

Contract

Maintenance and Support Agreement

By and Between

Cuyahoga County, Ohio

and

Emerson Network Power, Liebert Services, Inc.

THIS AGREEMENT (the "Contract") is made and entered into this 2nd day of November, 2011, by and between Cuyahoga County, Ohio (the "County"), on behalf of the Cuyahoga County Information Services Center and Emerson Network Power, Liebert Services, Inc. ("Emerson"), a Ohio corporation having principal place of business at, 610 Executive Campus Dr., Westerville, OH 43082, (the "Provider").

WHEREAS, the County has a present need for maintenance of Powerware Uninterruptible Power System - UPS / Back up Power Supply as listed on Quote No. Q01652049; and

WHEREAS, Emerson, is the supplier of factory trained and authorized support services for Powerware Uninterruptible Power System - UPS / Back up Power Supply; and

WHEREAS, Emerson is the awarded vendor (lowest price of three bids), for maintenance service of the Powerware Uninterruptible Power System at the Cuyahoga County Information Services Center; and

WHEREAS, the County desires to avail itself of the support services for the Powerware Uninterruptible Power System - UPS / Back up Power Supply and Emerson is willing to provide such support to the County all upon the terms and conditions set forth herein,

NOW, THEREFORE, in the consideration of mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Emerson and the County agree as follows:

ARTICLE I- AGREEMENT AND TERM

1.1 Scope of Agreement. During the term of this Contract, Emerson shall provide the County under this agreement with, UPS Maintenance Service as listed on Schedule A - Quote # Q01652049. In the event that the terms and conditions of Schedule A and this Contract are not in agreement, the County and Emerson hereby expressly agree that the

terms and conditions of this Contract will be controlling and will take precedence over Schedule A.

1.2 Term. The term of this Contract shall commence as of October 15, 2011; and, unless earlier terminated in accordance with the provisions of this Contract, shall continue in effect for one year from the date of commencement (10/15/11 – 10/14/12).

1.3 Cost. This contract shall be in an amount not to exceed Five Thousand Four Hundred Sixty Four Dollars and Sixty Three Cents (\$5,464.63), for the time period of one year. (\$5,464.63) is payable yearly.

ARTICLE II – ADDITIONAL MAINTENANCE SERVICE

2.1 At the request of the County, and with the consent of Emerson, Emerson may also provide technical, operational or other assistance on a consulting basis to the County in excess of the scope of service included but such services would require an amendment to the annual Support Services Agreement between the County and Emerson under a separate and existing contract.

ARTICLE III – PAYMENT AND INVOICING

3.1 Payment. During the term of this contract, the County shall pay yearly, upon receipt of said yearly invoice from Emerson and approval of the County Executive.

3.2 Invoicing. Emerson shall invoice the County for the maintenance and support agreement upon execution of this agreement. Emerson shall submit original invoice(s) to the following address:

Cuyahoga County Information Services Center
Business Department
1255 Euclid Avenue, 4th floor
Cleveland, Ohio 44115

ARTICLE IV – INDEMNITIES AND LIABILITIES

4.1 Indemnification. ASG shall agree to release, indemnify and to hold harmless Cuyahoga County and any and all officers, agents, servants or employees thereof, from any and all responsibility or liability for its gross negligence or willful misconduct under this contract.

4.2 Subcontracting. This Contract was awarded to Emerson based upon Emerson's unique license product, and no task required to be performed under this contract by Emerson shall be subcontracted to third parties without the express written consent of Cuyahoga County.

BUYER FOR THE SPECIFIC GOODS/SOFTWARE, SERVICES OR PARTS PROVIDED BY SELLER GIVING RISE TO THE CLAIM OR CAUSE OF ACTION. THE PARTIES AGREE THAT NEITHER PARTY SHALL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES. The term "consequential damages" shall include, but not be limited to, loss of anticipated profits, business interruption, loss of use, revenue, reputation and data, costs incurred, including without limitation, for capital, fuel, power and loss or damage to property or equipment.

4.2 Subcontracting. This Contract was awarded to Emerson based upon Emerson's unique license product, and no task required to be performed under this contract by Emerson shall be subcontracted to third parties without the express written consent of Cuyahoga County.

4.3 Indemnification for Infringement. Emerson warrants that the County will have full right to use the product delivered to County and that it will not infringe upon the rights of any third party.

ARTICLE V - ELECTRONIC SIGNATURE POLICY

5.1 Adherence to Electronic Signature Policy of County. By entering into the Signed contract of Emerson, its officers, employees, subcontractors, sub-grantees, agents or assigns, to conduct this transaction by electronic means by agreeing that all documents requiring county signatures may be executed by electronic means, and that the electronic signatures affixed by Cuyahoga County to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document.

Emerson, further agrees to be bound by the provisions of Chapter 304 and 1306 of the Ohio Revised Code as they pertain to Electronic Transactions and to comply with the electronic signature policy of Cuyahoga County.

THIS AGREEMENT shall be subject to interpretation under the laws of the State of Ohio, and is subject to the review of the County Prosecutor's Office as to legal form and correctness.

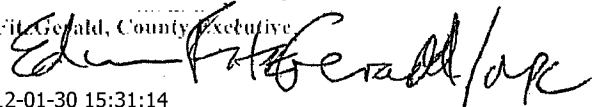
IN WITNESS WHEREOF, THE County and Emerson have each caused this Contract to be signed and delivered by its duly authorized representative as of the date first written.

EMERSON NETWORK POWER,
LIEBERT SERVICES, INC.

CUYAHOGA COUNTY, OHIO

BY: 

BY: Edward FitzGerald, County Executive
Edward FitzGerald, County Executive



Fed. TIN # 

2012-01-30 15:31:14