

**CONTRACT
BETWEEN
COUNTY OF CUYAHOGA, OHIO
AND
CGI TECHNOLOGY AND SOLUTIONS, INC.**

THIS Contract is made and entered into this ____ day of ____, 2014, by and between the County of Cuyahoga, Ohio, on behalf of the Department of Information Technology (the "County"), and **CGI Technology and Solutions, Inc.**, a Delaware Corporation, having its principal place of business at 11325 Random Hills Road, Fairfax, VA 22030 and an Ohio office at 88 East Broad Street, Suite 1570 Columbus, Ohio 43215 (the "Provider" or "CGI").

WHEREAS, the County has a present need for software maintenance support of Kofax Software used by the Cuyahoga County Job and Family Services, Office of Child Support Services, and

WHEREAS, CGI can provide software maintenance support of Kofax Software, used by the Cuyahoga County Job and Family Services, Office of Child Support Services, and

WHEREAS, the County desires to avail itself of these services and CGI 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, CGI and the County agree as follows:

ARTICLE I – SCOPE OF WORK

1.1 Scope of Agreement. During the term of this Contract, CGI shall provide to the County under this agreement software maintenance and support of Kofax Software as listed on CGI Quote dated December 16, 2013, attached hereto and incorporated by reference herein as Schedule A, insofar as the terms of Schedule A concur with this agreement. In the event that a discrepancy exists between the terms of Schedule A and this agreement, the terms of this agreement will be controlling and binding.

ARTICLE II - TERM

2.1 The Term of this Contract shall commence as of January 1, 2014; and, unless earlier terminated in accordance with the provisions of this Contract, shall continue in effect for one year from the date of commencement. (1/1/14 – 12/31/14), the cost of this contract shall be in an amount not to exceed Twenty One Thousand Four Hundred Seventy Dollars and Zero Cents (\$21,470.00).

ARTICLE III – PAYMENT AND INVOICING

3.1 Contract Amount. CGI hereby agrees to render the Services outlined in Schedule A, for a total price not to exceed Twenty One Thousand Four Hundred Seventy Dollars and Zero Cents (\$21,470.00).

3.2 Payment. During the term of this contract, the County shall pay CGI for the Services outlined in Schedule A upon receipt of said invoice(s) and approval by the County.

3.3 Invoicing. CGI shall invoice the County for the Services outlined in Schedule A, upon execution of this Contract. CGI shall submit original invoice(s) to the following address:

Cuyahoga County Department of Information Technology
Business Department
1255 Euclid Avenue, 4th floor
Cleveland, Ohio 44115

ARTICLE IV - INDEMNITIES

4.1 Provider hereby indemnifies, defends and holds harmless the County and its respective officers, officials, directors, board members, employees, and agents, from and against all claims, damages, losses, liens, causes of action, suits, judgments and expenses including attorney's fees and other costs of defense), arising from death, personal injury, or damage to tangible property, that result from the negligent acts or omissions of Provider, including all of its officers, owners, principals, subcontractors, employees, and agents under this Contract.

4.2 Provider acknowledges that, as a political subdivision of the State of Ohio, the County does not indemnify any person or entity. Provider agrees that no provision of this Contract or any other contract or agreement between Provider and the County may be interpreted to obligate the County to indemnify or defend Provider or any other party.

ARTICLE V - DISPUTE RESOLUTION AND TERMINATION

5.1 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. CGI, however, shall be paid for all services and/or materials provided on or prior to the date of termination.

5.2 Termination for Financial Instability. In the event that CGI becomes financially unstable to the point of (i) ceasing to conduct business in the normal course, (ii) making a general assignment for the benefit of creditors, or (iii) suffering or permitting the appointment of a receiver for its business or its assets, or there is a filing by or against CGI of a meritorious petition in bankruptcy under any bankruptcy or debtor's law, the County may, at its option, immediately terminate this Contract under Section 5.2, the "Termination for Default" clause, by giving written notice thereof.

5.3 Termination for Convenience. The County may terminate this contract or any order under this contract for its convenience and without cause. Any notice of termination will be effective 30 days after the Provider receives it. If the termination is for the convenience of the County, the Provider will be entitled to compensation for any deliverable that the Provider has delivered before termination. Termination under this section will not terminate the services provided by the applicable service provider, which may only be terminated under the service provider's terms and conditions.

5.4 Dispute Resolution.

a) In the event of any dispute or disagreement between CGI and the County, either with respect to the interpretation of any provision of this Contract or with respect to the performance by CGI 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

ARTICLE VI – ADHERENCE TO ELECTRONIC SIGNATURE POLICY OF COUNTY

6.1. The Provider agrees on behalf of the submitting business entity, its officers, employees, subcontractors, subgrantees, agents or assigns, that all contract documents requiring County signatures may be executed by electronic means and that the electronic signatures affixed by the County to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document. The Provider also agrees on behalf of the aforementioned entity and person, to be bound by the provision of Chapters 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.

ARTICLE VII – Insurance

CGI shall procure, maintain and pay premiums for the insurance coverage and limits of liability indicated below with respect to products, services, work and/or operations performed in connection with this Contract.

A. Mandatory Insurance Requirements

The following three items (Worker's Compensation Insurance, Commercial General Liability Insurance, and Business Automobile Liability Insurance) are all mandatory requirements unless otherwise specified.

(a) **Worker's Compensation Insurance** as required by the State of Ohio. Such insurance requirement may be met by either purchasing coverage from the Ohio State Insurance Fund or by maintaining Qualified Self-Insurer status as granted by the Ohio Bureau of Workers Compensation (BWC).

For Providers with employees working outside of Ohio, Worker's Compensation Insurance as required by the various state and Federal laws as applicable including Employers' Liability coverage with limits of liability not less than:

\$1,000,000 each accident for bodily injury by accident;
\$1,000,000 each employee for bodily injury by disease;
\$1,000,000 policy limit for bodily injury by disease.

Such insurance shall be written on the National Council on Compensation Insurance (NCCI) form or its equivalent.

(b) **Commercial General Liability Insurance** with limits of liability not less than:

\$1,000,000 each occurrence bodily injury & property damage;
\$1,000,000 personal & advertising injury;
\$2,000,000 general aggregate;
\$2,000,000 products/completed operations aggregate.

Such insurance shall be written on an occurrence basis on the Insurance Services Office (ISO) form or its equivalent.

(c) **Business Automobile Liability Insurance** covering all owned, non-owned, hired, and leased vehicles. Such insurance shall provide a limit of not less than \$1,000,000 combined single limit (bodily injury & property damage) each accident;

Such insurance shall be written on an occurrence basis on the Insurance Services Office (ISO) form or its equivalent.

(d) **Umbrella/Excess Liability Insurance** with limits of liability not less than:

\$5,000,000 each occurrence
\$5,000,000 general aggregate
\$5,000,000 products/completed operations aggregate

Such insurance shall be written on an occurrence basis and shall sit in excess of the limits and terms set forth in the preceding items (a)-(c).

(e) **Professional Liability Insurance/Errors & Omissions Liability Insurance** providing coverage for claims arising out of the provision of design, architectural, engineering and/or other professional services with a limit of liability not less than:

\$5,000,000 per claim;
\$5,000,000 aggregate.

Such insurance may be written on either an occurrence or claims-made basis. However, if written on a claims-made basis, the claims-made retroactive date on the policy shall be prior to the commencement of any design, architectural, engineering or other professional activity related to this Contract.

B. Insurance Coverage Terms and Conditions

1. The insurance policies of the Provider required for this contract, with the exception of the Professional Liability/Errors & Omissions Insurance, shall each name the "County

of Cuyahoga, Ohio and its employees" as an Additional Insured and shall contain the following provisions:

- (i) The insurers will endeavor to provide thirty (30) days prior notice of cancellation or material change;
2. The insurance required for this contract shall be provided by insurance carrier(s) licensed to transact business and write insurance in the state(s) where operations are performed and shall carry a minimum A.M. Best's rating of A- VII or above.
3. These insurance provisions shall not affect or limit the liability of the Provider stated elsewhere in this Contract or as provided by law.
4. CGI shall require any and all of its subcontractors to procure, maintain, and pay premiums for the insurance coverages and limits of liability outlined above with respect to products, services, work and/or operations performed in connection with this Contract.
5. The County reserves the right to require insurance coverages in various amounts or to modify or waive insurance requirements on a case-by-case basis whenever it is determined to be in the best interest of the County.
6. If the Bid/Proposal/RFQ specifies the need for higher limits of liability for any applicable insurance provision, the Bid/Proposal/RFQ specifications shall govern.
7. CGI shall furnish a Worker's Compensation Certificate and Certificate of Insurance evidencing the insurance coverages required herein are in full force and effect. Acceptance of a non-conforming certificate of insurance by the County shall not constitute a waiver of any rights of the parties under this Contract.

ARTICLE VIII – MISCELLANEOUS

8.1 Assignment. Neither the County nor the Provider shall delegate, assign, sublet or transfer its duties or interest in this Agreement without the written consent of the other party.

8.2 Entire Agreement. This Agreement constitutes the entire agreement between the parties, either express or implied, with respect to the subject matter hereof. No modification of this Agreement shall be binding upon the parties unless set forth in writing and signed by both parties, or their respective successors or assigns.

8.3 No Apparent Authority/Proper Approvals. The Provider recognizes and agrees that no public official or employee of Cuyahoga County may be deemed to have apparent authority to bind the County to any contractual obligations not properly authorized pursuant to the County Code.

8.4 Parties Bound and Benefited. This Contract shall bind and benefit the parties hereto and, as applicable, their respective owners, members, directors, officers, representatives, successors, and assigns.

8.5 Non-Waiver. The County's failure to require performance of any provision of this Contract, or if it requires performance and does not follow through, shall not affect the County's right to require performance at any time thereafter. Additionally, the County's waiver of any breach or default of this Contract shall not constitute a waiver of any subsequent breach or default or a waiver of the provision itself or any other provision.

8.6 Contract Interpretation and Construction. In the event an ambiguity or question of intent or interpretation arises, this Contract shall be construed as though drafted by both parties, and no presumption or burden of proof shall arise favoring or disfavoring one party by virtue of the authorship of any of the provisions of this Contract.

8.7 Counterparts and Facsimile/Electronic Execution. This Contract may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which, taken together, shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Contract (and each amendment, modification and waiver in respect of it) by facsimile or other electronic transmission, including email, shall be as effective as delivery of a manually executed original counterpart of each such instrument.

8.8 Severability. If any provision of this Contract is invalid or unenforceable for any reason, this Contract shall be divisible as to such provision and the remainder of this Contract shall be and remain valid and binding as though such provision was not included.

8.9 Public Records. All parties hereto acknowledge that County is a political subdivision in the State of Ohio and as such is subject the Ohio Revised Code and other law related to the keeping and access to Public Records, including any and all applicable Sunshine Laws, open meeting requirements, and retention schedules effecting any and all manner of communication with the County and any and all documents in any format or media.

8.10 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
1255 Euclid Avenue, 4th Floor
Cleveland, Ohio 44115

Jeff Mowry

In the case of CGI:

CGI Technologies and Solutions, Inc.
11325 Random Hills Road
Fairfax, VA 22030
Galen Bock

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.

8.11 Survival of Terms. Termination or expiration of this Contract for any reason shall not release either party from any liabilities or obligations set forth in this Contract which (i) the parties have expressly agreed shall survive any such termination or expiration, or (ii) remain to be performed or by their nature would be intended to be applicable following any such termination or expiration.

8.12 Record Audit Retention. CGI 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 CGI 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.

8.13 Governing Law/ Jurisdiction. This Contract shall be governed by, and shall be construed and enforced in accordance with, the laws of the State of Ohio. The parties agree that the state and federal courts sitting in Ohio will have exclusive jurisdiction over any claim arising out of this Contract, and each party consents to the exclusive jurisdiction of such courts. Provider hereby agrees not to challenge this Governing Law and Jurisdiction provision, and further agrees not to attempt to remove any legal action outside of Cuyahoga County for any reason.

8.14 Social Security Act. CGI shall be and remain an independent supplier 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 CGI 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 CGI also agrees to indemnify and save harmless Cuyahoga County from such contributions or taxes or liability.

8.15 Contract Processing. CGI shall submit one (1) original contractual agreement with original signature to the following:

Cuyahoga County Department of Information Technology
ATTN: Business Department
1255 Euclid Avenue, 4th Floor
Cleveland, Ohio 44115

8.16 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 CGI prior to the execution of this Contract by the County Executive, the same will be provided at CGI's risk, and payment therefore cannot, and will not, be made unless and until this Contract 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.

8.17 Schedules Incorporated by Reference. The following Schedule is attached hereto and are incorporated herein:

Schedule A - Quote

8.19 Applicable County Ordinances. All County contracts/agreements, including this Contract, are subject to the Cuyahoga County Code including, but not limited to, Title 4 pertaining to Cuyahoga County Ethics and the Inspector General, and Title 5 pertaining to Cuyahoga County Contracting and Purchasing Procedures. The County Code is available on the County Council's web site at <http://council.cuyahogacounty.us/>.

8.20 Ethics Requirements. The Provider agrees to remain in compliance with all County Ethics requirements including, as applicable, Vendor Ethics Registration, Vendor Ethics Training, and Registration of all Lobbyists retained by the Provider. The Provider shall consult the Cuyahoga County Office of Inspector General to ensure it is in full compliance with all County Ethics requirements. The Inspector General's website may be found at: <http://inspectorgeneral.cuyahogacounty.us/>.

8.21 Amendment. No alteration, amendment or modification hereof shall be valid unless executed by an instrument in writing by the parties hereto with the same formality as this Contract.

ARTICLE IX - LIMITATION OF LIABILITY

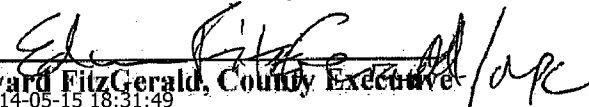
9.1 Limitation of Liability. CGI shall not be liable for any special, punitive, indirect, incidental or consequential damages, including, but not limited to, loss of or damage to data, loss of anticipated revenue or profits, work stoppage or impairment of other assets, whether or not foreseeable and whether or not CGI has been advised of the possibility of such damages. CGI's total cumulative liability to the County in connection with this Contract, whether in contract, tort or other theory, will not exceed the total contract amount. CGI's indemnification obligations under this Contract are not subject to the limitations set forth in this Section 9.1.

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

**CGI TECHNOLOGIES AND
SOLUTIONS, INC.**

CUYAHOGA COUNTY, OHIO

BY: 

Edward FitzGerald, County Executive
BY: 
Edward FitzGerald, County Executive
2014-05-15 18:31:49



Schedule A

QUOTE

CGI Technologies and Solutions, Inc.

DATE: DECEMBER 16, 2013

88 East Broad Street, Suite 1570
Columbus, OH 43215
Phone: 440-864-7812
Fax: 614-228-2385
Email: Ramarao.appana@cgi.com

EXPIRATION DATE: FEBRUARY 28, 2014

CLIENT INFORMATION

CUYAHOGA SUPPORT ENFORCEMENT AGENCY
1255 Euclid Avenue, 4th Floor
Cleveland, Ohio 44115

CGI needs signed Purchase Order or signed Contract before 12/31/2013.

Kofax Reinstatement Fee

If end-user-support coverage lapses, Kofax reserves the right to impose a reinstatement fee equal to the current Kofax annual support fee and unpaid support fees from the date of expiration to the date of reinstatement, in addition to payment for at least one additional year of Kofax support services from the date of reinstatement.

- More than 15 days lapsed = 1 month fee : \$1,988
- 2-3 Months lapsed = 2 month fee :
- 4-6 Months lapsed = 3 month fee
- Greater than 6 months late = 6 month fee
- Greater than 1 year = 1 year reinstatement fee

DESCRIPTION SUMMARY

QTY	PRODUCT	PART NO.	PRICE	LINE TOTAL
2	IMG 6M/YR CNV S/N: PI28136	AE#VY01-006M	\$4,560.00	\$9,120.00
5	Upg Workstation v5-7 S/N: PI28136	AE#T002U0000-C	\$720.00	\$3,600.00
1	IMG 6M/YR CNV S/N: PI28136	AE#VY01-006M	\$4,560.00	\$4,560.00
2	Upg Workstation v5-7 S/N: PI28136	AE#T002U0000-C	\$720.00	\$1,440.00
1	10 CONCURRENT STATION S/N: PI28136	AE#T024-010U	\$5,136.00	\$5,136.00
1	CGI Discount - 10%		(\$2,386.00)	(\$2,386.00)
	Maintenance and Support for 1 year: Period: 01/01/2014 to 12/31/2014			
			SUBTOTAL	\$21,470.00
			SHIPPING	\$0.00
			SALES TAX	\$0.00
			TOTAL	\$21,470.00

AGREEMENT ACCEPTANCEQuotation prepared by: Ramarao Appana

To accept this quotation, sign here and return: _____

Appendix A

Description of CGI Support Levels For Basic Support Services

Level 1 Support

Level 1 support will be provided by CGI. Level 1 support will provide the initial contact with the client. CGI will receive and track all client calls to assure the collection of the appropriate problem information:

Typical problems Level 1 service may encounter include:

- Basic software setup
- Basic usage of the product
- Configuration of Drivers
- General software upgrade issues
- End-user support for training issues, etc.

Level 1 will escalate to Level 2 if the problem is either not readily solvable, solvable within prescribed guidelines or is rated a Severity 1 or 2 problems. Upon escalation, the call will be assigned to Level 2, but CGI will continue to be responsible for client contact and status.

Level 2 Support

Level 2 Support will be provided by CGI. Problems Level 2 may encompass include those beyond basic setup and usage issues. These may be bugs that CGI's software vendor(s) is or is not aware of and may need programming involvement and/or code changes to resolve. These problems may also be complex software upgrade issues, or client application issues, or core product issues that need to be researched, duplicated and tested in a support lab environment. If the problem is beyond known fixes, requires new software or drivers, or is not solved within prescribed guidelines, the call will be escalated to the next support level.

Level 3 support will be responsible for providing the solution and feedback to Level 2 support, who will continue to track the problem resolution and provide feedback to the Client.

Level 3 Support

Level 3 support is provided by the software vendor(s). This will be the first level of support from the CGI software vendor(s). The types of problems that are escalated to the software vendor support are problems, or bugs with one of the core software vendor products. Level 3 support will verify that the problem exists and can be duplicated in the support lab and determine if the root of the problem is with the core product or with the end-user application.

If the problem is determined to be with the application the software vendor(s) will inform CGI support staff and resolution responsibility will be returned to Level 2.

If the problem is determined to be in the core product, and a software patch/update is available that resolves the issue, the software vendor(s) will make the patch/update available for download by CGI or the client. If a patch is not available, the software vendor will escalate the problem to their engineering department. They will maintain direct communication with CGI concerning resolution status. Client contact will remain with CGI,

Engineering Support

The software vendor(s) engineering department will provide the highest level of support required to solve the Client problem. They will be responsible for providing the appropriate solution within prescribed guidelines, issuing appropriate fixes or patches to clients and the overall revision control and maintenance process of released software.

If the problem is a Severity 1 issue (the system is down or unusable) a patch or software update will be developed as required by Engineering. Once the patch has been developed it will be tested by the software vendors support staff and made available for download by CGI

If the problem is not associated with a down system, the software vendors engineering department will provide a timeline for providing a software fix. The fix will be scheduled as a patch included in the next maintenance release, or included in the next minor or major release. The software vendors support staff will provide feedback and resolution status to CGI. CGI will be responsible for maintaining contact with the Client.

Client Support Guidelines

Support Level	Support Provided By	Time to Respond	Escalate To
Level 1	CGI	Standard: 8 Hours Optional Response Times Available	Level 2
Level 2	CGI	Standard: 8 Hours Optional Response Times Available	Software Vendor Support Level 3
Level 3	Software Vendor	<p>Depends on Severity</p> <p><u>Severity 1 (Critical)</u></p> <p>Estimated Resolution</p> <p>Date provided in 24 hours</p> <p><u>Severity 2 (High)</u></p> <p>Estimated Resolution</p> <p>Date provided in 48 hours</p> <p><u>Severity 3 (Medium)</u></p> <p>Estimated Resolution</p> <p>Date provided in 5 days</p> <p><u>Severity 4 (Low)</u></p> <p>Estimated Resolution</p> <p>Date provided in 10 days</p>	Software Vendor Engineering Staff