



State of West Virginia  
 Department of Administration  
 Purchasing Division  
 2019 Washington Street East  
 Post Office Box 50130  
 Charleston, WV 25305-0130

# Purchase Order

PURCHASE ORDER NO.  
 ENCRYPT08

PAGE  
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BLANKET RELEASE  
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CORRECT PURCHASE ORDER NUMBER  
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 INVOICES, AND SHIPPING PAPERS.  
 QUESTIONS CONCERNING THIS PUR-  
 CHASE ORDER SHOULD BE DIRECTED  
 TO THE BUYER AS NOTED BELOW.

CHANGE ORDER

SEE REVERSE SIDE FOR  
 TERMS AND CONDITIONS

ALL STATE AGENCIES  
 AND POLITICAL SUBDIVISIONS  
 VARIOUS LOCALES AS INDICATED  
 BY ORDER

## AGENCY COPY

\*C18113337 859-685-3501  
 SYSTEMS DESIGN GROUP INC  
 501 DARBY CREEK RD STE 9  
 LEXINGTON KY 40509

ALL STATE AGENCIES  
 AND POLITICAL SUBDIVISIONS  
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 BY ORDER

DATE PRINTED		TERMS OF SALE		FEIN/SSN		FUND	
01/15/2008		NET 30		611202149			
SHIP VIA		F.O.B.		FREIGHT TERMS		ACCOUNT NUMBER	
BEST WAY		DESTINATION		PREPAID		MUL-MUL	
LINE	QUANTITY	UOP	VENDOR ITEM NO.		UNIT PRICE	AMOUNT	
	DELIVERY DATE	CAT. NO.	ITEM NUMBER				
BLANKET OPEN-END STATEWIDE CONTRACT  THIS BLANKET OPEN-END STATEWIDE CONTRACT IS TO TO PROVIDE ENCRYPTION SOLUTIONS FROM POINTSEC PRODUCTS THROUGH A LARGE ACCOUNT RESELLER, ALL IN ACCORDANCE WITH THE POINTSEC SOFTWARE LICENSE AND SUPPORT AGREEMENT BETWEEN POINTSEC AND THE STATE OF WEST VIRGINIA.  THIS BLANKET OPEN-END STATEWIDE CONTRACT IS TO SUPPLY LICENSE FOR SOFTWARE TO ALL WEST VIRGINIA STATE AGENCIES AND POLITICAL SUBDIVISIONS.  ****THE FOLLOWING IS INCORPORATED HEREIN BY REFERENCE AND MADE A PART HEREOF:**** REQUEST FOR QUOTATION DATED 11/16/2007. ALL SPECIFICATIONS AND ADDENDA THERETO. VENDOR'S BID DATED 12/18/2007.  ORDERING INSTRUCTION:  STATE AGENCIES: SPENDING UNIT(S) SHALL ISSUE A WRITTEN STATE CONTRACT ORDER (WV-39) TO THE VENDOR FOR							
						PURCHASING DIVISION CERTIFIED ENCUMBERED  FEB 15 2008  <i>Beverly Toler</i>	
IF APPROVAL AS TO FORM IS REQUIRED BY ATTORNEY GENERAL, CHECK HERE <input checked="" type="checkbox"/>						OPEN END	
						TOTAL	

IF APPROVAL AS TO FORM IS REQUIRED BY ATTORNEY GENERAL, CHECK HERE  1/15/08

APPROVED FOR  
 ONE FISCAL YEAR  
*Dawn Wayfield*

APPROVED AS TO FORM BY  
 ASSISTANT ATTORNEY GENERAL

BY *Jo Ann Adkins* 1/16/08  
 PURCHASING DIVISION AUTHORIZED SIGNATURE

JO ANN ADKINS 304-558-8802

**GENERAL TERMS & CONDITIONS  
PURCHASE ORDER/CONTRACT**

1. **ACCEPTANCE:** Seller shall be bound by this order and its terms and conditions upon receipt of this order.
2. **APPLICABLE LAW:** The laws of the State of West Virginia and the *Legislative Rules* of the Purchasing Division shall govern all rights and duties under the Contract, including without limitation the validity of this Purchase Order/Contract.
3. **NON-FUNDING:** All services performed or goods delivered under State Purchase Orders/Contracts are to be continued for the terms of the Purchase Order/Contract, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods, this Purchase Order/Contract becomes void and of no effect after June 30.
4. **COMPLIANCE:** Seller shall comply with all Federal, State and local laws, regulations and ordinances including, but not limited to, the prevailing wage rates of the WV Division of Labor.
5. **MODIFICATIONS:** This writing is the parties final expression of intent. No modification of this order shall be binding unless agreed to in writing by the Buyer.
6. **ASSIGNMENT:** Neither this Order nor any monies due, or to become due hereunder may be assigned by the Seller without the Buyer's consent.
7. **WARRANTY:** The Seller expressly warrants that the goods and/or services covered by this order will: {a} conform to the specifications, drawings, samples or other description furnished or specified by the Buyer {b} be merchantable and fit for the purpose intended and/or {c} be free from defect in material and workmanship.
8. **CANCELLATION:** The Director or Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
9. **SHIPPING, BILLING & PRICES:** Prices are those stated in this order. No price increase will be accepted without written authority from the Buyer. All goods or services shall be shipped on or before the date specified in this Order.
10. **LATE PAYMENTS:** Payments may only be made after the delivery of goods or services. Interest may be paid on late payments in accordance with the *West Virginia Code*.
11. **TAXES:** The State of West Virginia is exempt from Federal and State taxes and will not pay or reimburse such taxes.
12. **RENEWAL:** Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon mutual written agreement of the parties.
13. **BANKRUPTCY:** In the event the vendor/contractor files for bankruptcy protection, this Contract may be deemed null and void, and terminated without further order.
14. **HIPAA Business Associate Addendum** - The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, and available online at the Purchasing Division's web site (<http://www.state.wv.us/admin/purchase/vrc/hipaa.htm>) is hereby made part of the agreement. Provided that, the Agency meets the definition of a Covered Entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the vendor.



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	DELIVERY DATE	CAT NO	ITEM NUMBER				
0001	01/01/2009	EA	099-00-01-001		.00000		
COMMODITIES COVERED BY THIS CONTRACT. ANY PROCUREMENT EXCEEDING \$10,000 SHALL REQUIRE APPROVAL FROM OFFICE OF TECHNOLOGY AND CTO APPROVAL.  ENCRYPTION MASTER LICENSE AGREEMENT  EXHIBIT 3  LIFE OF CONTRACT: THIS CONTRACT BECOMES EFFECTIVE ON FEBRUARY 1, 2008 AND EXTENDS FOR A PERIOD OF ONE (1) YEAR OR UNTIL SUCH "REASONABLE TIME" THEREAFTER AS IS NECESSARY TO OBTAIN A NEW CONTRACT OR RENEW THE ORIGINAL CONTRACT. THE "REASONABLE TIME" PERIOD SHALL NOT EXCEED TWELVE (12) MONTHS. DURING THIS "REASONABLE TIME" THE VENDOR MAY TERMINATE THIS CONTRACT FOR ANY REASON UPON GIVING THE DIRECTOR OF PURCHASING 30 DAYS WRITTEN NOTICE.  UNLESS SPECIFIC PROVISIONS ARE STIPULATED ELSEWHERE IN THIS CONTRACT DOCUMENT, THE TERMS, CONDITIONS AND PRICING SET HEREIN ARE FIRM FOR THE LIFE OF THE CONTRACT.  RENEWAL: THIS CONTRACT MAY BE RENEWED UPON THE MUTUAL WRITTEN CONSENT OF THE SPENDING UNIT AND VENDOR,							
						TOTAL	

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 ASSISTANT ATTORNEY GENERAL

BY \_\_\_\_\_  
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	SUBMITTED TO THE DIRECTOR OF PURCHASING THIRTY (30) DAYS PRIOR TO THE EXPIRATION DATE. SUCH RENEWAL SHALL BE IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND SHALL BE LIMITED TO TWO (2) ONE (1) YEAR PERIODS.  CANCELLATION: THE DIRECTOR OF PURCHASING RESERVES THE RIGHT TO CANCEL THIS CONTRACT IMMEDIATELY UPON WRITTEN NOTICE TO THE VENDOR IF THE COMMODITIES AND/OR SERVICES SUPPLIED ARE OF AN INFERIOR QUALITY OR DO NOT CONFORM TO THE SPECIFICATIONS OF THE BID AND CONTRACT HEREIN.  OPEN MARKET CLAUSE: THE DIRECTOR OF PURCHASING MAY AUTHORIZE A SPENDING UNIT TO PURCHASE ON THE OPEN MARKET, WITHOUT THE FILING OF A REQUISITION OR COST ESTIMATE, ITEMS SPECIFIED ON THIS CONTRACT FOR IMMEDIATE DELIVERY IN EMERGENCIES DUE TO UNFORESEEN CAUSES (INCLUDING BUT NOT LIMITED TO DELAYS IN TRANSPORTATION OR AN UNANTICIPATED INCREASE IN THE VOLUME OF WORK.)  QUANTITIES: QUANTITIES LISTED IN THE REQUISITION ARE APPROXIMATIONS ONLY, BASED ON ESTIMATES SUPPLIED BY THE STATE SPENDING UNIT. IT IS UNDERSTOOD AND AGREED THAT THE CONTRACT SHALL COVER THE QUANTITIES ACTUALLY ORDERED FOR DELIVERY DURING THE TERM OF THE CONTRACT, WHETHER MORE OR LESS THAN THE QUANTITIES SHOWN.						
						TOTAL	

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	<p>ORDERING PROCEDURE: SPENDING UNIT(S) SHALL ISSUE A WRITTEN STATE CONTRACT ORDER (FORM NUMBER WV-39) TO THE VENDOR FOR COMMODITIES COVERED BY THIS CONTRACT. THE ORIGINAL COPY OF THE WV-39 SHALL BE MAILED TO THE VENDOR AS AUTHORIZATION FOR SHIPMENT, A SECOND COPY MAILED TO THE PURCHASING DIVISION, AND A THIRD COPY RETAINED BY THE SPENDING UNIT.</p> <p>BANKRUPTCY: IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, THIS CONTRACT IS AUTOMATICALLY NULL AND VOID, AND IS TERMINATED WITHOUT FURTHER ORDER.</p> <p>THE TERMS AND CONDITIONS CONTAINED IN THIS CONTRACT SHALL SUPERSEDE ANY AND ALL SUBSEQUENT TERMS AND CONDITIONS WHICH MAY APPEAR ON ANY ATTACHED PRINTED DOCUMENTS SUCH AS PRICE LISTS, ORDER FORMS, SALES AGREEMENTS OR MAINTENANCE AGREEMENTS, INCLUDING ANY ELECTRONIC MEDIUM SUCH AS CD-ROM.</p> <p>REV. 04/11/2001</p> <p>PURCHASING CARD ACCEPTANCE: THE STATE OF WEST VIRGINIA CURRENTLY UTILIZES A VISA PURCHASING CARD PROGRAM WHICH IS ISSUED THROUGH A BANK. THE SUCCESSFUL VENDOR MUST ACCEPT THE STATE OF WEST VIRGINIA VISA PURCHASING CARD FOR PAYMENT OF ALL ORDERS PLACED BY ANY STATE</p>						
						TOTAL	

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## **REQUEST FOR QUOTATION SWC-ENCRYPTION**

The Acquisition and Contract Administration Section of the Purchasing Division "State" for the West Virginia Office of Technology, Office of Technology (WVOT) is soliciting quotations for an encryption solution. This solution must also provide for a total of up to 16,000 licenses to be purchased for the Executive Branch in various quantities over a one year period, with other governmental entities possibly purchasing a total of up to 30,000. This solution must be a total cost of ownership solution based upon the cost of a license and two additional years of support. Potential users of this contract may include state agencies, community colleges, institutions, counties, municipalities, public schools, and other local government entities.

The product bid must be in the Leaders quadrant of the Gartner Magic Quadrant for Mobile Data Protection 2007. If an authorized reseller is awarded this contract, a license agreement and on-going support agreement must be negotiated between the software manufacturer and the State.

Any procurement from this contract will require a State Contract Order (WV-39). Any procurement exceeding \$10,000 will require approval from IS&C and the Chief Technology Officer. The Vendor must provide to the State Purchasing Division and Office of Technology quarterly reports showing all purchases made under this contract. This report must show the agency procuring the software, the amount of software procured, and the dollars spent by the agency.

The State reserves the right to utilize inter-state agreements, such as the Western States Contracting Alliance (WSCA), to purchase equipment, outside of the terms and conditions of any contract resulting from an award of this RFQ, pursuant to West Virginia State Code, Section §5A-3-19. The State may make the products and services requested in this RFQ available to county and local municipalities, as well as any other official boards and commissions deemed eligible as legitimate, governmental entities.

### **Encryption**

- The solution must provide Full Disk Encryption (FDE) and File/Folder Encryption System (FES).
- The solution must provide a capability to automatically encrypt data that is transferred to removable storage media, for example, CD/DVD, USB pin-drives, tapes, external hard drives, etc., without user intervention or circumvention
- The solution's process for encryption and decryption of data must be configurable to be transparent to user
- Solution must use a NIST approved random number generator for key generation
- The solution must allow data from an encrypted source to be decrypted to allow transfer of data unencrypted to another destination, by an authorized administrator
- The solution must support distribution of encrypted data to trusted or business partners for data exchange using authenticated self extraction
- The solution must provide FDE and FES under a single solution management console
- Solution must be capable of file compression and encryption in a single step by the user

### **Authentication**

- Solution shall allow the administrators to set a configurable limit for pre-boot logon attempts and invokes lockout for failed logon attempts after exceeding the limit
- Solution must support password based pre-boot authentication

### **Administration**

- ~~The solution must allow multiple users of the same laptop or device~~
- Solution shall have the capability to allow administrators to provide remote assistance to users who are locked out
- Solution shall have the capability to allow administrators to configure the solution for decryption and uninstall of encryption solution by an authorized administrator only
- Solution shall prohibit providing vendor's ability to access, modify, or decrypt data

- Solution must not interfere with imaging of hard drive after encryption solution is installed (subject to testing prior to award)
- Solution must not interfere with Restoration/Recovery of encrypted data from backup media (subject to testing prior to award)
- Solution must not interfere with full disk data erasure tools (subject to testing prior to award)
- The solution is capable of secure escrow and recovery of the symmetric encryption key
- If the solution requires modification of the Master Boot Record, it shall be validated by the pre-boot environment
- The solution's encryption/decryption process must occur without loss or corruption of data or content modification
- Solution must be capable of encrypting swap, free, slack, temp, and Internet temp files
- Solution must allow modification of boot authentication screen by administrators to reflect State Agency warning banners
- The solution shall allow the administrator to enforce complex passwords to include a minimum of 9 characters in length, upper and lower case, alphanumeric, and special characters
- Solution must have the ability to allow administrators to maintain administrator password for pre-boot authentication for each system
- Solution must not conflict with the host based security solutions running simultaneously on a mobile computing device such as Host Intrusion or Prevention Systems (HIDS or HIPS), Firewalls, and Anti-virus.
- Solution must be capable of silent and remote installation and updates of the product(s)
- During the solution's encryption/decryption process, if the process is interrupted, the product must be capable of resuming the process from point of disruption
- Solution must support or have built-in auditing, monitoring, analysis, and reporting capabilities (customizable reports are preferred)
- Solution shall allow logging of access events to the product and encrypted data (success and failure)
- Solution must allow export of encrypted file that contains system generated full volume encryption key
- Solution must allow authorized user to validate disk encryption has occurred and is maintained
- Solution must support pre-boot integrity
- Solution must provide open APIs or an SDK to support application integration
- The solution must support Single Sign-On (simultaneous pre-boot and O/S logon)

#### **Management Console**

- The solution's administrator management console must allow for failover functionality (fault tolerance/redundancy)
- The solution's administrator management console must support capability to add/modify/delete admin users
- The solution shall provide the capability to set a limit on the number of unsuccessful consecutive logon attempts to the administrator management console and invokes lockout for exceeding the limit
- The solution's administrator management console must support retrieval of computer, user, and user-group information from Active Directory
- Solution shall support secure remote management of devices to support remote users
- Solution shall support secure remote access to the administrator management console for administrators
- The solution's administrator management console must be scalable to support large enterprise environments
- The solution's administrator management console must permit multiple administrator logins for simultaneous access
- The solution's administrator management console must support retrieval of computer, user, and user-group information from LDAP Servers
- ~~The solution or encryption system must be configurable to not interfere with remote distribution and full installation of applications, patches, and updates while connected to the network, and without user intervention~~
- The solution or encryption system shall allow administrator to configure solution to enforce sanitization, 'wipe' or key destruction to render the data unusable.

**Support**

- Under software maintenance agreement, vendors must notify the State and deliver product within 10 working days of commercial release for new updates
- For every solution patch or upgrade release, vendor must provide verification that the solution still meets all of the initial requirements
- Vendor must provide several technical support delivery options, to include phone, online, onsite, etc.
- Vendor must provide one (1) administrator & one (1) user's guide in hard copy and in electronic formats (PDF) with unlimited reproduction privileges for internal purposes per order
- For every patch or upgrade release, new product releases must be backward compatible and be capable of using or decrypting previously encrypted data
- Vendor must provide troubleshooting guidance for solution under the support agreement
- Priority technical support (4 hr callback) must be provided for the solution for sixty days after completion of the installation. Standard technical support is to be available for the remainder of the contract
- Solution must provide user-friendly feedback messages when errors or warnings occur
- System installation documentation must include steps to verify proper operation upon completion of installation.

**Licensing**

- Licenses must be transferable within each State Agency
- Solution licenses must be perpetual
- Licenses must include home-use rights

**Training**

- Users should require minimal or no training to utilize the solution
- Vendor must provide administrative support training

**Pricing**

- All mandatory fees must be factored into the per license fee.
- This solution must be a total cost of ownership solution based upon the cost of a license and two additional years of support.
- The three-year cost (the initial year plus two additional years of support) must be the same for licenses purchased in year one and the licenses purchased at the end of year two.

<b>Licensing Fees:</b>	
User license for Encryption Solution.	\$ <u>21.86</u> /ea
* Must include license fee and any support costs for three years after installation. Any installation fees should be figured in with the license fee.	
Licensing fee \$ <u>21.86</u> X 16,000 (estimated quantity) = \$ <u>349,760</u>	
<b>Optional Fees:</b>	
Training / Installation / Configuration* (To be provided by SDG technician certified in Pointsec solution)	
Remote	\$ <u>125</u> per hour Min. Billable Hours <u>0.25</u>
On-site	\$ <u>125</u> per hour Min. Billable Hours <u>4.0</u>
* This is for any additional training after initial installation.	



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## SOFTWARE LICENSE AND SUPPORT AGREEMENT

This Software License and Support Agreement ("Agreement") is entered into as of February 1, 2008 ("Effective Date") by and between Pointsec Mobile Technologies, Inc. ("Pointsec"), a California corporation with a place of business at 2441 Warrenville Road, Suite 210, Lisle, IL 60532, and West Virginia, ("Licensee") a West Virginia corporation with its principal place of business at One Davis Square, Charleston, West Virginia 25301.

In consideration of the mutual promises and covenants stated herein, the parties hereby agree as follows:

1. Definitions. For purposes of this Agreement, the following terms shall have the meanings assigned below. Other capitalized terms shall have the meanings set forth herein:
  - (a) "Documentation" means the user instructions, manuals or other materials regarding the use of the Software that Pointsec makes generally available in connection with the Software.
  - (b) "Software" means Pointsec's proprietary computer program(s) ordered by Licensee from time to time, in object code only; and any Updates hereafter furnished to Licensee by Pointsec under this Agreement.
  - (c) "Updates" means those updates, modifications, bug fixes and other corrections that Pointsec makes generally available for no additional charge to other licensees of the Software who receive technical support services.
2. License Grant. Subject to the terms and conditions of this Agreement, Pointsec hereby grants to Licensee a nonexclusive, nontransferable license to (a) use the Software on the number of devices specified in our proposal for its own internal business purposes, (b) use and make copies of the Documentation in conjunction with the foregoing, and (c) make a reasonable number of copies of the Software solely for back-up or archival purposes. Licensee agrees to reproduce all copyright and other proprietary notices on all copies of the Software and Documentation in the same form and manner that such copyright and other proprietary notices are included on the Software or Documentation. Licensee acknowledges that Pointsec shall retain title to the Software and Documentation. Pointsec hereby reserves all rights to the Software, Documentation, or any copyrights, patents, or trademarks, embodied or used in connection therewith, except for the rights expressly granted herein.
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4. Technical Support. Subject to Licensee's payment of support fees annually during the term of this Agreement, Pointsec will provide Updates and technical support services to Licensee during the term in accordance with Pointsec's then-current technical support policies.
5. Additional Services. Licensee may request that Pointsec provide services not part of the technical support services set forth herein, at any time. Additional services are available in accordance with Pointsec's standard procedures and rates. Pointsec shall have no obligation to commence such additional services until the parties enter a separate written agreement setting forth the terms and conditions, including fees, applicable to such services.
6. Term and Termination. This Agreement begins on the Effective Date and will be in force for an initial term of one (1) year, unless earlier terminated in accordance with this Agreement. In the event Licensee is in material breach of this Agreement, or if any assignment shall be made of its business for the benefit of creditors, or if a receiver, trustee in bankruptcy or a similar officer is appointed to take charge of all or part of its property, or if Licensee is adjudged as bankrupt, then this Agreement shall terminate immediately and automatically upon notice by Pointsec. Upon termination of any license, Licensee will, at Pointsec's option, either return the Software and Documentation to Pointsec or destroy the original and all copies and parts thereof. Sections 7-20 shall survive any expiration or termination of this Agreement.
7. License Fee and Taxes.
  - (a) Licensee shall pay Pointsec the non-refundable licensee fees and the support fees set forth in the "Proposal" plus all applicable taxes unless a valid exemption certificate is provided. Such fees will be payable upon execution of this Agreement or as otherwise stated herein. Licensee will have the option to expand the license granted pursuant to Section 2 to increase the licensed number of clients, or otherwise change the scope of the license, upon Pointsec's receipt of additional license fees for such expanded

scope as set forth in Pointsec's then-current price list. Licensee will pay and be responsible for any excise, privilege, sales, use, customs, value added, and any other tax (except taxes imposed with respect to net income) imposed by or under the authority of any foreign, United States, state, or local law with respect to the license of Software as contemplated by this Agreement unless a valid exemption certificate is provided.

(b) After the first renewal of the Annual Maintenance fee, Pointsec may raise subsequent payments by an amount not greater than the *United States Consumer Price Index for All Urban Consumers (CPI-U), Seasonally Adjusted, All Items* during the 12 month period preceding the date of the proposed annual increase or 5%.

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12. Licensee Indemnity Licensee shall be responsible for any claim, demand, liability, action, or suite or proceeding, including reasonable attorneys' fees ("Claim"), asserted or claimed by any third party and arising out of Licensee's use of the software, provided such Claim is adjudicated and found by a court of competent jurisdiction to be due to the negligent acts or omissions of Licensee.

Licensee shall be given timely notice of and shall have the option of undertake and conduct the defense of any such Claim.

13. Assignments and Sublicenses. This Agreement may not be assigned or otherwise transferred by Licensee without Pointsec's prior written consent and any such purported assignment or transfer shall be void upon attempt. Licensee shall have no right to sublicense the rights granted hereunder.

14. Audit. Pointsec or a third party selected by Pointsec may audit Licensee's use of the Software, upon notice to Licensee, for purposes of ensuring compliance with this Agreement. Any such audit shall be conducted during regular business hours and shall not unreasonably interfere with Licensee's business activities. If an audit reveals that Licensee has exceeded the scope of its license, (i) Licensee shall pay the reasonable costs and expenses of such audit, and (ii) Pointsec may, without limiting the remedies it otherwise might have under this Agreement or by law, invoice Licensee for any such excess use as if the excess use was made a part of a license expansion, together with interest thereon at the maximum rate allowed by West Virginia law for any month or partial month during which such amount was owed and unpaid for more than 60 days. Any such invoice shall be paid within thirty (30) days of the date of invoice.

15. Governing Law; Venue. This Agreement shall be governed by the laws of the State of West Virginia, without reference to conflict of laws principles. Any dispute or claim arising out of or in relation to this Agreement, or the interpretation, making, performance, breach or termination thereof shall be resolved by the West Virginia Court of Claims.

16. Notices. Any notice required or permitted to be given under this Agreement shall be delivered (i) by hand, (ii) by registered or certified mail, postage prepaid, return receipt requested, to the address of the other party first set forth above or to such other address as a party may designate by written notice, (iii) by overnight courier, or (iv) by fax with confirming letter mailed under the conditions described in (ii). Notice so given shall be deemed effective when received, or if not received by reason of fault of addressee, when delivered.


17. No Waiver. The waiver by either party of a breach of any provision of this Agreement or the failure by either party to exercise any right hereunder shall not operate or be construed as a waiver of any subsequent breach of that right or as a waiver of any other right.

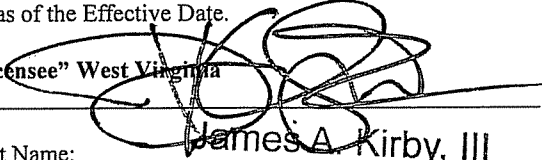
18. Severability. In the event that any provision or provisions shall be held to be unenforceable, those provisions shall in good faith be renegotiated to be enforceable and shall reflect as closely as possible the intent of the original provisions of this Agreement. Such negotiations shall not affect the enforceability of the remainder of the Agreement.

19. Force Majeure. Non-performance of either party, except for the making of payments, shall be excused to the extent that performance is rendered impossible by acts of God, strike, fire, flood, earthquake, governmental acts or orders or restrictions, failure of suppliers, or any other reason when failure to perform is beyond the control non-performing party.

20. Entire Agreement; Amendments. This Agreement constitutes the whole and entire agreement between the parties with respect to the subject matter hereof and no verbal or written commitments not referenced herein shall apply, including without limitation the terms and conditions of any purchase order, procurement document or acknowledgement for the Software. Furthermore, this Agreement shall supersede, and Pointsec shall not be bound by, any such terms and conditions. Any amendment or modification to this Agreement shall be effective only if reduced to writing and signed by duly authorized representatives of Pointsec and Licensee.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the Effective Date.

"Pointsec"  
By:   
Print Name: John Slavitt  
Title: General Counsel

"Licensee" West Virginia  
By:   
Print Name: James A. Kirby, III  
Title: General Counsel  
Department of Administration