



**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**  
**DEPARTMENT OF ADMINISTRATION**  
**OFFICE OF PURCHASES**

PACKING SLIPS AND CORRESPONDENCE

ORDER DATE: 08/14/97  
 BID / QUOTE NO.: 1752  
 BUYER: J. MOYNIHAN  
 G

PURCHASE ORDER NO.: 156684

NAME, ADDRESS OF VENDOR AND VENDORS F.E.I.N./S.S. NO.  
 20-3488857

LUCCENT TECHNOLOGIES  
 222 RICHMOND STREET  
 PROVIDENCE, RI 02903

401-553-1933 CODE 0

B DEPT. OF CORRECTIONS  
 I BUSINESS OPERATIONS  
 L 39 HOWARD AVENUE  
 T CRANSTON, RI 02920  
 O

S DEPT. OF CORRECTIONS  
 H FINANCIAL RESOURCES UNIT  
 P 40 HOWARD AVENUE  
 T CRANSTON, RI 02920  
 O

IN ACCORDANCE WITH INSTRUCTIONS ON REVERSE

DELIVERY PER CONTRACT	UNLESS OTHERWISE SPECIFIED, DELIVERY TERMS ARE F.O.B. DESTINATION, FREIGHT NOT CHARGED.	REQUISITION NO. 1360-8-117775	P.O. EXPIRATION DATE
PAYMENT TERMS NET 30			TYPE CONTRACT / FULL / MM

ITEM NO.	QUANTITY	UNIT OF MEASURE	DESCRIPTION	UNIT PRICE	AMOUNT
1			PLANNING, INSTALLATION, AND POST-ADMINISTRATION MANAGEMENT AND MAINTENANCE OF ADMINISTRATIVE AND INMATE PAY TELECOMMUNICATIONS SYSTEM FOR THE DEPARTMENT OF CORRECTIONS AS PER RFP #1752 AND IN ACCORDANCE WITH RELATED AGREEMENT.  STATE GENERAL CONDITIONS OF PURCHASE SHALL TAKE PRECEDENT IN ANY CONFLICTING TERMS CONTAINED WITHIN THE ACCOMPANYING AGREEMENT.  NO COST TO THE STATE, VENDOR WILL RECOUP COSTS FROM INMATE PAY PHONE TRAFFIC. SYSTEM WILL BE TRANSFERRED TO STATE OWNERSHIP IN TEN YEARS.		0.00

DATE RECEIVED  
 AUG 12 1997  
 BUSINESS OFFICE

FY	ACCOUNT NO. & BUDGET CODE	COST CENTER	AMOUNT	PRE-AUDIT	AMOUNT
	1360-11102-322				
				DATA ENTRY	CASH DISCOUNT
					ADJUSTMENTS
					NET AMOUNT

APPROVED AS TO THE AVAILABILITY OF APPROPRIATION - STATE CONTROLLER

STATE PURCHASING AGENT

DEPT. COPY

89096

**PURCHASE/SERVICE AGREEMENT**  
between  
**The State of Rhode Island and Providence Plantations**  
**Department of Corrections**  
and  
**Lucent Technologies, Inc.**

Lucent Technologies Inc. ("Lucent") with a local office at 222 Richmond St., Providence, RI 02980 and The State of Rhode Island, Department of Corrections located at One Capitol Hill, Providence, RI 02908 ("The State") agree that the following terms and conditions ("Agreement") shall govern the contractual rights, duties and obligations of Lucent and the State with respect to the contract award of Bid Number 1752 to Lucent on June 26, 1997.

**1. CONTRACT PERIOD**

This Agreement shall be effective for a period of ten (10) years, commencing on the date this Agreement is fully executed by an authorized representative of the State and Lucent's written acceptance by an authorized representative of Lucent Technologies Inc. unless terminated as stated herein.

**2. CONTRACT DOCUMENTS**

This Agreement shall be comprised of the following documents and exhibits:

Exhibit A - The State's RFP Number 1752

Exhibit B - Lucent's proposals dated March 27, 1997 (Technical) and June 16, 1997  
(Financial)

Exhibit C - Equipment List

Exhibit D - Unit Price List

Exhibit E - Project Implementation Schedule and Responsibilities List

Exhibit F - Training

Exhibit G - Internal Revenue Service Form W-9

Exhibit H - Performance Bond and Labor Materials Bond

Exhibit I - Certificate of Insurance

Exhibit J - Rhode Island Equal Opportunity Compliance Certificate and Agreement

Exhibit K - Minority Business Enterprise Plan

Exhibit L - Vendor Security Requirements

In the event of a conflict between the terms and conditions in this Agreement and terms or conditions stated in any Exhibit, the terms of the Agreement shall supersede those of any Exhibit.

### **3. PRODUCTS AND SERVICES TO BE PROVIDED BY LUCENT**

- A. Lucent Technologies shall furnish at the State's location at 40 Howard Avenue, Cranston, R.I. the telecommunications, voice processing and call accounting products and services itemized in Exhibit C ("Products") in accordance with the scope of work for wire and cable and other technical specifications stated in Exhibit A and Lucent's technical proposal dated March 27, 1997 as stated in Exhibit B and shall install and maintain such Products for the term of the Agreement ("Services"). All Products shall be provided directly by Lucent, except for the following subcontractor provided Products:
- (1) Wire and Cable - American Networks International, Mirra Company Inc.
  - (2) Call Accounting System - Integratrak
  - (3) Call logging/monitoring equipment - AT&T/T-NETIX
- B. During the ten (10) year term of this Agreement, Lucent Technologies shall maintain the Products in good operating condition and in accordance with the service standards stated in Section 11.
- C. In addition to the Products and Services stated in Section 3A above, Lucent shall provide inmate calling service for the ten (10) year term of this Agreement through its subcontractors AT&T and NYNEX ("Common Carriers"). Inmate calling service shall be provided in accordance with the rates (including any fixed surcharges) and terms and conditions of the applicable tariffs governing such network services. From commission revenues received by Lucent from the Common Carriers, Lucent agrees to pay to the State an amount of \$117,500 per quarter pursuant Exhibit A, RFP Section 7.5.

### **4. CONSIDERATION BY THE STATE**

- A. Notwithstanding anything to the contrary in the RFP or Lucent's Proposal, in consideration for the Products and Services described in Section 3 above, the State agrees that Lucent shall be entitled to all commissions generated by the inmate calling service provided by the Common Carriers. The State acknowledges that, except as stated in Section 3C, it shall not obtain any commissions or other revenues from the provisions of inmate calling services.

- B. The State acknowledges that the continuation of inmate calling services at the levels in existence at the commencement of this Agreement is a critical element of the State's consideration. In the event that (a) the State fails to perform any of its obligations as stated in Section 5 below, or (b) the State ceases offering inmate calling services or thakes any action that materially changes the type or level of inmate calling services for any reason, including force majeure conditions stated in Section 18 below, the State shall be liable to Lucent for any proven direct damages to Lucent resulting from such actions or conditions.

## 5. OBLIGATIONS OF THE STATE

- A. The State hereby agrees that it will continue, for the term of this Agreement, to provide inmate calling service as offered to inmates as of the effective date of this Agreement, and in the event of any reorganization or privatization of services by the State during the term of this Agreement, the State agrees that it shall obligate any successor, agent, or assignee to the same obligations as stated herein.
- B. The State hereby agrees to the exclusive use of the Common Carriers stated herein for the provision of inmate calling service, or any service which may serve a similar function to inmate calling service, for the term of this Agreement.
- C. The State hereby agrees that it shall not offer any communication services to inmate which may, in Lucent's sole discretion, be in competition with inmate calling service, or in any way serve to decrease usage of inmate calling service during the term of this Agreement.
- D. The State shall provide site conditions suitable for the installation of Products as requested by Lucent, including but not limited to equipment room(s), wire closets, electricity, heating and air conditioning.
- E. The State shall be responsible for removal of any hazardous materials (i.e. asbestos) or correction of any hazardous condition which affects Lucent's performance of Services. Services will be delayed until the State removes or corrects the hazardous condition; Lucent shall not be liable to the State for such delays.
- F. The State shall provide any easements, State permits, or rights of way required to place cable between buildings or along public facilities.

- G. The State shall designate a project manager who shall act as a single point of contact for Lucent Technologies' project manager, with the responsibility for providing information, resolving implementation issues, and authorizing changes to the work to be performed.

## 6. PROJECT IMPLEMENTATION -

- A. In accordance with Lucent's response to RFP Section 2.2.8, Lucent shall implement connection of network facilities and commence procurement of cable, equipment and other materials within two (2) weeks of the execution of this Agreement.
- B. Lucent shall perform work in accordance with the Project Implementation Schedule and Responsibilities List ("Project Schedule") set forth in Exhibit E. Any changes to the Project Schedule shall be made by mutual agreement of the parties in writing.
- C. The State shall accept the Products subject to satisfactory completion of a thirty (30) day acceptance period commencing on the In-Service Date ("Acceptance Period"). The State shall use its best effort to test equipment and its associated software within the first ten (10) days of the Acceptance Period and notify Lucent in writing of any non-conformities with Lucent's published specifications for the Products. Lucent will promptly correct such non-conformities and notify the State in writing when corrected. Acceptance shall take place on the thirtieth (30th) day after the In-Service Date, provided that Lucent has corrected the stated non-conformities and the installed Products have performed for thirty (30) days without a major failure ("Acceptance Date"). For the purpose of acceptance testing, a major failure must be caused solely by Lucent and is defined as the outage of:
- (1) 25% or more of trunks and/or stations associated with Lucent Products;
  - (2) Attendant console outage
  - (3) Controller or processor outage
  - (4) 25% or more of data peripherals
  - (5) 25% or more of special services capabilities
- D. In the event that Lucent fails to install Products on or before the In-Service date stated on the Project Schedule, or if the Products fail to meet the terms and conditions of Acceptance as stated in Section 7C above, Lucent shall pay to the State, as liquidated damages, a amount of \$2,000 per day for each calendar day after written notice by the State that (a) Lucent has failed to install Products on the scheduled In-Service Date, and/or after (b) the Products have failed to operate in accordance with the terms and conditions for Acceptance as stated in Section 6C above for thirty (30) consecutive days. The payment of such liquidated damages is conditioned upon the following:

- (1) that the delay is solely caused by Lucent, and not the State or a third party, or force majeure conditions stated in Section 18 below, and
  - (2) payment of liquidated damages is the State's sole remedy for such delay;
  - (3) total payment of liquidated damages shall not exceed \$300,000.
- E. Lucent shall provide the training described in Lucent's response to RFP Section 6.9 as stated in Exhibit G.

## 7. CHANGES TO PRODUCTS AND SERVICES

- A. The State hereby acknowledges that the length of the term of this Agreement is based upon the estimated value of the particular configuration of Products and Services listed in Exhibit C. The State may make changes to the Products and Services listed in Exhibit C, at the unit prices listed in Exhibit D prior to the installation date ("In-Service Date") provided that the net total of all such changes does not exceed \$50,000. Such changes shall be incorporated into Products provided without modification to the consideration stated in Section 4A.
- B. The State may purchase any other additions to the Products and Services listed in Exhibit C during the term of this Agreement at (a) the unit prices stated in Exhibit D if purchased prior to the In-Service Date, or (b) the unit prices stated in Exhibit D if purchased within one (1) year after the In-Service Date, or (c) at Lucent's then current State & Local discounted price for such Products if purchased thereafter. Products purchased pursuant to this Section 6B shall be purchased by the State under the terms and conditions of this Agreement, except that:
- (1) the State shall make payment for such Products within thirty (30) days of the date invoiced by Lucent;
  - (2) the State shall be obligated to contract for post-warranty maintenance for any products purchased that are similar to Products listed in Exhibit A upon expiration of the applicable warranty for such product.
- C. The Change Control Date ("CCD") is the last date Lucent will accept changes to the Products ordered for installation on the In-Service Date. The CCD for the Products listed in Exhibit C is shown on the *Project Milestone and Responsibilities* document in Exhibit E. Changes received and accepted by Lucent after the CCD will be treated as separate purchase orders (i.e. separate orders documents under this Agreement,) and will be installed after the In-Service Date pursuant to the terms of Section 6B above. The Change Control Date for additions purchased after the initial In-Service Date shall be the date Lucent accepts the order from that State

- D. All changes or subsequent order must be documented and approved in writing by authorized representatives of both parties.

## 8. TITLE AND RISK OF LOSS

- A. Title to equipment associated with the Products listed in Exhibit C, as may be modified pursuant to Section 6A above, shall remain with Lucent Technologies for the term of the Agreement. Risk of loss for Products shall pass to the State on the date of Acceptance.
- B. Title and risk of loss to equipment purchased pursuant to Section 6B above shall pass to the State on the date of delivery.

## 9. WARRANTIES

- A. Lucent warrants that Definity Products furnished under this Agreement shall be new and unused at the time of initial installation.
- B. Lucent warrants that, for the term of the Agreement, the Products, including any associated wire or cable installed by Lucent or a subcontractor of Lucent, will operate in accordance with Lucent's standard specifications or documentation accompanying the Product ("Documentation"). If a Product does not operate in accordance with Lucent's standard specifications or Documentation, upon notification by the State, Lucent will, restore such Products without charge.
- C. Lucent warrants that the Products furnished under this Agreement are or shall be Year 2000 compliant in accordance with Lucent's response to Section 2.1a of the RFP, and that the State shall not be liable for any additional costs under this Agreement for upgrade or modification of Products to a Year 2000 compliant platform.
- D. Notwithstanding anything to the contrary in the RFP or Lucent's Proposal, the warranties stated in this Section 9 are the State's sole warranties under this Agreement.

**10. WARRANTY EXCLUSIONS**

EXCEPT AS STATED IN SECTION 4 ABOVE, LUCENT, ITS SUBSIDIARIES AND THEIR AFFILIATES, SUBCONTRACTORS AND SUPPLIERS MAKE NO WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIM ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**11. MAINTENANCE SERVICE**

- A. **Service** - Maintenance Service includes preventive maintenance as deemed appropriate by Lucent and remedial maintenance, including replacement parts required for Products used under normal operating conditions. Maintenance updates to software are included in maintenance Service and provided at no charge. (Replacement parts will be provided on-site as deemed necessary by Lucent or its subcontractor T-NETIX.)
- B. **Coverage Period** - Lucent will provide maintenance Service in response to major failures, as described in Section 6C, 24 hours a day, 7 days a week.
- C. **Trouble Reports** - Lucent will accept Definity system trouble reports in-person 7 days a week, 24 hours a day toll free on 800-242-2121. At The State's option, The State may designate, on any given trouble report (via voice response prompt), that the call go directly to an engineer for immediate response and initiation of a trouble report. T-NETIX's will accept trouble reports 7 days a week, 24 hours a day toll free on 888-2-TNETIX.
- D. **Response Times** - Lucent and T-NETIX's will commence remote diagnosis of the trouble condition upon receipt of a major failure switch alarm or a trouble report from the State describing a major system failure. If the major system failure cannot be cleared remotely, Lucent will dispatch a technician who will be on-site to initiate corrective action within four (4) hours of the receipt of the initial major failure trouble report. Minor failures will be repaired within 24 hours of receipt of the trouble report during the hours of 8:00 AM to 5:00 PM Monday through Friday, excluding Lucent's holidays.



## 12. SERVICE EXCLUSIONS

- A. The maintenance Service stated in Section 5 above does not cover repair for damages or malfunctions caused by
- (1) actions of persons, other than those of Lucent or a subcontractor or agent of Lucent;
  - (2) attachment of any equipment or software to the Product except as provided Lucent;
  - (3) the State's failure to follow Lucent's installation, operation or maintenance instructions, including the State's failure to permit Lucent timely remote access to the State's Product;
  - (4) abuse, misuse, or negligent acts of non-Lucent personnel;
  - (5) modification of the Product by the State, or
  - (6) force majeure conditions as stated in Section 18
- B. Lucent will perform repair or other services not covered by this Agreement at Lucent's then current standard time and materials rates for such service.
- C. The State agrees to notify Lucent prior to moving any of the switching system Products (excluding terminals). Additional charges may apply if Lucent incurs additional costs in providing maintenance Services as a result of a move of a Product.
- D. LUCENT DOES NOT WARRANT UNINTERRUPTED OR ERROR FREE OPERATION OF THE PRODUCTS. ALSO LUCENT DOES NOT WARRANT THAT THE PRODUCTS WILL PREVENT, AND LUCENT WILL NOT BE RESPONSIBLE FOR, UNAUTHORIZED USE (OR CHARGES FOR SUCH USE) OF COMMON CARRIER TELECOMMUNICATIONS SERVICES OR FACILITIES ACCESSED THROUGH OR CONNECTED TO PRODUCTS (TOLL FRAUD), EXCEPT TO THE EXTENT THAT SUCH UNAUTHORIZED USE IS THE RESULT OF LUCENT'S NEGLIGENCE OR WILLFUL MISCONDUCT.

## 13. PATENT AND COPYRIGHT INDEMNITY

- A. Lucent will defend or settle, at its own expense, any claim or suit against the State alleging that any Lucent Products furnished under this Agreement infringe any United States patent or copyright. Lucent will also pay all damages and costs that by final judgment may be assessed against the State due to such infringement. Lucent's obligation to indemnify the State as provided hereunder shall survive the expiration or termination of this Agreement by either party.

- B. Lucent's obligation is expressly conditioned upon the following: (1) the State shall promptly notify Lucent in writing of such suitor claim; (2) Lucent shall have sole control of the defense or settlement of such suit or claim; (3) that the State shall cooperate with Lucent in a reasonable way to facilitate the settlement or defense of any claim or suit; and (4) that the claim or suit does not arise from modifications, or from use of combinations of Products provided by Lucent with products provided by the State or others.
- C. If any Lucent Products become, or in Lucent's opinion are likely to become, the subject of an infringement suit, Lucent will at its option: (1) procure for the State the right to continue using the applicable Products; (2) replace or modify the Products with a noninfringing Product that is functionally equivalent to in all material respects; or (3) refund the purchase price or one-time software license fee less a reasonable allowance for use.

#### 14. SOFTWARE LICENSE

- A. Lucent grants to the State a personal, non-transferable and non-exclusive right to use, in object code form, all software and related documentation furnished under this Agreement. This grant shall be limited to use with the equipment for which the software was obtained or, on a temporary basis, on back-up equipment when the original equipment is inoperable. Use of software on multiple processors is prohibited unless otherwise agreed to in writing by Lucent. The State will refrain from taking any steps, such as reverse assembly or reverse compilation, to derive a source code equivalent of the software or to develop other software. The State will use its best efforts to ensure that its employees and users of all software licensed under this Agreement comply with these terms and conditions.
- B. The State may make a single archive copy of software. Any copy must contain the same copyright notice and proprietary markings that the original software contains. Use of software on any equipment other than that for which it was obtained, removal of software from the United States, or any other material breach shall automatically terminate this license.
- C. This software license shall terminate upon expiration of this Agreement, or on the date of termination if terminated sooner. In the event that the State elects to purchase Products pursuant to Section 17A below, the State shall retain the license to use software under the provisions of this Section 14.

**15. EXCLUSIVE REMEDIES AND LIMITATIONS OF LIABILITY**

A. THE ENTIRE LIABILITY OF LUCENT AND ITS SUBSIDIARIES, AFFILIATES AND SUBCONTRACTORS (AND THE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, AND SUPPLIERS OF ALL THEM) AND THE STATE'S EXCLUSIVE REMEDIES FOR ANY DAMAGES CAUSED BY ANY PRODUCT DEFECT OR FAILURE, OR ARISING FROM THE PERFORMANCE OR NON-PERFORMANCE OF ANY WORK, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT INCLUDING NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, SHALL BE:

- (1) FOR INFRINGEMENT, THE REMEDIES STATED IN SECTION 13;
- (2) FOR DAMAGES TO REAL OR TANGIBLE PERSONAL PROPERTY OR FOR BODILY INJURY OR DEATH TO ANY PERSON FOR WHICH LUCENT'S SOLE NEGLIGENCE WAS THE PROXIMATE CAUSE, THE STATE'S RIGHT TO PROVEN DAMAGES TO PROPERTY OR PERSON;
- (3) FOR CLAIMS BY THIRD PARTIES AGAINST THE STATE, LUCENT SHALL INDEMNIFY AND HOLD HARMLESS CUSTOMER, ITS AGENTS, SERVANTS, AND EMPLOYEES AGAINST ALL CLAIMS, DEMANDS, AND JUDGMENTS MADE OR RECOVERED AGAINST THEM FOR DAMAGES TO REAL OR TANGIBLE PERSONAL PROPERTY OR FOR BODILY INJURY OR DEATH TO ANY PERSON ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT, WHERE SUCH DAMAGE, INJURY OR DEATH WAS CAUSED SOLELY BY THE NEGLIGENCE OF LUCENT OR ANY SUBCONTRACTOR OF LUCENT OR THEIR EMPLOYEES, SERVANTS OR AGENTS, PROVIDED, HOWEVER, THAT SUCH INDEMNIFICATION AND SAVE HARMLESS OBLIGATION SHALL APPLY ONLY TO DIRECT DAMAGES WHICH ARE PROVEN AND SHALL NOT APPLY TO CIRCUMSTANCES RESULTING FROM ANY NEGLIGENCE OF CUSTOMER, ITS AGENTS, SERVANTS, OR EMPLOYEES, AS FINALLY DETERMINED BY A COURT OF COMPETENT JURISDICTION, AND PROVIDED FURTHER, THAT SUCH INDEMNIFICATION AND SAVE HARMLESS OBLIGATION IS EXPRESSLY CONDITIONED UPON THE FOLLOWING: (i) THAT LUCENT SHALL BE NOTIFIED IN WRITING PROMPTLY OF ANY SUCH CLAIM OR DEMAND; (ii) THAT LUCENT SHALL HAVE SOLE CONTROL OVER THE DEFENSE OF ANY CLAIM OR DEMAND AND OF ALL NEGOTIATIONS FOR ITS SETTLEMENT OR COMPROMISE; (iii) CUSTOMER SHALL COOPERATE WITH LUCENT IN A REASONABLE WAY TO FACILITATE THE SETTLEMENT OR DEFENSE OF SUCH CLAIM OR DEMAND.

- (4) FOR DELAY IN THE IN-SERVICE DATE, THE REMEDIES STATED IN SECTION 6D.
- (5) FOR LUCENT'S FAILURE TO PERFORM ANY MATERIAL TERM OR CONDITION OF THIS AGREEMENT FOR A PERIOD OF THIRTY (30) DAYS AFTER WRITTEN NOTICE BY THE STATE OF SUCH FAILURE, THE STATE SHALL HAVE AS ITS SOLE REMEDIES ~~(a)~~ THE REMEDY STATED IN SECTION 18B BELOW, OR (b) THE RIGHT TO CONTRACT FOR SIMILAR SERVICES FROM ANOTHER VENDOR AND CLAIM SUCH PROVEN DIRECT COSTS AS DAMAGES AGAINST LUCENT. IN THE EVENT THAT LUCENT FAILS TO EITHER REMEDY THE FAILURE IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT, OR FAILS TO MAKE PROMPT PAYMENT OF SUCH CLAIMS, THE STATE MAY TAKE ACTION AGAINST THE PERFORMANCE BOND PROVIDED IN SECTION 20 BELOW.

B. EXCEPT TO THE EXTENT PROVIDED IN SECTION 15 SUBSECTION A(1), A(2), AND A(3), ABOVE, LUCENT SHALL NOT BE LIABLE FOR THE FOLLOWING TYPES OF DAMAGES: (1) INCIDENTAL DAMAGES, (2) SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, SAVINGS OR REVENUES OF ANY KIND; AND CHARGES FOR COMMON CARRIER TELECOMMUNICATION SERVICES OR FACILITIES ACCESSED THROUGH OR CONNECTED TO PRODUCTS (TOLL FRAUD). LUCENT SHALL NOT BE LIABLE FOR THE TYPES OF DAMAGES ENUMERATED ABOVE WHETHER OR NOT LUCENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS PARAGRAPH SHALL SURVIVE THE FAILURE OF ANY EXCLUSIVE REMEDY.

C. Any claims by the State against Lucent, for any cause, shall be made against Lucent at the following address:

General Manager  
Lucent Technologies Inc.  
16 Corporate Woods Blvd.  
Albany, NY 12211

#### **16. ADDITIONS TO THE INSTALLED PRODUCTS**

During the term of this Agreement, the State may acquire additional products from Lucent and connect such products to the Products provided hereunder provided that:

- (1) such products are solely acquired from and installed by Lucent, or certified by Lucent if purchased from a supplier other than Lucent, except as otherwise agreed by Lucent in writing; and
- (2) the State contracts for post-warranty maintenance services on any products which are purchased from Lucent and are similar to Products maintained by Lucent under this Agreement.

#### **17. EXPIRATION / TERMINATION**

- A. The State shall have the option, upon expiration of the ten (10) year term of this Agreement, to purchase the Products listed in Exhibit C for the amount of one dollar (\$1.00.) upon a sixty days(60) prior written notice. If the State does not elect to purchase the Products, Lucent shall commence removal the Products on the day following the expiration of this Agreement.
- B. In the event that the commissions paid by the Common Carriers decrease by 50% or more from the average commission rate paid by the Common Carriers during the first six (6) months of this Agreement, and such decrease continues for a period of three (3) months, regardless of the cause of such decrease, Lucent shall have the right to terminate this Agreement upon a sixty (60) prior written notice and commence removal of Products on the 61st day after such notice, unless otherwise agreed to by the parties.

#### **18. FORCE MAJEURE**

- A. Lucent shall have no liability to provide maintenance Service for Products damaged by fire, explosion, lightning, pest damages, power surges or failures, strikes or labor disputes, water, acts of God, the elements, war, civil disturbances, acts of civil or military authorities or the public enemy, except that Lucent shall be obligated to perform such Services on a time and materials basis at the State's request.
- B. Lucent shall have no liability for delay in installing the Products on the scheduled In-Service Date if such delay is the result of the inability to secure raw materials, transportation facilities, fuel or energy shortages, acts or omissions of communications carriers, or any of the force majeure conditions listed above, provided however, that such delay does not exceed thirty (30) days. In the event that Lucent is unable to

shall refund to the State any commissions paid by the respective Common Carriers up to the date of termination.

#### 19. ASSIGNMENT

Neither party may assign this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld. However, Lucent may assign this Agreement without such consent to a present or future affiliate, subsidiary, successor or distributor or may assign its right to receive payment without The State's consent. In the event of an assignment by Lucent, Lucent shall remain liable to State for all of Lucent's obligations under this Agreement unless otherwise agreed in writing by the parties.

#### 20. BONDING AND INSURANCE

- A. Lucent warrants, represents and covenants that it shall maintain during the term of this Agreement, and at its own expense, all necessary insurance required to cover its obligations as stated in this Agreement, including but not limited to worker's compensation as required by statute. Lucent further agrees to maintain any excess liability policies for any amounts in excess of its self-insuring limits and shall provide The State with certification of such insurance within ten (10) days of the execution of this Agreement. Lucent's agreement to provide certificates of insurance shall not serve to either modify or expand the limitations stated in Section 15 above, nor shall such agreement to insure be construed as a preindemnification for any claim or demand.
- B. Lucent shall secure a performance and payment bond in the amount of \$4,000,000 to secure the performance of work under this Agreement up to the In-Service Date. After the In-Service Date and throughout the remaining term of this Agreement, Lucent agrees to maintain a performance bond in the amount of \$500,000 to secure the State's right to maintain Products in good working order in the event of Lucent's failure to perform maintenance Services as stated herein. Notwithstanding anything to the contrary in the RFP or Lucent's Proposal, in the event that Lucent fails to satisfy any claim made by the State, the State's sole remedy shall be to take action the above referenced performance bond.

21. GENERAL

- A. Any supplement or waiver of any provision of this Agreement must be in writing and signed by authorized representatives of both parties.
- B. If either party ever fails to enforce any right or remedy available under this Agreement, that failure shall not be construed as a waiver of any right or remedy with respect to any other breach or failure by the other party.
- C. The State certifies that the Products acquired hereunder are intended for The State's use in the ordinary course of business and not for the purpose of resale.
- D. This Agreement shall be governed by the local laws (as opposed to the conflict of law provisions) of the State of Connecticut.
- E. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN RFP SECTION 2.2.4, OR LUCENT'S RESPONSE THERETO, THIS AGREEMENT, AND ITS EXHIBITS CONSTITUTE THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE PRODUCTS AND SERVICES PROVIDED HEREUNDER AND SUPERSEDES ALL PRIOR AGREEMENTS, PROPOSALS, COMMUNICATIONS BETWEEN THE PARTIES AND UNDERSTANDINGS, WHETHER WRITTEN OR ORAL

*Each party represents that it has the full power and authority to enter into and perform this Agreement, and that the person signing this Agreement on behalf of each party has been properly authorized and empowered to execute this Agreement on behalf of each such party.*

*IN WITNESS WHEREOF, the undersigned have read and agreed to the terms of this Agreement.*

The State of Rhode Island  
and Providence Plantations  
Department of Corrections:



Authorized signature

RICHARD J. FRECHETTE

Name printed or typed

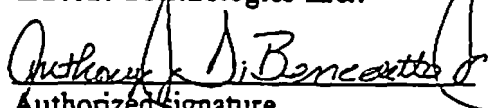
ASSOC DIR FINANCIAL RESOURCES

Title

7/3/97

Date

Lucent Technologies Inc.:



Authorized signature

A. J. DIBENEDETTO

Name printed or typed

SALES MANAGER

Title

7/3/97

Date