

CONTRACT
SOFTWARE MAINTENANCE AGREEMENT

by and between

CUYAHOGA COUNTY, OHIO

And

DLT SOLUTIONS, LLC

THIS AGREEMENT (the "Contract") is made and entered into this _____ day of _____, 2012 by and between Cuyahoga County, Ohio ("the County"), on behalf of the Department of Information Technology and DLT Solutions, LLC ("DLT"), a Virginia Corporation with offices located at 13861 Sunrise Valley Drive Suite 400, Herndon, Virginia 20171. (the "Provider")

WHEREAS, the County has a present need for software support / maintenance service of SolarWinds Software Products, and

WHEREAS, DLT's is the authorized reseller of software maintenance and support services for SolarWinds and the lowest qualified bidder of that support; and

WHEREAS, the County desires to avail itself of such services located at the Cuyahoga County Department of Information Technology and DLT is willing to provide such service to the County all upon the terms and conditions set forth herein.

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

ARTICLE I – AGREEMENT AND TERM

1.1 Scope of Agreement. During the term of this Contract, DLT shall provide the County with all services necessary to maintain and support SolarWinds Software products attached hereto as Schedule A – Quotes # 4245322 and incorporated by reference herein.

1.2 Term. The term of this Contract shall commence as of December 13, 2012; and, unless earlier terminated in accordance with the provisions of this Contract, shall continue in effect for a period of one year. (12/13/12 – 12/13/13). The cost of this Contract shall not exceed Nine Thousand Nine Hundred Forty One Dollars and Sixty One Cents. (\$9,941.61)

ARTICLE II – SCOPE OF WORK

2.1 Rendering of Services. DLT hereby agrees to render software support / maintenance service of SolarWinds Software Products at the Department of Information Technology, at a total price of Nine Thousand Nine Hundred Forty One Dollars and Sixty One Cents. (\$9,941.61)

2.2 Record Audit Retention. DLT agrees to make all pertinent contractual books and records and other documents pertaining to this Contract available to the County and its designated agents for purpose of audit and examination upon reasonable request during the term of this Contract and for a period of two (2) years from the expiration date or final payment under this Contract, whichever is later; provided however, that should DLT be notified that an audit has been commenced pursuant to Ohio Revised Code Sec. 117.11 during said period, for which the aforesaid books and records are material, the aforesaid records shall be retained pending the completion of said audit.

ARTICLE III – PAYMENT AND INVOICING

3.1 Payment. During the term of this contract, the County shall pay DLT, for support / maintenance services of SolarWinds Software Products as outlined in Schedule A attached hereto and incorporated by reference herein, upon receipt of invoice and approval of the Cuyahoga County Executive.

3.2 Invoicing. DLT shall invoice the County for Maintenance Service. DLT 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 - DISPUTE RESOLUTION AND TERMINATION

4.1 Dispute Resolution.

- a) In the event of any dispute or disagreement between DLT and the County, either with respect to the interpretation of any provision of this Contract or with respect to the performance by DLT or the County hereunder, which cannot be resolved in the normal course of business, then upon written notice of either party, each party will appoint a designated officer whose task it will be to meet for the purpose of endeavoring in good faith to resolve such dispute or to negotiate for an adjustment to such section or provision of this Contract. The designated officers shall meet as often as the parties reasonably deem necessary in order to gather and furnish to the other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. Such officers will discuss the problem and/or negotiate the applicable section or provision without the necessity of any formal proceedings relating thereto. During the course of such negotiation, all reasonable requests made by one party to the other for information will be honored in order that each of the parties may be fully advised in the negotiations. The specific format for such discussions will be left to the

discretion of the designated officers but may include the preparation of agreed upon statements of fact or written statements of position furnished to the other party. No formal proceedings for the binding arbitration of such dispute may be commenced until (i) resolution as contemplated in this clause has been unsuccessful and (ii) either of the parties concludes in good faith that amicable resolution through continued negotiation of the matter in issue does not appear likely and so notifies the other party.

(b) The rights and obligations of the parties under this provision shall not limit either party's right to terminate this Contract as may be otherwise permitted hereunder.

4.2 Termination for Default. Either party may terminate this Contract, in whole or in part, whenever such party determines that the other has failed satisfactorily to fulfill its obligations and responsibilities hereunder and is unable to cure such failure within a reasonable period of time, not to exceed thirty (30) calendar days or such longer period of time as may be specified in writing by the terminating party, taking into consideration the gravity and nature of the default. Such termination shall be referred to as "Termination for Default". Upon determination by either party hereto that the other has failed to satisfactorily perform its obligations and responsibilities hereunder, the party seeking termination shall notify the defaulting party in writing of the failure and of the time period that has been established to cure such failure, which time period shall be not less than ten (10) days. If the defaulting party is unable to cure the failure within the specified time period, the party seeking to terminate may, by giving written notice thereof to the defaulting party, terminate this Contract, in full or in part, as of the date specified in the notice of termination. DLT, however, shall be paid for all services and/or materials provided on or prior to the date of termination.

ARTICLE V – INDEMNITIES AND WARRANTIES

5.1 Indemnification. DLT 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 DLT's gross negligence or willful misconduct under this contract.

ARTICLE VI – CHANGE ORDERS

6.1 Change Order. Any change order or amendment requiring or permitting an increase beyond the not to exceed price limit in Section 2.1 of this contract, shall require an additional appropriation of funds. DLT will not perform tasks outside the scope of Schedule A unless it is with prior written approval of Cuyahoga County and in accordance with this clause.

ARTICLE VII – MISCELLANEOUS

7.1 Notices. Wherever one party is required or permitted to give notice to the other pursuant to this Contract, such notice shall be deemed given when delivered by hand, via certified mail with return receipt requested, via overnight courier with signature required, and addressed as follows:

In the case of the County:

Cuyahoga County Department of Information Technology

ATTN: Mike Young
1255 Euclid Avenue, 4th Floor
Cleveland, Ohio 44115

In the case of DLT:

Jessica Pasterak
DLT Solutions, LLC.
13861 Sunrise Valley Drive Suite 400
Herndon, VA 20171

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

7.2 Governing Law. This Contract shall be subject to interpretation under the laws of the State of Ohio.

7.3 Social Security Act. DLT shall be and remain an independent DLT with respect to all services performed hereunder and agrees to and does hereby accept full and exclusive liability for payment of any and all contributions or taxes for social security, unemployment insurance, or old age retirement benefits, pensions, or annuities now or hereafter imposed under any Local, State or Federal Law which are measured by the wages, salaries, or other remuneration paid to persons employed by the DLT for work performed under the terms of this contract and further agrees to obey all lawful rules and regulations and to meet all lawful requirements which are now or hereafter may be issued or promulgated under said respective laws by and duly authorized State or Federal officials; and said DLT also agrees to indemnify and save harmless Cuyahoga County from such contributions or taxes or liability.

7.4 Assignment. DLT shall not assign, transfer, convey or otherwise dispose of this Contract, or its right to execute it, or its right, title or interest in or to it or any part thereof, or assign, by power of attorney or otherwise, any of the monies due or to become due under this Contract without approval of the County Executive.

7.5 Contract Processing. DLT shall submit one (1) original contractual agreement with original signatures to the following:

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

7.6 Commencement of Contract Performance. In order to protect the interest of Cuyahoga County this contract must be executed by the County Executive before compensation for the services or products set forth in this contract can be provided. In the event that services are provided by DLT prior to the execution of this agreement by the County Executive, the same will be provided at DLT's risk, and payment therefore cannot, and will not, be made unless and until this agreement is approved by the County Executive. Upon approval by the County Executive of this contract, however, any and all prior performance under this contract shall be

deemed ratified and said performance shall be deemed to be included in this contract. Payment(s) for said prior performance shall not increase the amount of the contract limit.

7.7 Entire Agreement and Modification. This Contract, including any Schedules and documents referred to in this Contract or attached hereto, each of which is incorporated herein, constitutes the entire and exclusive statement of the agreement between the parties with respect to its subject matter and there are no oral or written representations, understandings or agreements relating to this Contract which are not fully expressed herein. The parties agree that any other terms or conditions included in any quotes, acknowledgments, bills of lading or other forms utilized or exchanged by the parties shall not be incorporated herein or be binding unless expressly agreed upon in writing by authorized representatives of the parties. No modification, change or amendment hereof shall be valid unless such is in writing and signed by the authorized representative of the party against which such modification, change or amendment is sought to be enforced.

ARTICLE VIII – ADHERENCE TO ELECTRONIC SIGNATURE POLICY OF COUNTY

8.1. By entering into this Contract, DLT, its officers, employees, subcontractors, subgrantees, 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.

8.2 DLT 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 DLT have each caused this Contract to be signed and delivered by its duly authorized representative as of the date first written.

DLT Solutions, LLC.

BY: Chris Day

Cuyahoga County, Ohio

Edward FitzGerald, County Executive

BY: 2013-01-11 10:12:30

Edward FitzGerald, County Executive

Schedule A



Price Quotation

Quote: 4245322

Reference: 844905

Date: 11/13/2012

Expires: 11/18/2012

To: Dottie Sievers
 Cuyahoga County (OH)
 1255 Euclid Avenue
 4th Floor
 Cleveland, OH 44115

From: Jessica Pasterak
 DLT Solutions
 13861 Sunrise Valley Drive
 Suite 400
 Herndon, VA 20171

Phone: (216) 443-8144
 Fax: (216) 443-7363
 Email: dsievers@cuyahogacounty.us

Phone: (703) 708-9128
 Fax: (866) 708-7064
 Email: jessica.pasterak@dlt.com

#	DLT Part No.	Contract	Qty	Unit Price	Ext. Price
1	9016-0352	OH	1	\$3,398.86	\$3,398.86
	SolarWinds Application Performance Monitor ALX (unlimited monitors) - Annual Maintenance Renewal				
	PoP: 12/13/2012 through 12/13/2013				
2	9016-0454	OH	1	\$611.10	\$611.10
	SolarWinds Network Configuration Manager DL100 (up to 100 nodes) - Annual Maintenance Renewal				
	PoP: 12/13/2012 through 12/13/2013				
3	9016-0546	OH	1	\$679.10	\$679.10
	SolarWinds IP Address Manager IP4000 (up to 4096 IPs) - Annual Maintenance Renewal				
	PoP: 12/13/2012 through 12/13/2013				
4	9016-0717	OH	1	\$4,245.39	\$4,245.39
	SolarWinds Network Performance Monitor SLX (unlimited elements) - Annual Maintenance Renewal				
	PoP: 12/13/2012 through 12/13/2013				
5	9016-0270	OH	3	\$335.72	\$1,007.16
	Engineer's Toolset - Annual Maintenance Renewal				
	**SW60747				
	PoP: 12/13/2012 through 12/13/2013				

Total: \$9,941.61



Price Quotation

Quote: 4245322

Reference: 844905

Date: 11/13/2012

Expires: 11/18/2012

Ohio contract #: 534042

Expires: 12/31/2012

DUNS Number: 78-646-8199

Payment Terms: Net 30

FOB: Destination

DLT accepts VISA/MC/AMEX

NOTE: ORDERS QUOTE GSA PRICING AND INCORPORATE GSA TERMS AND CONDITIONS FROM DLT SOLUTIONS SCHEDULE GS-35F-4543G. THESE GSA TERMS AND CONDITIONS TAKE PRECEDENCE OVER ALL OTHER STATE TERM CONTRACT TERMS AND CONDITIONS.

**PLEASE REMIT
PAYMENT TO:**

ACH: DLT Solutions
SunTrust Bank
ABA # 061000104
Acct # 1000032705898

-OR-

Mail: DLT Solutions
PO Box 102549
Atlanta, GA 30368

Customer orders subject to applicable sales tax in: CA, CO, CT, DC, FL, GA, HI, IL, IN, KS, KY, LA, MA, MD, MI, MO, MS, NC, NM, NJ, NV, NY, OH, OK, PA, RI, SC, TN, TX, VA, WA, WI

The terms and conditions of the Manufacturer's standard commercial license and subscription agreement are made a part of this quotation and shall govern purchaser's use of any Manufacturer product. Contact the DLT Sales Rep if further information is required.

Documentation to be submitted to validate Invoice for payment:

- a. Authorized Services shall be invoiced with a corresponding time report for the period of performance identifying names, days, and hours worked.
- b. Authorized reimbursable expenses shall be invoiced with a detailed expense report, documented by copies of supporting receipts.
- c. Authorized Education or Training shall be invoiced with a Report identifying date and name of class completed, and where applicable the name of attendees.