(\$_____)		
5.	_____	Pre-System Integration Testing for Entire System (Including Resolution of all Punch List Issues)	30% (\$_____)
6.	_____	Complete System Integration for Entire System	5% (\$_____)
7.	_____	System Integration Testing for Entire System	15% (\$_____)

(b) Project Phases/Existing Surveillance Systems

. The Project shall be implemented in various phases according to the Schedule. During these phases and after Final System Acceptance, operation of the System shall not interfere with the existing surveillance system. Contractor acknowledges that the existing surveillance system shall remain available for use, and shall not be disabled, until the Authority decides in its sole discretion that such system is no longer needed.

(c) The parties understand that this initial Schedule is subject to the scheduling of Overseas Airport Operations, the Department of Aviation and the Transportation Security Administration and agree to reasonably adjust the Schedule as necessary.

II.3 Project Manager

. Contractor shall appoint a qualified member of its staff, to act as project manager ("Contractor Project Manager") subject to the approval of the Authority, such approval not to be unreasonably withheld. The Contractor Project Manager's duties shall include, but not be limited to, conducting the Project and acting as liaison between the Authority and Contractor, Contractor and Contractor's Subcontractor(s), and the Authority and Contractor's Subcontractor(s). The initial Contractor Project Manager selected by Contractor and approved by the Authority is _____. _____ shall not be reassigned or removed by Contractor without cause as Contractor Project Manager without the written consent of the Authority Project Manager. If Contractor Project Manager is removed for cause by Contractor, Contractor shall in writing notify the Authority (in advance if practicable and in all cases as soon

as reasonably possible) of the reasons for the removal. Upon written request by the Authority, Contractor shall replace Contractor Project Manager with an individual acceptable to the Authority. Without limiting the effect of failure to comply with any other section of this Agreement, failure to comply with the provisions of this Section shall be deemed to be a material failure to perform under Section 18.1(e), and therefore a default of this Agreement. The Contractor Project Manager shall coordinate Contractor's services with Authority employees and parties performing other services or work for the Authority as requested by the Authority from time to time.

II.4 Project Management

. The Contractor Project Manager shall meet with the Authority Project Manager and other Authority representatives at least once every two (2) weeks to discuss the Project. The Contractor Project Manager shall submit to the Authority Project Manager a reasonably detailed weekly progress report of all activity relating to the Project. The Contractor Project Manager and such other of Contractor's employees as shall be necessary shall meet with the Authority's representatives at such times and in such places as shall be reasonably requested by the Authority.

II.5 Key Personnel

(a) Contractor is responsible for selecting qualified personnel to perform the Services required by this Agreement. Contractor is responsible for supervising all of its employees, monitoring the techniques used in the performance of work, and keeping its employees informed of improvements, changes, and methods of operation.

(b) Contractor acknowledges that award of the Agreement was based in part on the key personnel proposed by Contractor performing the functions proposed by Contractor. The Authority considers these individuals to be essential to the performance of the Agreement. Accordingly, Contractor agrees that the individuals listed as "key personnel" in Exhibit "C" shall perform the Services as proposed. No substitutions shall be made without the prior written approval of the Authority Project Manager. Contractor shall notify the Authority Project Manager twenty (20) days in advance of the proposed substitution. The notification shall include (a) an explanation of the circumstances necessitating the proposed substitution, (b) a complete description of the qualifications of the proposed substitute, which shall be equal to or greater than the individual to be replaced, and (c) any other information requested by the Contracting Officer. Contractor shall have the right to transfer or replace any employee other than key personnel and to substitute other qualified personnel, provided that such transfer or replacement shall not cause a delay in the performance of the Services, a downgrading of the quality of the Services, or increased cost to the Authority.

II.6 Authority's Project Manager

. Unless otherwise specified by the Authority, the Authority's project manager ("Authority Project Manager") shall be its Director of Airport Operations, Frank Ragazzino. All

requests for payment by the Contractor under this Agreement shall be directed to the Authority Project Manager.

II.7 Training

. Contractor shall train Authority employees in the use and operation of the System, as set forth in the RFP, Proposal and this Agreement.

ARTICLE III SUBCONTRACTORS; THIRD-PARTY HARDWARE & SOFTWARE

III.1 Subcontractors

. The selection of subcontractors by Contractor shall be subject to the prior written approval of the Authority, such approval not to be unreasonably withheld. Following the Authority's approval of a selected subcontractor, Contractor shall negotiate a Subcontractor Agreement with the selected subcontractor, which Subcontractor Agreement shall be subject to the written approval of the Authority (such approval not to be unreasonably withheld or delayed) prior to being entered into by Contractor (a selected subcontractor approved by Authority who enters into a Subcontractor Agreement approved by the Authority is a "Subcontractor"). The initial list of Subcontractors is set forth in Exhibit "D", and the Authority gives preliminary approval for the use of the Subcontractors listed in Exhibit "D", subject to the Authority's written approval of the Subcontractor Agreements, such approval shall not be unreasonably withheld or delayed. Approval of a Subcontractor or Subcontractor Agreement by the Authority shall not limit or absolve Contractor's duties, obligations or warranties under this Agreement for any part of the System or Project.

III.2 Third-Party Software and Hardware

. Contractor shall notify and obtain the written approval of the Authority prior to making any purchase of third-party hardware or Software. Approval of such purchases by the Authority shall not limit or absolve Contractor's duties, obligations or warranties under this Agreement for any specific Hardware or Software, or any part of the System or Project. Based on Contractor's representations in this Agreement and the Proposal, the initial list of Third Party Software and Hardware listed in Exhibit "A" shall be deemed approved for inclusion in the System by the Authority.

III.3 Subcontractor Relationship

. Nothing contained herein or in any agreement between Contractor and a Subcontractor or vendor shall create (1) any contractual relationship between the Authority and any Subcontractor at any time, or (2) any third-party beneficiary rights in any Subcontractor at any time. Contractor shall at all times be responsible for the work and conduct of its Subcontractors at any tier while performing services pursuant to this Agreement and shall ensure that its Subcontractors comply with all applicable terms and conditions of this Agreement. Nothing

herein shall negate any rights of the Authority based upon a separate agreement with any Subcontractor or under any warranty under any agreement which is assigned to the Authority.

III.4 Confidentiality Agreement

. Prior to commencing work on the Project or to the disclosure of any Confidential Information to any Subcontractor (whichever is sooner), each Subcontractor shall execute a Subcontractor Confidentiality Agreement (which shall contain a provision ensuring that all work product developed by the subcontractor vests in Contractor) in a form acceptable to the Authority.

ARTICLE IV PAYMENT TERMS

IV.1 Compensation

. The Authority shall pay to Contractor the amount of _____ Dollars (\$ _____) for Contractor's performance of the Project, including the System, Work Product, delivery of all necessary components of the System (including hardware and software) and full installation thereof (the "Fixed Fee"), in accordance with the Schedule of payments set forth in Article II. The Fixed Fee shall include all Subcontractors' fees, Expenses, Software and Hardware.

IV.2 Subcontractor's Fees.

Contractor shall be responsible for paying all Subcontractors out of Contractor's Fixed Fee as described above. On at least a monthly basis, Contractor shall submit to the Authority a copy of those invoices Contractor has received from its pre-approved Subcontractor(s).

IV.3 Expenses.

The Authority shall not be responsible for any expenses of Contractor or Subcontractor, including, but not limited to, travel, lodging, meals, telephone and postage (the "Expenses"). All such expenses shall be included in the Fixed Fee.

IV.4 COTS Software and Hardware; Payment and Title

. The Fixed Fee includes all costs and fees for the COTS Software licensed to the Authority and for any Hardware conveyed to the Authority under this Agreement as part of the System. Title to each item of Hardware provided by Contractor under this Agreement shall pass to Authority on the earlier of (i) receipt by Contractor, (ii) payment by the Authority for that item; or (ii) delivery to the Authority or a User. Prior to the installation of Hardware by Contractor, risk of loss for Hardware shall remain with Contractor. Contractor shall insure all Hardware against loss or damage until risk of loss passes to the Authority. Exhibit "B" hereof contains a list of the Hardware and Software and the quantities of each required for the System. To the extent practical, Contractor shall use shippers authorized by the Authority.

IV.5 Hardware and Software

. The price for Prior Existing Software, Developed Software, COTS Software and Hardware provided or modified by Contractor shall be part of the Fixed Fee.

IV.6 Reservation By the Authority

. If Contractor fails to timely provide any Hardware or COTS Software required by the System, the Authority reserves the right to purchase any of such Hardware and COTS Software which is available from commercial sources. If the Authority purchases any such Hardware or COTS Software, the Fixed Fee will be reduced by the greater of (i) the amount paid by the Authority for such items; or (ii) the portion of the Fixed Fee which Contractor had allocated to the acquisition of such items. So long as such Hardware and COTS Software is specified by Contractor as part of the System, the exercise of this right shall not relieve Contractor of its warranty obligations with respect to the System under this Agreement.

ARTICLE V CHANGE ORDERS

V.1 Contract Changes

(a) The Authority Project Manager may at any time, by written order and without notice to the sureties, if any, direct any change to the Project within the general scope of the Agreement ("Change Order"); however, such changes may not increase the aggregate Fixed Fee of the Agreement by more than \$25,000.00 without advance approval by the Authority's Board. But for the Authority's Executive Director, no other Authority employee, agent or representative is authorized to direct any change to the Project under the Agreement, unless expressly authorized to do so in writing by the Authority Project Manager.

(b) If any change directed in writing by the Authority Project Manager causes an increase or decrease in the cost of, or time required for, performance of any part of this Agreement, otherwise affects any provision of the Agreement, Contractor shall notify the Authority Project Manager in writing within five (5) business days of receipt of the written Change Order, and shall negotiate in good faith with the Authority, as appropriate, an equitable adjustment to the price and/or schedule (or change to any other terms or conditions). The Authority Project Manager shall issue a modification to the Agreement reflecting the terms of the equitable adjustment, which, if agreed to, shall be signed by the Contractor Project Manager. The amounts payable for Change Orders shall be subject to the provisions of 24.1(c). Contractor shall not unreasonably delay or withhold its consent to any Change Orders.

(c) If the Authority desires to have Contractor enter into a separate services agreement covering subject matter related to the System, this Agreement or the Support and Maintenance Agreement, Contractor shall review any such agreement presented by the Authority and shall negotiate such proposed terms in good faith with the Authority.

ARTICLE VI
TEST AND ACCEPTANCE; QUALITY ASSURANCE

VI.1 Testing of System

. Contractor shall cause the System to submit to all of the testing in a commercially reasonable fashion and actively participate in such testing pursuant to this Agreement and testing documentation produced and accepted pursuant to this Agreement.

VI.2 Acceptance of Design and Implementation Documents

. At least ten (10) days prior to the start of each testing phase of the Project, Contractor shall provide the Authority with all applicable Detailed Design Specification documents (for such phase) which documents shall be subject to written acceptance by the Authority, at the Authority's sole discretion. The Authority shall accept or reject such documents in writing within five (5) business days. If the Authority does not accept or reject a document within such time period, the document shall be deemed accepted. Nothing herein shall limit any design reviews or approvals set forth in this Agreement. To the extent there is any delay of the Project as the result of the Authority's non-acceptance of such documents due to deficiencies, errors, omissions or like reasons, such delay shall be attributed to Contractor.

VI.3 Entire System Test Acceptance. Contractor shall assist the Authority in Phase 6 in testing the Entire System in accordance with the System Test Procedures. Phase 7 will be successfully completed if the System fully operates for thirty (30) continuous days without a Significant Failure. If there is a Significant Failure during this trial period, then the 30 day trial period will begin again at the time of discovery of the significant failure. Phase 6 may not conclude until all Punch List items are fully resolved. In the sole discretion of the Authority's Project Manager, this 30 day Trial Period may conclude after only 15 days, if the Systems functionality has performed flawlessly. In any event, it shall be considered a default under this Agreement if Phase 6 shall remain incomplete for a period of more than 65 days.

VI.4 System Integration Test Acceptance. Upon completion of Phase 6, Contractor shall assist the Authority in Phase 7 in testing the System Integration of the Entire System in accordance with the System Test Procedures. Phase 7 will be successfully completed if the System fully operates for thirty (30) continuous days without a Significant Failure. If there is a Significant Failure during this trial period, then the 30 day trial period will begin again at the time of discovery of the significant failure. In the sole discretion of the Authority's Project Manager, this 30 day Trial Period may conclude after only 15 days, if the Systems functionality has performed flawlessly. In any event, it shall be considered a default under this Agreement if Phase 9 shall remain incomplete for a period of more than 65 days.

VI.5 Final System Acceptance

. Upon completion of Phase 7, the Authority and the Users shall use the System for a period of 30 days during which time any problems reported by the Authority to Contractor, or of which Contractor becomes aware, shall be corrected as soon as reasonably possible by

Contractor but in all cases within 30 days. In the event that any problems affect the Authority's use of the System as determined by the Authority's Project Manager, the Final Acceptance Period shall automatically be extended by the number of days Contractor requires to correct such problems. At the end of the Final Acceptance Period, Contractor shall provide the Authority with revised System Test Procedures subject to the Authority's written approval, which reflect any changes in the System necessitated by problems resolved during the Final Acceptance Period. System Test Acceptance, as described in Section 6.4 hereof, shall be repeated according to the revised System Test Procedures. After completion of the modified System Test Procedures to the Authority's satisfaction and completion by Contractor of any revisions to the Detailed Design Specifications to the Authority's satisfaction, the Authority shall provide written notice signifying its final acceptance of the System ("Final System Acceptance").

VI.6 System Test Acceptance Quality Assurance

. At all times during the term of this Agreement Contractor shall comply with the quality assurance provisions set forth in the RFP and this Agreement.

ARTICLE VII LIQUIDATED DAMAGES

VII.1 Time of the Essence

. Timely performance is a primary consideration in this Agreement, and, therefore, time is of the essence hereunder.

VII.2 Liquidated Damages

. The parties to this Agreement agree that the Authority will be damaged in the event that any scheduled milestone events identified in this Agreement are not delivered on time, or if the System is out of service or otherwise unavailable, and that the extent of such damage is very difficult to ascertain. Accordingly, the parties have agreed to establish liquidated damages in advance, in the event of such late delivery, unavailability or unreliability of the System. If any scheduled milestone events identified in this Agreement are not delivered on time as a result of delays caused by the Authority or third parties (other than Contractor's subcontractors, agents or suppliers), or if the System is out of service or otherwise unavailable as a result of damages stemming from the misuse or unauthorized modification to the System by the Authority, its agents, or some other third party (other than Contractor's subcontractors, agents or suppliers), then the Authority hereby acknowledges and agrees that Contractor shall not be held liable for any liquidated damages for such delays. The liquidated damages set forth in this Article shall be cumulative and are not in lieu of any other damages to which the Authority may be entitled due to Contractor's negligence or breach of this Agreement.

VII.3 Delay Damages

. If Final System Acceptance does not occur on, before or within 14 days after the System Completion Date as a result of delays solely caused by or within the control of

Contractor or any of its subcontractors, agents or suppliers, for each calendar day after 14 days after the System Completion Date up to and including the date on which Final System Acceptance occurs, Contractor shall pay to the Authority as liquidated damages, not as a penalty, for such delay, the following amount(s): \$500 per day.

VII.4 Reliability Damages

. See Section 11.10. The remedies under such section 11.10 shall be considered liquidated damages.

ARTICLE VIII SOFTWARE; SOURCE CODES; ESCROW AGREEMENT

VIII.1 In General

. Software provided to the Authority as part of the System may be provided by Contractor or third parties. Software provided by third parties that is a standard, commercially available product shall be COTS Software (as defined in Article I) provided that such Software (a) is not owned or exclusively licensed by Contractor, or (b) has not been customized for the System. All Software shall be Developed Software unless listed on Exhibit "A" as COTS Software or otherwise identified in writing as Prior Existing Software.

VIII.2 COTS Software Licenses

. All COTS Software and any Prior Existing Software not owned by Contractor shall be licensed to the Authority directly from the primary owner or exclusive licensor, and not through Contractor, unless agreed in writing by the Authority.

VIII.3 Source Code Escrow

. As required under the Source Code Escrow Agreement (Exhibit "E"), the Contractor shall deliver to the Authority's designated escrow agent, Source Code and Source Code Documentation for the Software in the System (but in the case of COTS Software, only to the extent Contractor has the rights and ability to do so), along with all source code documentation, programmer's notes and all necessary compilers, compilation tools, scripts, APIs and other code modules and instructions necessary to compile an exact copy of the executable version of the Software (collectively, "Escrow Materials"). The Escrow Materials shall be subject to the Source Code Escrow Agreement attached as Exhibit "E". Contractor shall deposit new Escrow Materials for any revisions of the Software in the System (including any software which the Authority receives under the Support and Maintenance Agreement) within thirty (30) days of introduction into the System. Contractor shall personally test and verify that all deposited Escrow Materials correctly compile the Software, and provide written notice to the Authority that such tests have been successfully completed. The Authority shall have the right to visit the escrow agent during normal business hours with reasonable prior notice and inspect and verify the integrity, viability and version of the source code for the Software.

ARTICLE IX
OWNERSHIP OF WORK PRODUCT; LICENSES

IX.1 Ownership of Work Product

- . Contractor shall own all right, title and interest to all Work Product.

IX.2 License to Work Product and Prior Existing Software

. Contractor hereby grants the Authority a fully paid-up, royalty free, perpetual, irrevocable, worldwide, non-exclusive license to access, use, execute, copy, perform, reproduce, transfer, display, distribute, sublicense (to Users) the Work Product and Prior Existing Software, including but not limited to the right to create and use interfaces between the Work Product and other systems and software used by the Authority, and to create derivative works therefrom, for any purpose in support of the Authority's performance of its functions and responsibilities, including but not limited to the purposes specified in or contemplated by this Agreement and the Detailed Design Specifications. The Authority shall not make any use of the Prior Existing Software or Work Product except as permitted under this Agreement, the Support and Maintenance Agreement or the Source Code Escrow Agreement.

IX.3 COTS Software Licenses. Contractor or its subcontractors, as the case may be, shall obtain licenses to COTS Software required for the System in the Authority's name. Contractor shall provide a copy of all COTS Software license terms to the Authority for review and approval prior to making any COTS Software license purchases.

IX.4 Ownership of Authority Materials

. As between the parties, the Authority shall own and retain all right, title and interest in and to the Authority Data, Authority Provided Resources and Authority Specifications (collectively, "Authority Materials"). The Authority grants Contractor a limited, fully paid-up, non-exclusive right and license to use, access, copy, reproduce, display, and create derivative works of the Authority Materials for the sole purpose of performing its obligations under this Agreement and the Support and Maintenance Agreement and only for so long as it is performing such obligations.

ARTICLE X
SUPPORT SERVICES

X.1 Supplemental Services

. If requested, and if not already within the scope of the services required by this Agreement, Contractor shall provide supplemental services to the Authority and/or third parties as directed by the Authority. Such services, if provided to the Authority, shall be provided under the terms of a Change Order or in a separate agreement, as requested by the Authority. If such services are provided to a third party, they shall be provided under the terms of a separate

agreement as between Contractor and such third party. Contractor shall act in good faith when negotiating any such agreement with a third party.

X.2 Separate Maintenance Agreement

(a) Upon Final System Acceptance by the Authority, the Authority may obtain a Maintenance and Support Agreement consistent with this Agreement capable of being renewed annually, at the Authority's sole discretion, in consideration of the Authority's payment of Contractor's then current annual maintenance and support fees.

(b) In the event the maintenance or support services for the System in excess of those provided in the RFP, the Proposal and this Agreement become necessary, such Agreement(s) shall require invoicing on a time-and-materials basis at costs not in excess of Contractor's standard hourly rates.

X.3 Ongoing Support

Contractor agrees to provide maintenance and support for all portions of the System (including all Hardware and Software) for ten years from the date of Final System Acceptance, and to provide all upgrades to the System at no cost to the Authority throughout that ten year period. During any period in which Contractor and the Authority do not have a separate maintenance and support agreement, Contractor shall provide such services as requested by the Authority, to the Authority and/or its designee, on a time-and-materials basis at Contractor's standard hourly rate of _____ (\$_____).

X.4 Data Backup. Contractor shall maintain and backup all data from the system, in adequate form, detail and arrangement, for the Authority's benefit for a minimum of thirty (30) days. In the event of catastrophic loss, Contractor shall provide the Authority with the backup data.

ARTICLE XI REPRESENTATIONS AND WARRANTIES

XI.1 Functional Warranty

Contractor warrants, represents and covenants during the Initial Warranty Period, that the System shall operate in conformance with the Detailed Design Specifications and as an integrated System, at no additional cost to the Authority. In the event the System does not operate in conformance with the Detailed Design Specifications and/or as an integrated system during the Initial Warranty Period and provided that the System is used as authorized, contemplated or intended, Contractor shall immediately resolve the problem at its sole expense. The foregoing warranty shall not apply in any instance where a System deficiency was caused by the negligence, abuse or neglect by the Authority or use by the Authority in a manner not authorized, contemplated or intended.

XI.2 No "Time Bombs" or "Open Source" Warranty

. Contractor warrants, represents and covenants that the System shall be free from all devices such as "back-doors," "time bombs" or any other similar feature which may be activated by Contractor or any other third party so as to disable the System, in part or in whole, or otherwise interfere with the Authority's computer systems or any other computer system to which the System may be connected. The System shall also be free of open source software.

XI.3 Viruses

. Contractor warrants, represents and covenants that, as delivered, at the time of completion of each phase of the Schedule and at the time of Final System Acceptance, the Contractor will utilize a prevailing industry standard anti-virus program and shall ensure that the System, excluding COTS Software and third party Hardware, will not contain any viruses, trojan horses, worms, logic bombs or other destructive routines, including but not limited to any codes or instructions that may be used to modify, damage or disable the Authority's computer systems, or any other computer system to which the System may be connected, or interferes with the operation of the System. In the event Contractor becomes aware of any such viruses and/or destructive routines in the System, Contractor will use its best efforts to provide notice to the Authority and make available assistance and corrections to the System at no cost to the Authority. With respect to the COTS Software and third party Hardware, the Contractor will utilize a prevailing industry standard anti-virus program to help ensure that such items will not contain any viruses, Trojan horses, worms, logic bombs or other destructive routines, including but not limited to any codes or instructions that may be used to modify, damage or disable the Authority's computer systems, or any other computer system to which the System may be connected, or interfere with the operation of the System. In the event Contractor becomes aware of any such viruses and/or destructive routines in the System, Contractor will use its best efforts to provide notice to the Authority and use best efforts to make available assistance and corrections to the System at no cost to the Authority.

XI.4 Hardware Warranties

. Contractor warrants, represents and covenants that upon installation all Hardware shall: (a) be new; (b) conform to all the requirements and specifications of this Agreement; (c) be free of defects in design, materials and workmanship; (d) be suitable for the purpose intended; and (e) be merchantable and of good quality. Contractor further warrants, represents and covenants that each item of Hardware shall operate correctly and in conformance with the Detailed Design Specifications and the applicable manufacturer's documentation during the Initial Warranty Period or the length of the manufacturer's warranty, whichever is longer. Contractor shall repair or replace at its sole cost and expense, within 24 hours of reporting by the Authority any Hardware that fails to comply with the foregoing warranty.

XI.5 Third-Party Software and Hardware Warranties

. Contractor shall ensure that all applicable vendors' warranties for third party Hardware purchased as part of the System are assignable to the Authority and Contractor shall assign such warranties to the Authority and provide the Authority with a copy of each manufacturer's

warranty for each item of Hardware. Contractor shall use commercially reasonable efforts to ensure that all applicable vendors' warranties for third party Software purchased as part of the System are assignable to the Authority and Contractor shall, to the extent permitted by third party Software licensors, assign such warranties to the Authority and provide the Authority with a copy of each such warranty.

XI.6 Warranty of Non-Infringement

. Contractor warrants, represents and covenants that, to its knowledge, the System, the Work Product, Contractor services and the services provided by its subcontractor(s) will not violate or in any way infringe upon the rights of third parties, including, but not limited to third-party proprietary, contractual, employment, trade secrets, proprietary information, and nondisclosure rights or other rights, or any trademark, copyright or patent rights.

XI.7 Right to Enter Agreement

. Contractor represents and warrants that it has the right to enter into this Agreement, to perform all of its obligations hereunder and grant the rights granted herein.

XI.8 No Restrictions Warranty

. Contractor represents and warrants that it is not a party to any restrictions, agreements or understandings whatsoever which would prevent or make unlawful its acceptance of the terms set forth in this Agreement or its performance hereunder. Contractor further warrants, represents and covenants that its acceptance of the terms of this Agreement and the performance of its obligations hereunder does not and will not (with the passage of time) conflict with or constitute a breach or default of any contract, agreement or understanding, oral or written, to which it is a party or by which it is bound.

XI.9 Operational Reliability Warranty

. Contractor represents and warrants that the System shall meet the reliability criteria set forth in Exhibit "B", for ten (10) years from Final System Acceptance, provided that such warranty shall not apply to any individual item of Hardware which the Authority fails to periodically inspect in accordance with any Hardware inspection protocols which the parties may mutually agree to in writing. In addition to the remedies set forth in this Agreement and to the extent that Section 11.5 does not apply, Contractor shall repair or replace, within 24 hours of an Authority report, any Hardware that fails to comply with the foregoing warranty.

XI.10 Personnel Warranty

. Contractor warrants, represents and covenants that it is able to and will assign an adequate quantity of employees and subcontractors to the Project to meet the Schedule and all requirements of this Agreement, that all employees and subcontractors assigned to the Project shall have the necessary training, education and experience to perform the tasks to which they are assigned, and that all services will be provided in a workmanlike and professional manner.

XI.11 No Liens, Encumbrances or Security Interests

. Except as otherwise permitted under this Agreement, Contractor represents and warrants that the System, including all Hardware and Software, shall be free of any liens, security interests and encumbrances.

XI.12 Warranties/Remedies Cumulative

. Each warranty set forth herein shall be cumulative and shall in no way limit any other warranty whether express or implied. The Authority shall be entitled to any remedy expressly set forth herein as well as any other remedy available in law or equity. Nothing in this Article shall limit the right of the Authority to liquidated damages.

ARTICLE XII TAXES

XII.1 As an agency of the Commonwealth of Pennsylvania, and a local government agency, the Authority is exempt from the payment of state and local sales and use and other taxes on material, equipment or other personal property. Contractor agrees that the fees, price or rates stated in the Agreement (1) do not include any state or local taxes, surcharges or fees on the Authority in connection with this transaction, and (2) do include all other applicable taxes for which Contractor is liable.

XII.2 The Contractor shall be responsible for the payment of any tax, duty (whether customs, import, antidumping or countervailing), fee or cost of any governmentally imposed permit, license or similar authorization required to render complete performance under the Agreement. Contractor shall indemnify and hold harmless the Authority against liability for the failure of the Contractor to pay any such taxes, fees or other costs. Contractor also certifies that its Philadelphia Business Privilege Tax ID. No. is: _____, and has attached a true, current, and correct copy of its Philadelphia Business Privilege License hereto.

ARTICLE XIII CONFIDENTIALITY

XIII.1 Confidentiality of Proprietary Information

. Each party shall maintain all information which the other party has disclosed in negotiations prior to execution of this Agreement and which may be disclosed under or in connection with this Agreement, including but not limited to proprietary information concerning it and its affiliates, its products, financial plans and strategies, User and employee information (whether disclosed by the Authority or Users), documentation, services, or processes, whether transmitted or conveyed orally, in writing, in the form of drawings, or whether perceived or observed by the other party prior to or during the Project, as the strictly secret and confidential proprietary information of the disclosing party ("Proprietary Information"). With respect to the Authority, its "Proprietary Information" as used herein shall also include all Work Product,

including but not limited to the Developed Software and Detailed Design Specification. Each party shall take all steps to protect and to not disclose the other party's Proprietary Information except in confidence and as otherwise required to complete the Project or use the System. Contractor agrees that it will not use or disclose the Authority's name, trade name, or other proprietary designation, except as necessary to perform its obligations to or on behalf of the Authority, without the Authority's prior written consent. Each party further agrees:

- (a) not to make any use whatsoever of the other party's Proprietary Information, except as required to complete the Project or use the System;
- (b) not to reveal or disclose to any third party the other party's Proprietary Information, except in confidence and as otherwise required to complete the Project;
- (c) that the other party's Proprietary Information submitted in tangible form, such as drawings, sketches, reports and similar items shall be promptly returned to the other party upon the earlier of termination of this Agreement or completion of the Project, except to the extent such Proprietary Information needs to be retained by the Authority in order to use the System; and
- (d) that prior to disclosing any of the other party's Proprietary Information to a third party, the disclosing party shall (i) obtain the prior written consent of the party that owns the Proprietary Information; and (ii) obtain the third party's execution of a confidentiality agreement in form and substance acceptable to the party that owns the Proprietary Information.

XIII.2 Exclusions

Except as expressly provided in this Article, Proprietary Information will not include disclosure of information or data which either party can conclusively prove is: (a) known to such party prior to its receipt from the other party without a limitation or obligation of confidentiality under another agreement; (b) independently developed by such party without use of the other party's Proprietary Information or data; (c) in the public domain at the time of disclosure through no fault of such party; (d) received from a third party with a legal or contractual right to disclose such information or data; or (e) required to be disclosed as a result of a legal obligation to do so, provided, however, that such party must provide thirty (30) days' prior written notice to the other party of its intention to disclose such information.

XIII.3 Injunctive Relief

Each party understands that in the event it fails to comply with this Agreement, the other party may suffer irreparable harm which may not be adequately compensated for by monetary damages alone. Each party, therefore, agrees that in the event of its breach or threatened breach of this Article, the other party shall be entitled to injunctive (without the requirement for posting of a bond) and/or other preliminary or equitable relief, in addition to any other remedies available at law. If either party shall prevail in any action at law or in equity to enforce these provisions of this Agreement, the other party shall pay the prevailing party's cost and expenses, including reasonable attorneys' fees.

ARTICLE XIV
INDEMNIFICATION

XIV.1 General Indemnification

. Contractor agrees to defend, indemnify and hold harmless the Authority and its affiliates, and their officers, directors, agents, invitees, employees, successors and assigns (collectively, "Indemnities"), at its sole expense, from and against all suits, actions or other proceedings, at law or in equity and from all damages, claims and demands, losses, liabilities, and expenses, including, without limitation, attorneys' fees, arising out of breach of this Agreement by Contractor, the negligence or willful misconduct of Contractor or the death, damage or injury to any person (including those related to Workers' Compensation) or damage to any property which results from or is caused by any Work Product, the System or services performed pursuant to this Agreement or the Support and Maintenance Agreement. It is agreed that Contractor shall be solely responsible, and shall defend, indemnify and hold harmless Indemnities, irrespective of any fault or negligence on their part, for any damage, bodily injury or death to any person in connection with the performance of this Agreement, the performance of the Support and Maintenance Agreement or the operation of the System. Contractor will, at its sole expense, indemnify, defend and hold harmless Indemnities from and against any action, suit, claim or other proceeding brought against Indemnities by a third party which arises from (a) any Subcontractor Agreement; or (b) the performance of Contractor or Contractor's subcontractor(s) under this Agreement, the Support and Maintenance Agreement or any Subcontractor Agreement.

XIV.2 Infringement Indemnification

. Contractor will, at its sole expense, indemnify, defend and hold harmless Indemnities from and against any third party action, suit or other proceeding to the extent that it is based on a claim that the System, or any portion thereof, when used as authorized, contemplated or intended, infringes any U.S. patent, trade secret, trademark or copyright or any other intellectual property right of any third party. Should Indemnities become or, in Contractor's opinion, be likely to become the subject of a claim of infringement of a patent, trademark, trade secret or copyright, or other third-party proprietary right, Contractor shall at its option: (a) procure for the Authority, at no cost to the Authority, the right to continue to use the System; or (b) replace or modify the System or the portion thereof which is the subject of the claim, at no cost to the Authority to make the System or portion thereof non-infringing, provided that the same function is performed by the replaced or modified System. In the event that Contractor is unable to do either of the foregoing, Contractor shall refund all amounts paid under this Agreement.

XIV.3 Environmental Indemnification

. Contractor agrees to defend, indemnify and hold harmless Indemnities, irrespective of any fault or negligence on their part, from and against all losses and liabilities, fines, penalties, forfeitures, demands, claims, causes of action, suits, costs and expenses incidental thereto (including costs of defense and attorneys' fees), which may arise from the existence, discharge,

release, and/or disposal of any materials, including any wastes, generated in connection with Contractor's performance of Services pursuant to this Agreement.

XIV.4 Contractors Obligations

. Contractor will indemnify Indemnities from any costs, damages, losses, liabilities, expenses and fees incurred by Indemnities which are attributed to any of the claims set forth in this Article (including but not limited to reasonable attorneys' fees). Contractor shall have the right to compromise or settle a claim at its sole expense, subject to the Authority's prior written approval (not to be unreasonably withheld or delayed) and provided such compromise or settlement does not prejudice the Authority's rights hereunder. Otherwise, Contractor shall have no authority to settle any claim on behalf of Indemnities. If Contractor fails to defend Indemnities against any such action, the Authority may defend the Indemnities and settle any matter as it in its sole discretion deem appropriate. Contractor will further indemnify Indemnities for fees, including attorneys' fees, which are attributed to the Authority's or Indemnities' defense against such action. The indemnifications set forth in this Article shall survive termination of this Agreement for any reason.

ARTICLE XV INSURANCE

XV.1 Insurance

. During the term of this Agreement, Contractor shall provide and maintain insurance as required and detailed in the RFP (collectively, the "Required Insurance Policies").

XV.2 General Requirements and the Provision of Certificates and Policies

- (a) All of the Required Insurance Policies shall:
- (i) be issued by companies acceptable to the Authority and licensed to do business in Pennsylvania and New Jersey, having a Best's rating of A- or higher and a Best's financial size category of VII or higher;
 - (ii) be in the minimum amounts set forth in the RFP or such greater amounts as the Authority may from time to time reasonably require;
 - (iii) be written on a "claims made" basis and not an "occurrence" basis;
 - (iv) be primary with respect to any other insurance maintained by or for the Authority;
 - (v) incorporate a cross liability endorsement; and

(vi) provide that such insurance policies may not be changed, canceled or expire without at least sixty (60) days' prior written notice to the Authority.

(b) On the Effective Date of this Agreement, Contractor shall submit to the Authority for its approval as to form and sufficiency of coverage, a certificate of insurance for each of the Required Insurance Policies which certificate must evidence that the policies satisfy the requirements set forth in the RFP and Section 15.2. Within fifteen (15) days of the Authority's written request, Contractor shall provide the Authority with certified copies of the Required Insurance Policies.

(c) At least fifteen (15) business days prior to the expiration date of any Required Insurance Policy, Contractor shall furnish to the Authority, via facsimile transmission and overnight mail, a new certificate evidencing the renewal or replacement of the expiring coverages. The insurance certificate shall comply with the requirements set forth in this Section.

(d) If at any time Contractor neglects or otherwise fails to maintain any of the Required Insurance Policies, the Authority may (but is in no event required to) with or without notice to Contractor, procure the Required Insurance Policies which Contractor failed to maintain. The cost thereof is Contractor's responsibility and may, at the Authority's election, be deducted from any amounts due to Contractor pursuant to the terms of this Agreement, together with interest on the amount advanced at the prime rate plus two percent (2%) from the date such costs were incurred by the Authority until the amounts are set off. The prime rate shall be the prime rate announced as such in the Wall Street Journal.

(e) Contractor shall pay all insurance deductibles with respect to all claims for coverage under the Required Insurance Policies as such claims are or have been submitted by Contractor to any of Contractor's insurance carriers.

XV.3 Notice of Insurance Claims

. Contractor shall give the Authority and the insurance carrier prompt written notice of any claims of which Contractor has knowledge made, pending or threatened against the Authority or Contractor relating to this Agreement.

ARTICLE XVI TERM AND TERMINATION

XVI.1 Term

. This Agreement shall not be effective and shall not commence until the Effective Date and thereafter shall continue in full force and effect unless and until terminated as provided below.

XVI.2 Termination for Convenience

In addition to the rights specified in Article XVIII, the Authority shall have the right, upon fifteen (15) days' prior written notice to the Contractor to terminate the Agreement or performance of any portion of the Agreement by Contractor without cause. Such termination shall be considered a termination for the convenience of the Authority. After receipt of a notice of termination, and except as otherwise directed by the Authority, the Contractor shall:

- (a) Stop the performance of all or the portion of the Agreement specified by the Authority on the date and to the extent specified in the notice of termination;
- (b) Place no further subcontracts or orders for materials, equipment, services, facilities or other items, except as may be necessary for completion of performance of such portion of the Agreement as is not terminated;
- (c) Terminate all subcontracts to the extent that they relate to the performance of the portion of the Agreement which is terminated;
- (d) Assign to the Authority, in the manner and to the extent directed by the Authority, all the rights, title and interest of the Contractor under the terminated subcontracts;
- (e) Settle all outstanding liabilities and all claims arising out of such termination of subcontracts with the approval or ratification of the Authority, which approval or ratification shall be final for the purposes of this Article;
- (f) Transfer title to the Authority of any Hardware or Software (including spares) obtained for the System or, if directed by the Authority, use its best efforts to sell, in the manner, at the times, to the extent, and at the price(s) reasonably authorized by the Authority, any such Hardware; provided, however, that the Contractor may acquire any such Hardware itself under the conditions prescribed by and at a price(s) approved by the Authority; provided further, however, that the proceeds of any such transfer or disposition shall be delivered to the Authority and applied in reduction of any payments to be made by the Authority to the Contractor under this Agreement;
- (g) Complete performance in accordance with the Agreement of any such part of the Project which has not been terminated by the notice of termination;
- (h) Take such action as may be necessary, or as the Authority may direct, for the protection and preservation of the property related to this Agreement which is in the possession of the Contractor and in which the Authority has or may acquire an interest; and
- (i) Submit to the Authority, within ninety (90) days from the termination notice, a list, certified as to quantity and quality, of any or all items of termination inventory and previously disposed of items, exclusive of items for which the disposition has been directed or authorized by the Authority; the Contractor may request the Authority to remove such items or enter into a storage agreement covering the same, provided that the list submitted shall be subject to verification by the Authority upon removal or storage of the items, and any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

XVI.3 Termination Claim

. After receipt of a notice of termination for convenience, the Contractor shall submit to the Authority its termination claim in the form prescribed by the Authority. Such claim shall be submitted promptly, but in no event later than ninety (90) days after receipt of a termination for convenience notice from the Authority. Upon failure of the Contractor to submit its termination claim within the time allowed, the Authority may determine on the basis of information available to the Authority the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay the Contractor the amount so determined. Subject to Article XVII, the Authority's decision shall be final and binding.

XVI.4 Termination Costs

. In the event that the Authority terminates the Agreement, in whole or in part, for convenience, the Authority shall pay the Contractor the termination costs which shall be, if appropriate and reasonable and not already paid as of the notice of termination: (a) the amount specified in this Agreement for the portion of the System completed and accepted by the Authority up to the notice of termination, (b) \$120 per hour for the work performed on any portion of the System that has not been accepted by the Authority as of the notice of termination, subject to the Authority's reasonable determination that such work was necessary and properly performed, (c) an amount equal to direct actual costs incurred in the performance of actions to be taken pursuant to Section 16.2(g) hereof; and (d) an amount equal to the cost of non-cancelable and non-returnable material and equipment which has been specifically obtained for the purposes of this Agreement but not installed as part of the System and which Contractor cannot resell or use on a different project, which equipment the Contractor shall deliver to the Authority; provided that such agreed termination costs by the Authority and the Contractor shall not exceed the Fixed Fee as reduced by the amount of payments otherwise made with respect to the performance of the Agreement and as further reduced by the amount payable under this Agreement for the performance of any portion of the Agreement not terminated. Payment of the termination costs shall constitute an accord and satisfaction of the Contractor's rights in the event of a termination for convenience. Except for the right to be paid the termination costs, the Contractor shall have no right or claim to any moneys or damages with respect to a termination for convenience and shall make no other claim in the event of such a termination. If the Authority and the Contractor are unable to agree on the amount of the final payment within six (6) months after the Contractor's submittal of its termination claim, the amount shall be determined pursuant to Article XVII.

XVI.5 Ownership and Licenses

. Rights (including licensed rights) to all parts of the System in respect of which reimbursement is made by the Authority to the Contractor as herein provided shall, upon such reimbursement, pass to and vest in the Authority unless already vested under another provision of this Agreement, or unless the Authority directs otherwise, and shall be delivered to the Authority or otherwise disposed of in accordance with the Authority's instructions.

XVI.6 Survivability

. Any and all provisions of this Agreement which by their nature would reasonably be expected to be complied with or performed after the expiration or termination of this Agreement,

shall survive and be enforceable after the expiration or prior termination of this Agreement. Without limiting the generality of the foregoing or any provision in this Agreement expressly providing for survival, the provisions of Articles VII (Liquidated Damages), VIII (Software; Source Codes; Escrow Agreement), IX (Ownership of Work Product; Licenses), XI (Representations and Warranties), XIII (Confidentiality), XIV (Indemnification) and XXIV (Audit) and Section 10.3 (Ongoing Support) shall survive termination of this Agreement regardless of the reason for termination.

ARTICLE XVII DISPUTE RESOLUTION

XVII.1 Resolution of Claims and Disputes

. The parties shall make reasonable efforts to reach a negotiated resolution of any claim or dispute arising out of the interpretation, application, implementation or performance of this Agreement before seeking legal relief.

XVII.2 Injunctive Relief

. Notwithstanding the foregoing, either party shall have the right to initiate an action in the United States District Court for the Eastern District of Pennsylvania for temporary, preliminary or permanent injunctive relief.

XVII.3 Continuation of Work During a Claim

. Unless otherwise ordered by the court or requested by the Authority, at all times during the course of a claim (including litigation), the Contractor shall proceed diligently with performance of the Agreement and shall continue to work as directed by the Authority Project Manager, in a diligent manner and without delay, and shall be governed by all applicable provisions of the Agreement. During the pendency of the claim or dispute (including litigation), the Authority shall make payments of undisputed amounts in accordance with the Agreement.

ARTICLE XVIII DEFAULT

XVIII.1 In addition to any other right or remedy provided under this Agreement or otherwise available at law or equity, the Authority may, by written notice of default to the Contractor, terminate the Agreement in whole or in part if the Contractor:

- (a) fails to deliver any or all of the System within the time specified in the Schedule as a result of Contractor delays, which includes delays by any of Contractor's subcontractors, agents or suppliers. Except for third parties covered by the preceding sentence, the Authority acknowledges that Contractor shall not be held liable for third party delays such as delays caused by the Authority or its agents;

- (b) fails to make progress, so as to endanger timely performance under the Agreement as a result of Contractor's actions, which includes the actions of any of Contractor's subcontractors, agents or suppliers. Except for third parties covered by the preceding sentence, the Authority acknowledges that Contractor shall not be held liable for third party delays such as delays caused by the Authority or its agents or cab owners or cab owner agents;
- (c) fails to make prompt payment to Subcontractors, suppliers or labor;
- (d) fails to comply with Laws as defined in Section 23.1;
- (e) fails to perform any of the other material provisions of the Agreement; or
- (f) does any of the following:
 - (i) seeks, consents to, acquiesces in or suffers the appointment of a receiver of all or a material part of the Contractor's property or income;
 - (ii) admits in writing the Contractor's inability to pay the Contractor's debts as they mature;
 - (iii) makes a general assignment for the benefit of creditors;
 - (iv) files a voluntary petition in bankruptcy or a petition or answer seeking reorganization, an arrangement with creditors or an advantage under any present or future Federal, state or other law relating to bankruptcy, reorganization, insolvency, readjustment of debts, dissolution or liquidation or similar relief, or files an answer admitting the material allegations of a petition filed against the Contractor in any proceeding under any such law;
 - (v) is adjudicated as insolvent or is subject to an involuntary petition in bankruptcy, and such adjudication or filing is not set aside or terminated within thirty (30) days; or
 - (vi) experiences an attachment levied or a judgment executed against all or any material part of the Contractor's property or income and the same is not discharged within thirty (30) days.

XVIII.2 Except as otherwise provided herein, if the Contractor fails to remedy to the Authority's satisfaction the breach or default of any of the terms, covenants, or conditions of this Agreement within ten (10) days after receipt by the Contractor of written notice from the Authority setting forth the nature of said breach or default, or comply with Section 18.3 below, the Authority shall have the right to terminate the Agreement for default. Any such remedial action taken by the Authority or termination for cause shall not in any way operate to preclude the Authority from also pursuing all other available remedies against the Contractor and its sureties for said breach or default. In the event that the Authority elects to waive its remedies for any breach by the Contractor of any covenant, term or condition of this Agreement, such waiver by the Authority shall not limit the Authority's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Agreement.

XVIII.3 With respect to defaults which cannot be cured within ten (10) days, and for which the Authority determines at its sole discretion that an extended cure period does not materially adversely impact the Authority, the Contractor shall, within ten (10) days from notice of default, substantiate why a cure is not possible within the aforesaid ten (10) day period, give written assurance of how and when it will remedy the breach or default (not to exceed sixty (60) days from such notice, or such longer period as the parties may mutually agree), and shall diligently pursue the cure of such breach or default. If the Contractor has not completed the cure within the specified period or is not in the sole discretion of the Authority diligently pursuing such cure, the Authority may exercise its rights hereunder without providing the Contractor any further opportunity to cure.

XVIII.4 If the Authority terminates this Agreement, in whole or in part, for default, the Contractor shall not be entitled to receive any further payment for the portion of the Agreement which is terminated and shall repay to the Authority any payments made by the Authority in excess of the costs for the System delivered by the Contractor and accepted by the Authority and the training performed by Contractor. In no event shall the Authority be liable to the Contractor for the design, development or procurement of any part of the System not delivered and accepted by the Authority. In addition to any other rights provided in this Article, the Authority may require the Contractor to transfer title and deliver to the Authority, in the manner and to the extent directed by the Authority, any portion of the System and spare parts specifically developed or specifically acquired for the performance of such part of this Agreement as has been terminated; and the Contractor shall, upon direction of the Authority protect and preserve property in possession of the Contractor in which the Authority has an interest. In determining whether to direct the Contractor to protect and preserve property in which the Authority has an interest, the Authority shall consider, but shall not be liable for, the cost to the Contractor of storing such property. Payment for completed portions of the System delivered to and accepted by the Authority shall be at the price stated in this Agreement. The Authority may withhold from amounts otherwise due the Contractor for such completed portions of the System, such sum(s) as the Authority deems necessary to protect the Authority against any loss arising in connection with outstanding liens or claims of former lien holders. The Authority may procure, upon such terms and in such manner as the Authority may deem appropriate, work similar to that so terminated, and the Contractor shall be liable for any "excess costs" for such similar work (i.e., "excess costs" are equal to the difference between the amounts which would have been payable under the Agreement for the terminated portion of the Agreement and the total costs incurred by the Authority for such similar work including, without limitation, its costs in arranging for and procuring such similar work); provided however, that the Contractor shall continue performance of this Agreement to the extent not terminated under the provisions of this Article. Without limiting the foregoing, until such time as Final System Acceptance has been completed, in the event that this Agreement is terminated for default by the Contractor, in addition to any other remedies, the Authority may return all Hardware and Software to the Contractor and receive a full refund for these items.

ARTICLE XIX ENVIRONMENTAL COMPLIANCE

XIX.1 In General

. Contractor shall comply with all applicable federal, state, and local laws, regulations, ordinances, and orders concerning the environment and/or waste disposal.

XIX.2 Disposal

. Contractor shall dispose of any wastes, including hazardous wastes, generated in connection with its performance of this Agreement in accordance with applicable Federal, State, and local laws, regulations, ordinances, and orders, at its sole expense, using its own EPA generator number. In no event shall the Authority be identified as the generator of any such wastes. Contractor shall be identified on all manifests, etc. as the generator of such wastes. The Authority reserves the right to require Contractor to provide a copy of the results of any tests conducted by or for Contractor on any such wastes and, at the Authority's expense, to perform additional tests or examinations of any such wastes prior to disposal.

XIX.3 Contractor's Performance of Services

. Contractor agrees to defend, indemnify and hold harmless the Authority, its officers, directors, employees, agents, servants, successors, assigns and subsidiaries, irrespective of any fault or negligence on their part, from and against all losses and liabilities, fines, penalties, forfeitures, demands, claims, causes of action, suits, costs and expenses incidental thereto (including costs of defense and attorneys' fees), which may arise from the existence, discharge, release, and/or disposal of any materials, including any wastes, generated in connection with Contractor's performance of Services pursuant to this Agreement.

XIX.4 Contract Inclusion and Enforcement

. Contractor shall include, and enforce, this Article in all subcontracts or lower tier purchasing agreements.

ARTICLE XX MINORITY- AND WOMEN-OWNED AND DISADVANTAGED-DISABLED BUSINESS ENTERPRISES

XX.1 Compliance

. Contractor agrees to abide by the requirements set forth in the RFP to afford Disadvantaged Minority Business Enterprises, Disadvantaged Women Business Enterprises and Disadvantaged Disabled Business Enterprises an equitable opportunity to participate in the performance of all contracts and subcontracts. This Agreement may be canceled, terminated or suspended in whole or in part based on Contractor's failure to comply in good faith with this Article.

ARTICLE XXI
FAIR EMPLOYMENT PRACTICES/EQUAL OPPORTUNITY

XXI.1 In General

. Contractor agrees to abide by the Authority's policy and practice to ensure that all business organizations receive fair and equal consideration and treatment without regard to race, color, religion, sex, or national origin of the owners or principals of the business organization. In addition, Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, sex, color, religion or national origin and that it will comply in all respects with the Americans with Disabilities Act, 42 U.S.C. 12101 et. seq.

XXI.2 Subcontractors

. Contractor will include the provisions of Section 21.1 in subcontracts involving Services to be performed or supplies to be furnished under this Agreement, unless exempted by rules, regulations, or orders of the U.S. Secretary of Labor.

ARTICLE XXII
PERFORMANCE BOND AND LABOR AND MATERIAL BOND

XXII.1 From the Effective Date until Final System Acceptance, the Contractor shall obtain and maintain the performance bonds and labor and material bonds more particularly described in the RFP and shall deliver proof of the same to the Authority from time to time during such period as reasonably requested by the Authority. Upon Final System Acceptance, the Contractor shall be entitled to terminate and release such performance bonds. The liability of the surety is limited to the penal sum of the bond as written or amended with sureties consent.

ARTICLE XXIII
COMPLIANCE WITH LAWS, RULES, ETC.

XXIII.1 Statutes

. Contractor shall comply with all federal, state and local statutes, laws, rules, regulations and ordinances, including, without limitation, copyright and patent laws (collectively, the "Laws") that bear on performance of the work under this Agreement.

XXIII.2 Permits and Licenses

. Contractor shall procure, at its sole cost and expense all necessary permits or licenses required for performance of the work under this Agreement.

XXIII.3 Right to Know Law. Contractor understands that certain records related to this Agreement may be public records pursuant to Pennsylvania's Right-to-Know Law and Company must duly comply with demands made through the Authority for such records. 65 P.S. §67.101 et seq. Regardless of the impact of the Right-to-Know Law, Company shall maintain all data, records, memoranda, statements of services rendered, correspondence and copies thereof, in adequate form, detail and arrangement, for the Authority's benefit for a minimum of seven (7) years following the termination or expiration of this Agreement. Thereafter, Company shall contact the Authority before disposing of any such materials and the Authority may direct that some or all of such materials be delivered to the Authority.

ARTICLE XXIV AUDIT

XXIV.1 Audit and Inspection of Records

The Authority reserves the right to inspect, copy and audit the records of Contractor and subcontractor(s) ("Contractor's Records") in connection with all matters related to the Agreement.

(a) Performance and Compliance. The Authority shall have the right to examine, copy and audit Contractor's Records in order to evaluate compliance of Contractor with legislative and legal requirements as well as all requirements under the terms, conditions, specifications and provisions of the Agreement.

(b) Noncompetitive Proposals. The Authority shall have the right to examine, copy and audit Contractor's Records, if necessary, to permit adequate evaluation of cost and pricing data related to the original proposal, along with the computations and projections used therein. If this audit is performed subsequent to the award of a contract, the Authority reserves the right to utilize Contractor's incurred costs to date for its evaluation of Contractor's proposal.

(c) Change Orders and Modifications. The Authority shall have the right to examine, copy and audit Contractor's Records, if necessary, to evaluate cost and pricing data related to change order proposals and modifications to the Agreement and any associated computations and projections, as well as to evaluate Contractor's performance of and compliance with change orders issued under Article V. If this audit is performed subsequent to the submittal of a change order proposal or issuance of a modification, the Authority reserves the right to utilize Contractor's incurred costs to date for its evaluation of Contractor's change order proposal or Contractor's performance of or compliance with the modification.

(d) Adjustable Contracts. If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of these, Contractor shall maintain, and the Authority shall have the right to examine, copy and audit, Contractor's Records and other evidence sufficient to reflect properly, in accordance with sound and generally accepted accounting principles and practices consistently applied, all direct and indirect costs of whatever nature claimed to have been incurred or anticipated to be incurred in the performance of the Agreement.

(e) Contractor's Records shall include, but not be limited to: accounting records (hard copy, as well as computer readable data if it can be made available); written policies and procedures; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, etc.); original estimates; estimating work sheets; correspondence; change order files (including documentation covering negotiated settlements); backcharge logs and supporting documentation; general ledger entries detailing cash and trade discounts and rebates; purchase orders; commitments; agreements; leases; notes and memoranda; daily diaries; superintendent reports; drawings and sketches; receipts; vouchers; repair records and, any other supporting evidence deemed necessary by the Authority to substantiate charges or services related to the Agreement or Contractor's compliance with the terms of this Agreement.

(f) Contractor's Records shall be open to inspection and subject to audit and/or reproduction by the Authority or its representative(s), to the extent necessary to adequately permit evaluation and verification of Contractor's compliance with Agreement terms, conditions and requirements, and compliance with provisions for pricing change orders, payments or claims submitted by Contractor or any of its payees.

(g) Contractor shall make Contractor's Records available to the Authority or its representative(s) at all reasonable times, and the Authority or its representative(s) shall be afforded access to all of Contractor's facilities and shall be allowed to interview any of Contractor's employees, pursuant to the provisions of this clause throughout the term of the Agreement and until three years after final payment under the Agreement. Contractor shall provide adequate and appropriate workspace for the Authority or its representative(s) to conduct audits in compliance with this clause. Contractor shall cooperate with all audit procedures including the furnishing of a management representation letter upon request of the auditor.

(h) Contractor shall require all subcontractors, insurance agents, and suppliers or other payees to comply with the provisions of this clause by insertion of the requirements hereof in a written contract or agreement between Contractor and payee. Such requirements shall also apply to lower tier subcontractors.

(i) Contractor shall reimburse the Authority, within thirty (30) days after receipt of a written request thereof, the price (including profit) charged for services or quantities not delivered and extras or adjustments not authorized under the Agreement as verified by an inspection or audit of Contractor's Records.

ARTICLE XXV GENERAL PROVISIONS

XXV.1 Independent Contractor

The parties acknowledge and agree that Contractor has been hired solely as an independent contractor and is not and will not be considered or deemed to be an employee, agent, joint venture or partner of the Authority. Contractor will not have any authority to contract for or bind the Authority in any manner without the prior written approval of the

Authority and will not hold itself out as an agent of the Authority or as otherwise authorized to act for or on behalf of the Authority.

XXV.2 Assignment; Successors and Assigns

. Contractor may not assign or otherwise transfer, in whole or in part, the Agreement or any of its rights or obligations hereunder, whether voluntarily, by operation of law or otherwise, without the prior written consent of the Authority, which may be withheld in the Authority's sole discretion. Any assignment made in violation of the preceding sentence shall be voidable by the Authority. This Agreement, and all rights and powers granted hereby, shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. The Authority agrees that Contractor may assign its accounts receivable from the Authority to Contractor's lender provided, however, any such assignment shall not give any such assignee any rights against the Authority, other than to collect payment from the Authority subject to the terms of this Agreement.

XXV.3 No Third-Party Beneficiaries

. The parties specifically intend and agree that no one other than the parties to this Agreement, except the Authority's subsidiaries, affiliates, successors and any controlling parent, whether now existing or hereafter resulting from merger, acquisition or restructuring of the Authority, is or shall be deemed to be a third-party beneficiary of any of the rights or obligations set forth in this Agreement.

XXV.4 Force Majeure

. Should the performance by Contractor or the Authority be delayed as a result of Acts of God such as fire, flood, earthquake, or similar catastrophe, war, enemies or hostile government actions, revolutions, riots, civil commotion, labor strikes (excluding Contractor or its subcontractors' labor shortages), unreasonable delays by any governmental agency including the Authority, or any law, proclamation, or order of any governmental agency (in its sovereign capacity) or court of law, then the delayed party, upon giving prompt notice to the other party, shall be excused from performance for a period of time equal to the duration of such delay; provided, however, that the delayed party shall use its best efforts to avoid or remove the cause of non-performance and promptly continue performance hereunder whenever the cause is removed, and further provided that if the period of delay in the case of a Contractor delay exceeds forty-five (45) days the Authority shall have the right to terminate this Agreement without cause on ten (10) days' notice. Any performance required of Contractor under this Agreement will be suspended for any period of delay in the performance of the Authority which prevents performance by Contractor, provided, however, Contractor must notify the Authority within ten (10) days of the event causing delay or the right to claim delay or the right to do so shall be deemed waived by Contractor. Any performance required of the Authority under this Agreement will be suspended for any period of delay in the performance of Contractor which prevents performance by the Authority.

XXV.5 Ethical Business Practices

(a) Contractor, or any agent or representative of Contractor, agrees that it shall not offer to any Authority employee, agent or representative any cash, gift entertainment, commission, or kickback for the purpose of securing favorable treatment with regard to award or performance of any contract or agreement. Contractor may offer certain items or services only when such items or services (i) are related to common business practices (i.e., are not given for the purpose of securing award of, or favorable treatment relating to, a procurement and (ii) have nominal value (under \$25.00).

(b) Contractor, or any employee, agent or representative of Contractor, agrees that it shall neither solicit nor accept any cash, gift entertainment, commission or kickback from a vendor, subcontractor or any other person for the purpose of securing favorable treatment with regard to award or performance of any subcontract or Agreement issued in connection with this Agreement.

(c) Contractor, or any agent or representative of Contractor, agrees that it shall not (i) employ the services of any Authority employee or former employee, spouse or other member of an employee's or former employee's immediate family as an employee, agent, consultant, subcontractor or otherwise, in connection with the performance of Services under this Agreement, (ii) employ the services of any Authority employee or former employee, as an employee, agent, consultant, subcontractor or otherwise, in connection with any matter related to the Authority for one (1) year from the termination of this Agreement or the date of the subject employee's separation from employment with the Authority, which ever is most recent, (iii) employ the services of any Authority agent, consultant, subcontractor or other third party used to by the Authority (excluding third parties used by Contractor for its part of the System implementation process) in connection with the planning and implementation of the System (collectively "Third Party"), in connection with any matter related to the Authority for one (1) year from the termination of this Agreement or the termination of the subject Third Party's termination from engagement with the Authority, which ever is most recent, (iv) purchase any material or services required to perform this Agreement from any entity owned or controlled (including a substantial financial interest) by any Authority employee.

(d) Violation of this Section shall be considered cause for termination of this Agreement for default in accordance with the Default Section.

XXV.6 Organizational Conflict of Interest

Organizational conflict of interest means that because of other activities or relationships with other persons or companies, (a) a person or company is unable to render impartial assistance or advance to the Authority, (b) the person's or company's objectivity in performing the Services under this Agreement is or might be otherwise impaired, or (c) the person or company has, or attempts to create, an unfair competitive advantage. Contractor agrees not to (a) engage in activities or (b) initiate or maintain relationships with persons or companies where such activities or relationships create an organizational conflict of interest. Contractor shall use its best efforts to identify and prevent potential subcontractor organizational conflicts of interest. Contractor

shall inform the Authority of any activity or relationship that Contractor has reason to believe may create an organizational conflict of interest.

XXV.7 Limitation on Liability

. Contractor agrees that under no circumstances may Contractor claim from the Authority any special, consequential, punitive, speculative, incidental or indirect damages, all of which Contractor specifically waives from the Authority, whether such claim is based on a cause of action based in contract, negligence, strict liability, warranty, operation of law or otherwise.

XXV.8 Waivers; Amendments

. Any delay or forbearance by either party in exercising any right hereunder shall not be deemed a waiver of that right. No modification or amendment of this Agreement or waiver of any provision of this Agreement shall be valid unless in writing and signed by both parties.

XXV.9 Severability

. If any term or provision hereof is or becomes invalid or unenforceable, the Contractor and the Authority will in good faith attempt to replace the invalid or unenforceable term or provision by a term or provision which is valid and enforceable, and which comes as close as possible to expressing the intention of the invalid or unenforceable term or provision. The validity or enforceability of the remainder of the Agreement shall not be affected by the invalidity or unenforceability of any provision.

XXV.10 Work on the Authority's Premises

. Contractor shall take all necessary precautions to prevent the occurrence of any injury to persons or property and any interference with the Authority's or Users' operations during the progress of such work. Contractor agrees that any of its personnel or Subcontractors performing work on the premises of the Authority or any Users shall work in harmony with the employees of the Authority or any Users and other contractors or subcontractors of the Authority. Contractor hereby agrees on behalf of its employees, agents and representatives, to submit to any security, training or safety requirements of the Authority and to comply with all rules and regulations established by the Authority.

XXV.11 Right To Set Off

. In the event Contractor is obligated to the Authority for any sums under this Agreement, the Authority shall have the right to set off such amount against amounts payable by the Authority to Contractor under this Agreement or any maintenance agreement between the Authority and Contractor.

XXV.12 Headings

. The titles of the Sections and subsections are for convenience only and are not in any way intended to limit or amplify the terms or conditions of this Agreement.

XXV.13 Counterparts

. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one Agreement. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories hereto.

XXV.14 Notices

. All notices, requests, demands and other communications required or permitted to be made hereunder shall be in writing and shall be deemed duly given if hand delivered against a signed receipt therefore, sent by registered or certified mail, return receipt requested, first class postage prepaid, or sent by nationally recognized overnight delivery service, addressed to Contractor as follows:

(a) If to the Authority:

The Philadelphia Parking Authority
Dennis G. Weldon, Jr.
General Counsel
3101 Market Street, West Wing
Philadelphia, PA 19104

and Authority Project Manager at:

The Philadelphia Parking Authority
Frank Ragozzino
Philadelphia International Airport
Philadelphia, PA 19113

(b) If to Contractor:

and Contractor Project Manager at:

Any party may alter the address to which communications are to be sent by giving notice of such change of address in conformity with the provisions of this Section providing for the giving of notice. Notice shall be deemed to be effective, if personally delivered, when delivered; if mailed, at midnight on the third business day after being sent by registered or certified mail; and if sent by nationally recognized overnight delivery service, on the date of delivery by such delivery service.

XXV.15 Governing Law

. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, without regard to its choice of law considerations. Exclusive venue for all claims arising from or relating to this Agreement shall be in the state or federal courts located in Philadelphia County, Pennsylvania; at the Authority's option, disputes shall be resolved in the Philadelphia Court of Common Pleas Commerce Court.

XXV.16 Jurisdiction

. Each party agrees (1) to submit to personal and exclusive jurisdiction, and (2) that venue is proper, in the Federal courts of the Eastern District of Pennsylvania and the Philadelphia Court of Common Pleas in connection with any dispute arising under or relating to this Agreement.

XXV.17 Trade Names, Trademarks and Trade Dress

(a) Contractor agrees to comply with all the Authority instructions regarding the trade dress, packaging, trade names, trademarks, service marks or other indicia of source which shall appear on items to be delivered under this Agreement. Contractor further agrees that, after delivery of said item(s) to the Authority or a designated the Authority vendor, the Authority may modify the trade dress or packaging thereof, and/or replace, modify, or supplement any indicia of origin appearing thereon, to identify the Authority as the source of said item(s).

(b) Contractor shall not use any mark or trade name of the Authority or refer to the Authority in connection with any product, equipment, promotion, or publication without the prior written approval of the Authority.

XXV.18 Public Release of Information; Identification

. Contractor shall obtain the prior written approval of the Authority concerning the content and timing of news releases, articles, brochures, advertisements, speeches and other information releases concerning the work performed or to be performed hereunder by Contractor, its subcontractors or employees or consultants of either. Contractor agrees to give the Authority reasonable advance time for review of any material submitted to the Authority for approval. Contractor shall not affix or display its logo, name or otherwise advertise its identity on any part of the System without the prior written approval of the Authority.

XXV.19 Exhibits

. All Exhibits to this Agreement are hereby incorporated by reference into, and made a part of, this Agreement.

XXV.20 Interpretation

. The contracting parties acknowledge and agree that (i) each party reviewed and negotiated the terms and provisions of this Agreement and has contributed to it; and (ii) the rule of construction to the effect that any ambiguities are resolved against the drafting party shall not be employed in the interpretation of this Agreement, regardless of which party was generally responsible for the preparation of this Agreement.

XXV.21 Order of Precedence

. In the event of an inconsistency between provisions of this Agreement, it shall be resolved by giving precedence in the following order: (1) the main body of this Agreement (not including Exhibits); (2) the RFP (Exhibit "B"); and (3) all other Exhibits. It is the Contractor's responsibility to study this Agreement and to report at once in writing to the Authority any errors, inconsistencies, discrepancies, omissions or conflicts discovered between any provisions of the Agreement. Any work performed by the Contractor prior to receiving a written response from the Authority with respect to any alleged error, inconsistency, discrepancy, omission or conflict shall be at the Contractor's own risk and expense.

XXV.22 Entire Agreement

. This Agreement constitutes the full and entire understanding and agreement between the parties with regard to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, inducements or conditions, express or implied, oral or written, except as herein contained or referenced. The express terms hereof control and supersede any course of performance and/or usage of trade inconsistent with any of the terms hereof. Without limiting the generality of the foregoing, the RFP and the Proposal shall not be incorporated into this Agreement except to the extent portions of them are specifically incorporated by reference as part of either this Agreement or as part of an Exhibit.

SIGNATURE

PAGE

TO

FOLLOW

IN WITNESS WHEREOF, and intending to be legally bound pursuant to the Uniform Written Obligations Act, 33 P.S. § 6, the parties have set their hands and seals on the date first above written.

The Philadelphia Parking Authority

Attest: _____

Print Name: _____

Print Title: _____

By: _____

Vincent J. Fenerty, Jr.
Executive Director

APPROVED

AS TO FORM

APPROVED AS TO FORM

By: _____

General Counsel's Office

Witness: _____

Print Name: _____

Print Title: _____

By: _____

Print Name: _____

Print Title: _____