STATE TERM CONTRACT

THIS CONTRACT (the "Contract") is between the State of Ohio ("State"), through its Department of Administrative Services, General Services Division, at 4200 Surface Road, Columbus, Ohio, 43228 andMeridian Knowledge Solutions, LLC ("Contractor"), with offices at 4465 Brookfield Corprate Drive, Chantillyy, VA, 20151.

BACKGROUND

The State recognizes that it is sometimes advantageous to do business with some manufacturers under a State term contract rather than through a competitive bidding or proposal process. In such cases, the State may enter into a contract with the manufacturer provided that the manufacturer offers its products and ancillary services at the same prices that the manufacturer offers those products and services to the US Government under the GSA's Multiple Award Schedule program or SmartBuy program. Or if the manufacturer has no contract under the GSA's Multiple Award Schedule program or SmartBuy program, the State will accept the pricing the manufacturer offers to its distributors. Further, if the manufacturer has no GSA Multiple Award Schedule or SmartBuy contract and no distributors, the State may accept the prices that the manufacturer offers to its most favored customers for each product or service.

The State also recognizes that some manufacturers work primarily through dealers for various reasons, including offering customers better support through dealers that have a local presence in a service area. Because of this, the State may sometimes agree to work directly with a manufacturer's dealers.

However, if the Contractor is not the manufacturer of the products or services under this Contract, the Contractor must submit a letter from the manufacturer that assures the State that the Contractor is an authorized dealer in the manufacturer's products or services. The letter also must assure the State that the Contractor will have sufficient quantities of the offered products for the duration of the Contract to meet the State's needs under the Contract during the initial term and any extensions. Further, the letter must identify each of the manufacturer's product and service that the Contractor will supply under this Contract. The letter also must contain an assurance of the availability through the dealer of repair services and spare parts for products covered by this Contract for five years from the date of purchase. It also must contain an assurance that software maintenance will be available under the terms of this Contract either from the dealer or the manufacturer for six years from the date of acceptance. (This assurance is not necessary for PC and PC-based server software with a perpetual license fee of less than $10,000.00 per copy.) The dealer must submit the letter, signed by an authorized representative of the manufacturer, with the executed copies of this Contract.

This Contract establishes terms and conditions under which State agencies (including any board, instrumentality, commission, or other political body) and Ohio political subdivisions, such as counties, municipalities, and townships, may acquire the Contractor's products or services at the pricing identified below. This Contract, however, only permits such; it is not a requirements contract and does not obligate any State agency or political subdivision to acquire the Contractor's products or services.

TERMS AND CONDITIONS

1 - TERM

1.1 **TERM.** This Contract is effective on the date the State's duly authorized representative executes it, as evidenced by the date appearing with the representative's signature, below. Unless this Contract is terminated or expires without renewal, it will remain in effect until December 04, 2013. Termination or expiration of this Contract will not limit the Contractor's continuing obligations with respect to Deliverables that the State paid for before termination or limit the State's rights in such.

2 - PRICING AND PAYMENT

2.1 **CERTIFICATION OF ACCURACY.** By checking one of the following three items, the Contractor certifies that the Contractor's prices under this Contract are:

X The prices at which the Contractor currently offers each product and service to the US Government under the GSA's Multiple Award Schedule program;
The prices at which the Contractor currently offers each product and service to the US Government under the GSA's SmartBuy program; or
The best prices at which the Contractor has offered each product and service to its most favored customers within one year before the date the Contractor executed this Contract or adds the product or service to this Contract, whichever is later.

If the Contractor is offering prices based on its most favored customer prices, the Contractor represents that it does not have a GSA Multiple Award Schedule or SmartBuy contract.

If the Contractor has submitted a manufacturer's letter to certify that the Contractor is an authorized dealer for the manufacturer, the Contractor represents that the information in the letter is accurate and that a duly authorized representative of the manufacturer signed the letter.

The Contractor further certifies that the above representations will apply and be true with respect to all future pricing information submitted to revise this Contract.

2.2 **PRICE ADJUSTMENTS.** If the Contractor has relied on its GSA Multiple Award Schedule pricing or its GSA SmartBuy pricing, the State will be entitled to any price decreases that the Contractor offers to the GSA for any of its products and services during the term of this Contract. The Contractor must notify the State of any reduction in its GSA Multiple Award Schedule or SmartBuy pricing within 30 days of its occurrence and immediately reduce the price of the affected products or services to the State under this Contract.

If the Contractor has relied on its best customer pricing, the State will be entitled to a price decrease any time the Contractor or any of its dealers or distributors under this Contract sells a product or a service to any of its customers for less than the price agreed to between the State and the Contractor under this Contract. Any time the Contractor or any of its dealers or distributors under Section 3.1 of this Contract sells a product or provides a service to any customer for less than it is then available to the State under this Contract, the Contractor must notify the State of that event within 30 days of its occurrence and immediately reduce the price of the affected products or services to the State under this Contract.

The Contractor also must notify the State within 30 days of any general reduction in the price of any product or service covered by this Contract, even if the general reduction does not place the price of the product or service below the price available to the State under this Contract. The purpose of this notice of a general reduction in price is to allow the State to assess the value the State believes it is receiving under this Contract in light of the general reduction. If the State believes it is appropriate, the State may ask to renegotiate the Contract price for the products and services affected by the general reduction in price. If the Contractor and the State cannot agree on a renegotiated price, then on written notice to the Contractor, the State may immediately remove the affected products and services from this Contract.

2.3 **PRICELIST.** The Contractor's pricelist for the products and services that the Contractor may provide to the State under this Contract is attached as Exhibit I. For convenience, those products and services are called "Deliverables" in this Contract. Any custom materials resulting from the Contractor's services also are called "Deliverables" in this Contract. The Contractor may not provide any other Deliverables under this Contract without a prior written amendment to this Contract that both the State and the Contractor have signed. Furthermore, the Contractor may not charge the State greater prices for these Deliverables than the prices on the Exhibit I. If Exhibit I contains or incorporates by reference any terms or conditions other than a description of the scope of license for software, a description of the Contractor's products and services, and the prices for those products and services, those terms or conditions are excluded from this Contract and are of no effect. Exhibit I is identified as the following pricelist:

raining Aids and Devices Schedule Price List December 2008 Contract No. GS-02F-0006J

The Contractor will not sell to the State any notebook computers with less than a 1.60 GHz internal clock speed. Additionally, the Contractor will not sell to the State any PCs or servers using CPUs with less than a 3.0 GHz internal clock speed. Additionally, the Contractor will not sell to the State any term software licenses. And except in the case of operating systems licensed in conjunction with desktop PCs, notebook computers, PDAs, and similar personal computing devices that the OEM does not distribute without an operating system, the Contractor will not sell or license any Microsoft software to the State. If any of the foregoing items are listed in the Contractor's pricelist, they are deleted for purposes of this Contract.

2.4 **Payment Due Date.** Payments will be due on the 30th day after the later of:

(a) The date the State actually receives a proper invoice at the office designated in the applicable purchase order to receive it; or

(b) The date the State accepts the Deliverable.

The date the State issues a warrant (the State's equivalent to a check) in payment of an invoice will be considered the date payment is made. Without diminishing the Contractor's right to timely payment, the payment will be overdue only if it is not received by the 30th day after the payment's due date. If the State has not issued payment by then, interest will begin to accrue under Ohio Revised Code (the "Code") § 126.30.

2.5 **Invoice Requirements.** The Contractor must submit an original invoice with three copies to the office designated in the purchase order as the "bill to" address. To be a proper invoice, the invoice must include the following information:

(a) Name and address of the Contractor as designated in this Contract;
(b) The Contractor's federal tax identification number as designated in this Contract;
(c) The Contractor's invoice remittance address as designated in this Contract;
(d) The purchase order number authorizing the delivery of the Deliverables;
(e) A description of the Deliverables, including, as applicable, the time period, serial number, unit price, quantity, and total price of the Deliverables; and

If an authorized dealer has fulfilled the purchase order, then the dealer's information should be supplied in lieu of the Contractor's information. If an invoice does not meet this section's requirements, or if the Contractor fails to give proper notice of a price increase (see the next section), the State will send the Contractor written notice. The State will send the notice, along with the improper invoice, to the Contractor's address designated for receipt of purchase orders within 15 days. The notice will contain a description of the defect or impropriety and any additional information the Contractor needs to correct the invoice. If such notification has been sent, the payment due date will be 30 days after the State receives a proper invoice and has accepted the Contractor's Deliverable.

2.6 OHIO PAYMENT CARD. Participating State agencies issuing orders under this Contract may use the Ohio Payment Card. Such purchases may not exceed $2,500 unless the Office of Budget and Management ("OBM") has authorized the agency to exceed this limit. If OBM increases the dollar limit for payment cards for all State agencies, the State will post notice of that on its Procurement Website. Participating State agencies are required to use the Ohio Payment Card in accordance with OBM's current guidelines for the Ohio Payment Card and the agency's approved plan filed with the OBM. The Contractor may process a payment in the payment card network only upon delivery and acceptance of the applicable Deliverables. For partial deliveries or performance, the Contractor may process a payment for the amount delivered or completed only and not for the entire amount ordered by the ordering agency. Upon completion of the delivery of remaining Deliverables, the Contractor may process a payment request in the payment card network for the remainder of the order. The Contractor should receive payment through its merchant bank within the time agreed upon between the Contractor and its merchant bank. The Contractor should expect normal processing fees from its merchant bank for payment card transactions, which the Contractor may not pass on to the State.

2.7 NON-APPROPRIATION OF FUNDS. The State's funds are contingent on the availability of lawful appropriations by the Ohio General Assembly. If the Ohio General Assembly fails to continue funding for any payments due hereunder, the order or orders under this Contract that are affected by the lack of funding will terminate as of the date that the funding expires, and the State will have no further obligation to make any payments with respect to the affected order or orders.

2.8 OBM CERTIFICATION. This Contract is subject to Code § 126.07. Any orders under this Contract are void until the Director of the OBM certifies that there is a balance in the appropriation available to pay for the order.

2.9 CONTROLLING BOARD AUTHORIZATION. The State's obligations under this Contract are subject to the Ohio Controlling Board continuing to authorize the State's use of its term contracts program. If the Ohio Controlling Board fails to authorize or withdraws its authorization for this program, this Contract will terminate immediately, and the Contractor may not take any more orders under it.

2.10 TRAVEL EXPENSES. Any travel that the Contractor requires to perform its obligations under this Contract will be at the Contractor's expense. The State will pay for any additional travel that it requests only with prior written approval. The State will pay for all additional travel expenses that it requests in accordance with OBM's travel policy in Rule126-1-02 of the Ohio Administrative Code (the "Administrative Code").

2.11 TAXES. The State is exempt from all sales, use, excise, and property taxes and will not pay any such taxes. To the extent sales, use, excise, or any similar taxes are imposed on the Contractor in connection with any Deliverable, the Contractor must pay those taxes together with any interest and penalties not successfully disputed with the taxing authority.

2.12 OFFSET. The State may set off any amounts the Contractor owes to the State under this or other contracts against any payments due from the State to the Contractor under this or any other contracts with the State.

3 - CONTRACT ADMINISTRATION

3.1 DEALERS AND DISTRIBUTORS. The State authorizes the Contractor to name one or more dealers to work with the State on behalf of the Contractor. But if the Contractor decides to use any dealers, the Contractor must submit the name, principal business address, addresses for purchase orders and for payments, telephone number, and its federal tax identification number. The Contractor also must submit a completed W9 form for each dealer it

wishes to name under this section. The Contractor's submission must be on its official letterhead, signed by an authorized representative, and addressed to the Deputy State Chief Information Officer, Office of Information Technology.
In doing so, the Contractor warrants that:

(a) The Contractor has provided the dealer with a copy of this Contract, and a duly authorized representative of the dealer has agreed, in writing, to be bound by the terms and conditions in this Contract.
(b) Such agreement specifically provides that it is for the benefit of the State as well as the Contractor.
(c) The Contractor will remain liable under this Contract for the services of any dealer and will remedy any breach of the dealer under this Contract.
(d) Payments under this Contract for the services of any dealer may be made directly to that dealer, and the Contractor will look solely to the dealer for any payments due to the Contractor once the State has paid the dealer.
(e) To the extent that there is any liability to the State arising from doing business with a dealer that has not signed the agreement required under this section with the Contractor, the Contractor will indemnify the State for such liability.

If the Contractor wants to designate a dealer that will not receive payments (a "distributor"), the Contractor may do so by identifying the person or organization as a distributor in the authorizing letter. In such cases, information regarding taxpayer identification and payment addressing may be omitted, as may the distributor's W9 form. All other requirements and obligations for designating a dealer apply to designating a distributor.

The State strongly encourages the participation of small and disadvantaged businesses in its contracting programs and has created a certification program to Encourage Diversity Growth and Equity (EDGE) in State contracting. State agencies are instructed to include in their procurements such participation, including through the use of State Term Schedule contracts that are either held by EDGE businesses or that offer the opportunity to work with EDGE dealers or distributors.

3.2 AUDITS. During the term of this Contract and for three years after termination, on reasonable notice and during customary business hours, the State may audit the Contractor's records and other materials that relate to the Deliverables and to the pricing representations that the Contractor has made to acquire this Contract. This audit right also will apply to the State's duly authorized representatives and any organization providing funding for any Deliverable.

Unless it is impracticable to do so, all records related to this Contract must be kept in a single location, either at the Contractor's principle place of business or the facilities where the Contractor substantially performed under this Contract. If this is not practical, the Contractor must assume the cost of collecting, organizing, and relocating the records, along with any technology needed for accessing the records, to its office nearest Columbus, Ohio whenever the State or any entity with audit rights requests access to the records. The Contractor must do so within 15 days of receiving the State's written notice of its intent to audit the Contractor's records and must notify the State as soon as the records are ready for audit.

If any audit reveals any material misrepresentation or overcharge to the State, the State will be entitled to recover its damages, including the cost of the audit.

3.3 INSURANCE. The Contractor must provide the following insurance coverage at its own expense throughout the term of this Contract:

a. Workers' compensation insurance, as required by Ohio law, and if some work will be done outside Ohio, the laws of the appropriate states where work will be done. The Contractor also must maintain employer's liability insurance with at least a $1,000,000.00 limit.

b. Commercial General Liability insurance coverage for bodily injury, personal injury, wrongful death, and property damage. The defense cost must be outside of the policy limits. Such policy must designate the State of Ohio as an additional insured, as its interest may appear. The policy also must be endorsed to include a blanket waiver of subrogation. At a minimum, the limits of the insurance must be:

$ 2,000,000 General Aggregate
$ 2,000,000 Products/Completed Operations Aggregate
$ 1,000,000 Per Occurrence Limit
$ 1,000,000 Personal and Advertising Injury Limit
$ 100,000 Fire Legal Liability

$ 10,000 Medical Payments

The policy must be endorsed to provide the State with 30-days prior written notice of cancellation or material change to the policy. And the Contractor's Commercial General Liability must be primary over any other insurance coverage.

a. Commercial Automobile Liability insurance with a combined single limit of $500,000.

b. Professional Liability insurance covering all staff with a minimum limit of $1,000,000 per incident and $3,000,000 aggregate. If the Contractor's policy is written on a "claims made" basis, the Contractor must provide the State with proof of continuous coverage at the time the policy is renewed. If for any reason the policy expires, or coverage is terminated, the Contractor must purchase and maintain "tail" coverage through the applicable statute of limitations.

All certificates must be in a form that is reasonably satisfactory to the State as to the contents of the policies and the quality of the insurance carriers. All carriers must have at least an "A-" rating by A.M. Best.

3.4 **CONTRACT COMPLIANCE.** Any State agency that uses this Contract will be responsible for the administration of this Contract with respect to the orders that it places and may monitor the Contractor's performance and compliance with this Contract. If an agency becomes aware of any noncompliance with the terms of this Contract or the specifications of an order, the agency may document the noncompliance and give the Contractor written notice of the noncompliance for immediate correction. If the Contractor fails to cure the noncompliance, the agency may notify the State through the Department of Administrative Services, Office of State Purchasing, by executing a Complaint to Vendor form to help resolve the issue. Should the State determine that the form identifies an uncured breach of this Contract, the State may terminate this Contract and seek such other remedies as may be available to it.

3.5 **POLITICAL SUBDIVISIONS.** Ohio political subdivisions, such as Ohio cities, counties, and townships ("Political Subdivisions"), may rely on this Contract. Whenever a Political Subdivision relies on this Contract to issue a purchase order, the Political Subdivision will step into the shoes of the State under this Contract for purposes of its order, and, as to the Political Subdivision's order, this Contract will be between the Contractor and the Political Subdivision. The Contractor must look solely to the Political Subdivision for performance, including but not limited to payment, and must hold the State harmless with regard to such orders and the Political Subdivision's performance. But the State will have the right to terminate this Contract and seek such remedies on termination as this Contract provides should the Contractor fail to honor its obligations under an order from a Political Subdivision. Nothing in this Contract requires the Contractor to accept an order from a Political Subdivision, if the Contractor reasonably believes that the Political Subdivision is or will be unable to perform its obligations in relation to that order.

3.6 **RECALLS.** If a Deliverable is recalled, seized, or embargoed, or if the Contractor, a manufacturer, packer, processor, or regulatory body finds that a Deliverable has been misbranded, adulterated, or is unsafe, the Contractor must notify the State, through the Department of Administrative Services, Office of State Purchasing, as well as all agencies that have ordered the Deliverable, within ten business days after the Contractor learns of any of the above events. At the option of the State, the Contractor must either reimburse the State for the purchase price of each affected Deliverable or provide an equal or better replacement for each Deliverable at no additional cost to the State. The Contractor also must remove and replace all affected Deliverables within a reasonable time, as determined by the State. Further, at the option of the State, the Contractor may be required to reimburse the State for storage costs and handling fees, which the State may calculate from the time of delivery of each affected Deliverable to the Deliverable's actual removal. Furthermore, the Contractor must bear all costs associated with the removal and proper disposal of the affected Deliverables. The State will treat any failure to refund the purchase price or provide a suitable replacement within a reasonable time, not to exceed 30 days, as a default.

3.7 **TERMINATION.** The State may terminate this Contract or any order under this Contract if the Contractor defaults in meeting its obligations and fails to timely cure its default. The State also may terminate this Contract or any order under it if a petition in bankruptcy is filed by or against the Contractor and not dismissed within 60 days. And the State may terminate this Contract or any order under it if the Contractor violates any law or regulation while performing under this Contract or if it appears to the State that the Contractor's performance is substantially endangered through no fault of the State. In all of the foregoing cases, the termination will be for cause.

On written notice, the Contractor will have 30 days to cure any breach of its obligations under this Contract, provided the breach is curable. If the Contractor fails to cure the breach within 30 days after written notice or if the breach is not one that is curable, the State will have the right to terminate this Contract, the applicable orders, or both immediately upon written notice to the Contractor. Some provisions of this Contract may provide for a

shorter cure period than 30 days or for no cure period at all. Those provisions will prevail over this one. If a particular section does not state what the cure period will be, this provision will govern.

The State also may terminate this Contract in the case of breaches that are cured within 30 days but are persistent. "Persistent" in this context means that the State has notified the Contractor in writing of the Contractor's failure to meet any of its obligations two times. After the second such notice, the State may terminate this Contract without a cure period if the Contractor again fails to meet any obligation. The three defaults do not have to relate to the same obligation or type of failure.

The State also may terminate this Contract or any order under this Contract for its convenience and without cause. And the State may terminate this Contract or any order under it if the Ohio General Assembly fails to appropriate funds for any order under this Contract. Further, if a third party is providing funding for an order, the State also may terminate this Contract or any order under it should that third party fail to release any funds related to this Contract or an order under it.

Any notice of termination will be effective as soon as the Contractor receives it. On receipt of the notice of termination, the Contractor will immediately cease all work on any Deliverables affected by the termination and take all steps necessary to minimize any costs the Contractor will incur related to the affected orders. The Contractor also must immediately prepare a report and deliver it to the State. The report must detail all open orders at the time of termination.

If the State terminates this Contract or any order for cause, it will be entitled to cover for the affected orders by using another vendor or vendors on such commercially reasonable terms and conditions as it and the covering vendors may agree. The Contractor will be liable to the State for all costs related to covering for the affected orders to the extent that such costs exceed the costs that the State would have incurred under this Contract for those orders. The Contractor also will be liable for any other direct damages resulting from its breach of this Contract or other event leading to termination for cause.

If the termination is for the convenience of the State, the Contractor will be entitled to compensation for any Deliverable that the Contractor has delivered before the termination. Such compensation will be the Contractor's exclusive remedy in the case of termination for convenience and will be available to the Contractor only once the Contractor has submitted a proper invoice for such, with the invoice reflecting the amount the State determines that it owes the Contractor.

3.8 **EXCUSABLE DELAY.** Neither party will be liable for any delay in its performance under this Contract that arises from causes beyond its reasonable control and without its negligence or fault. The delayed party must notify the other promptly of any material delay in performance and must specify in writing the proposed revised performance date as soon as practicable after notice of delay. For any such excusable delay, the date of performance or delivery will be extended for a period equal to the time lost by reason of the excusable delay. The delayed party also must describe the cause of the delay and what steps it then is taking or will take to remove the cause. The delayed party may not rely on a claim of excusable delay to avoid liability for a delay if the party has not taken commercially reasonable steps to mitigate or avoid the delay.

3.9 **INDEPENDENT STATUS.** The parties will be acting as independent entities. The partners, employees, officers, directors, and agents of one party may only act in the capacity of representatives of that party and not as employees, officers, directors, or agents of the other party and will not be deemed as such for any purpose. Each party assumes full responsibility for the actions of its partners, employees, officers, directors, and agents while performing under this Contract and will be solely responsible for paying those people. Additionally, each party will be solely responsible for withholding and paying social security and income taxes, making workers' compensation contributions, paying disability benefits, and providing fringe benefits, if any, for its partners, employees, officers, directors, and agents, and neither party may legally bind the other party in any manner.

3.10 **LOCATION OF SERVICES AND DATA.** As part of this Contract, the Contractor must disclose the following:

(a) All locations where any services will be performed;
(b) All locations where any State data applicable to the Contract will be maintained or made available; and
(c) The principal place of business for the Contractor and all its subcontractors.

The Contractor may not change any location where any services are performed to a location outside the country of the original location or change any location where the data is maintained or made available to any other location outside the country of the original location without prior written approval of the State, which the State will not be obligated to provide.

4 - DELIVERY AND ACCEPTANCE

4.1 **ACCEPTANCE.** The acceptance procedure for Deliverables will be an informal review by the agency acquiring the Deliverables to ensure that each Deliverable meets the warranties in this Contract. The State will have up to 30 days after installation to do this. The State will not issue a formal letter of acceptance, and passage of 30 days will imply acceptance, though the State will issue a notice of noncompliance if a Deliverables does not meet the warranties in this Contract.

If the State issues a noncompliance letter, the Contractor will have 30 days to correct the problems listed in the letter. If the Contractor fails to do so, the Contractor will be in default without a cure period. If the State has issued a noncompliance letter, the Deliverable will not be accepted until the State issues a letter of acceptance indicating that each problem noted in the noncompliance letter has been cured. If the problems have been fixed during the 30-day period, the State will issue the acceptance letter within 15 days after all defects have been fixed.

4.2 **TITLE.** Title to any Deliverable will pass to the State only on acceptance of the Deliverable, and all risk of loss will remain with the Contractor until title to the Deliverable passes to the State.

4.3 **DELIVERIES.** The Contractor must make all deliveries F.O.B. destination.

5 - INTELLECTUAL PROPERTY

5.1 **COMMERCIAL MATERIAL.** As used in this section, "Commercial Material" means anything that the Contractor or a third party has developed at private expense and that is commercially available in the marketplace, subject to intellectual property rights, and readily susceptible to copying through duplication on magnetic media, paper, or other media. Examples include the written reports, books, pictures, videos, movies, computer programs, source code, and documentation.

Any Commercial Material that the Contractor intends to deliver as a Deliverable must have the scope of the license granted in such material disclosed in an Exhibit to this Contract, if that scope of license is different than the scope of license contained in this section for Commercial Materials.

Except for Commercial Material that is software ("Commercial Software"), if the Commercial Material is copyrighted and published material, then the State will have the rights permitted under the federal copyright laws for each copy of the Commercial Material delivered to it by the Contractor.

Except for Commercial Software, if the Commercial Material is patented, then the State will have the rights permitted under the federal patent laws for each copy of the Commercial Material delivered to it by the Contractor.

For Commercial Software, the State will have the following, perpetual rights, subject to the next paragraph. The State may:

(1) Use and copy the Commercial Software for use in or with the computer or computers for which it was acquired, including use at any State installation to which such computer or computers may be transferred;
(2) Use or copy the Commercial Software for use with a backup computer for disaster recovery and disaster recovery testing purposes or if any computer for which it was acquired is inoperative;
(3) Reproduce the Commercial Software for archival, image management, and backup purposes;
(4) Modify, adapt, and combine the Commercial Software with other computer software, provided that the modified, combined, and adapted portions of the derivative software incorporating any of the Commercial Software will be subject to same restrictions on use;
(5) Disclose to and reproduce the Commercial Software for use on behalf of the State by support service contractors or their subcontractors, subject to the same restrictions on use; and
(6) Use or copy the Commercial Software for use with a replacement computer.

In the case of any other scope of license (e.g., MIPs, tier, concurrent users, enterprise, site, or otherwise), the foregoing will apply except as expressly modified by the applicable license description, which must be incorporated as part of Exhibit I. If the Contractor provides greater license rights in an item included in Exhibit I to its general customer base for the Software's list price, those additional license rights also will be provided to the State without additional cost or obligation. No license description may reduce the rights in items 1 through 6 above; it may only define the extent of use, if the use is other than a CPU license.

The State will treat any Commercial Software as Confidential Information, in accordance with the requirements of the Confidential Information section of this Contract, if the Commercial Software is clearly and conspicuously labeled as confidential or secret.

5.2 **CUSTOM DELIVERABLES.** All custom work done by the Contractor and covered by this Contract will belong to the State, with all rights, title, and interest in all intellectual property that comes into existence through the Contractor's

work under this Contract being assigned to the State. Additionally, the Contractor waives any shop rights, author rights, and similar retained interests in any such custom developed materials. The Contractor must provide the State with all assistance reasonably needed to vest such rights of ownership in the State. However, the Contractor will retain ownership of all tools, methods, techniques, standards, and other development procedures, as well as generic and preexisting shells, subroutines, and similar material incorporated in any custom Deliverable ("Pre-existing Materials").

The Contractor grants the State a worldwide, non-exclusive, royalty-free, perpetual license to use, modify, sell, and otherwise distribute all Pre-existing Materials that are incorporated in any custom-developed Deliverable. The Contractor may not include in any custom Deliverable any intellectual property unless such has been created under this Contract or qualifies as Pre-existing Material. If the Contractor wants to incorporate any Pre-existing materials in a custom Deliverable, the Contractor must disclose that desire to the State and obtain written approval from the State for doing so in advance. On the request of the Contractor, the State will incorporate any proprietary notice that Contractor may reasonably want for any Pre-existing Materials included in a custom Deliverable in all copies the State makes of that Deliverable.

Subject to the limitations and obligations of the State with respect to Pre-existing Materials, the State may make all custom Deliverables available to the general public without any proprietary notices of any kind.

5.3 CONFIDENTIALITY. The State may disclose to the Contractor written material or oral or other information that the State treats as confidential ("Confidential Information"). Title to the Confidential Information and all related materials and documentation the State delivers to the Contractor will remain with the State. The Contractor must treat such Confidential Information as secret if it is so marked, otherwise identified as such, or when, by its very nature, it deals with matters that, if generally known, would be damaging to the best interests of the public, other contractors or potential contractors with the State, or individuals or organizations about whom the State keeps information. The Contractor may not disclose any Confidential Information to third parties and must use it solely to perform under this Contract.

If any Deliverables contain data, documentation, or other written information that is confidential in nature and properly labeled as such, then it also will be Confidential Information for purposes of this section. The State will keep all such Confidential Information in confidence and will not use it other than as authorized under this Contract. Nor will the State disclose any such Confidential Information to any third party without first obligating the third party to maintain the secrecy of the Confidential Information.

If one party discloses Confidential Information ("Disclosing Party") to the other party to this Contract ("Receiving Party"), the Receiving Party's obligation to maintain the confidentiality of the Confidential Information will not apply where such:

(1) Was already in the possession of the Receiving Party without an obligation of confidence;
(2) Is independently developed by the Receiving Party, provided documentary evidence exists to support the independent development;
(3) Except as provided in the next paragraph, is or becomes publicly available without a breach of this Contract;
(4) Is rightfully received by the Receiving Party from a third party without an obligation of confidence;
(5) Is disclosed by the Receiving Party with the written consent of the Disclosing Party; or
(6) Is released under a valid order of a court or governmental agency, provided that the Receiving Party:

    (a) Notifies the Disclosing Party of the order immediately upon receipt of it; and
    (b) Makes a reasonable effort to obtain a protective order from the issuing court or agency limiting the disclosure and use of the Confidential Information solely for the purposes intended to be served by the original order of production.

Information that may be available publicly through other sources about people that is personal in nature, such as medical records, addresses, phone numbers, social security numbers, and similar things are nevertheless sensitive in nature and may not be disclosed or used in any manner except as expressly authorized in this Contract. Therefore, item (3) in the preceding paragraph does not apply, and the Contractor must treat such information as Confidential Information whether it is available elsewhere or not.

Except for Confidential Information that the Contractor delivers to the State and that is part of a Deliverable or necessary for the proper use or maintenance of a Deliverable, the Receiving Party must return all originals of any Confidential Information and destroy any copies it has made on termination or expiration of this Contract.

The disclosure of the Confidential Information of the Disclosing Party in a manner inconsistent with the terms of this provision may cause the Disclosing Party irreparable damage for which remedies other than

injunctive relief may be inadequate, and each Receiving Party agrees that in the event of a breach of the Receiving Party's obligations hereunder, the Disclosing Party will be entitled to temporary and permanent injunctive relief to enforce the provisions of this Contract without the necessity of proving actual damages. However, provision does not diminish or alter any right to claim and recover damages.

5.4 **USE OF NAME.** The Contractor may not publicize that it is doing business with the State or use this Contract or the Contractor's relationship with the State as a marketing or sales tool, unless the State agrees otherwise in writing. The State has no obligation to agree to any such advertising, publicity, sales, or marketing activities.

6 – TRANSACTION REPORTING

6.1 **Contractor's SALES REPORT.** The Contractor must report the quarterly dollar value (in US currency rounded to the nearest whole dollar) of the sales under this Contract each calendar quarter (i.e., January-March, April-June, July-September and October-December). The dollar value of the sales reported must equal the price paid by all State agencies and Political Subdivisions for Deliverables under this Contract during the reporting period.

The Contractor must report the quarterly dollar value of sales to the State via the Internet using the Web form at the Department of Administrative Services, OIT vendor portal, https://cm.ohio.gov. If no sales occur, the Contractor must show zero sales on the report. The report must be submitted 30 days after the completion of the reporting period.

The Contractor also must submit a closeout report within 120 days after the expiration of this Contract. The Contract expires on the physical completion of the last, outstanding task or delivery order of the Contract. The closeout report must cover all sales not shown in the final quarterly report and reconcile all errors and credits. If the Contractor reported all Contract sales and reconciled all errors and credits on the final quarterly report, then the Contractor should show zero sales in the closeout report.

If the Contractor fails to submit any sales report in a timely manner or falsifies any sales report, the State may terminate this Contract for cause.

6.2 **Contractor's REVENUE SHARE.** The Contractor must pay the State a share of the sales transacted under this Contract. The Contractor must remit the revenue share in US dollars within 30 days after the end of the quarterly reporting period. The revenue share that the Contractor must pay equals .0075 of the total quarterly sales reported. The revenue share is included in the prices reflected on Exhibit I and reflected in the total amount charged to ordering activities, and the Contractor may not add a surcharge to orders under this Contract to cover the cost of the revenue share.

The Contractor must remit any amount due as the result of a quarterly or closeout report at the time the quarterly or closeout report is submitted to the Department of Administrative Services, Office of State Purchasing. The Contractor also must pay the revenue share by check. To ensure the payment is credited properly, the Contractor must identify the check as a "Revenue Share" and include the applicable State Term Contract Number, total report amount, and reporting period covered.

The Contractor must make each check payable to "Treasurer, State of Ohio", and forward it to the following address:

Department of Administrative Services
Office of Finance
30 East Broad Street, Suite 4060
Columbus, Ohio 43215 – 3414

If the full amount of the revenue share is not paid within 30 days after the end of the applicable reporting period, the non-payment will constitute a contract debt to the State. The State may setoff any unpaid revenue share from any amount owed to the Contractor under this Contract and employ all other remedies available to it under Ohio law for the non-payment of the revenue share. Additionally, if the Contractor fails to pay the revenue share in a timely manner, the failure will be a breach of this Contract, and the State may terminate this Contract for cause and seek damages for the breach.

7 - WARRANTIES AND LIABILITIES

7.1 **WARRANTIES.** The Contractor warrants that the recommendations, guidance, and performance of the Contractor and all Deliverables under this Contract will:

(a) Be in accordance with the sound professional standards and the requirements of this Contract and without any material defects;

(b) Not infringe on the intellectual property rights of any third party;
(c) Be the work solely of the Contractor, unless otherwise provided in this Contract; and
(d) Be merchantable and fit for the particular purpose for which the Deliverables were acquired.

Additionally, with respect to the Contractor's activities under this Contract, the Contractor warrants that:

(a) The Contractor has the right to enter into this Contract;
(b) The Contractor has not entered into any other contracts or employment relationships that restrict the Contractor's ability to perform under this Contract;
(c) The Contractor will observe and abide by all applicable laws and regulations, including those of the State regarding conduct on any premises under the State's control;
(d) The Contractor has good and marketable title to any products delivered under this Contract and in which title passes to the State; and
(e) The Contractor has the right and ability to grant the license provided in any Deliverable in which title does not pass to the State.

If any work of the Contractor or any Deliverable fails to comply with these warranties, and the Contractor is so notified in writing, the Contractor must correct such failure with all due speed, not to exceed 30 days, or refund the amount of the compensation paid for the Deliverable. The Contractor also must indemnify the State for any direct damages and any claims by third parties based on any breach of these warranties.

7.2 **SOFTWARE WARRANTY.** If Exhibit I includes work to develop custom software as a Deliverable, then on delivery and for one year after the date of acceptance of any Deliverable that includes custom software, the Contractor warrants that:

(a) The software will operate on the computer(s) for which the software is intended in the manner described in the relevant software documentation;
(b) The software will be free of material defects;
(c) The Contractor will deliver and maintain relevant and complete software documentation, commentary, and source code;
(d) The source code language used to code the software is readily available in the commercial market, widely used and accepted for the type of programming involved, and support programming in the language is reasonably available in the open market; and
(e) The software and all maintenance will be provided in a professional, timely, and efficient manner.

For Commercial Software developed by the Contractor or licensed from a third party, the Contractor represents and warrants that it either has the right or has obtained a binding commitment from the third party licensor to make the following warranties and commit to the following maintenance obligations. During the warranty period described in the next paragraph, the Contractor must:

(a) Maintain or cause the third-party licensor to maintain the Commercial Software so that it operates in the manner described in its documentation;
(b) Supply technical bulletins and updated user guides;
(c) Supply the State with all updates, improvements, enhancements, and modifications to the Commercial Software and documentation and, if available, the commentary and the source code;
(d) Correct or replace the software and remedy any material programming error that is attributable to the Contractor or the third-party licensor; and
(e) Maintain or obtain a commitment from the third-party licensor to maintain the Commercial Software so that it will properly operate in conjunction with changes in the operating environment for which it was designed.

For Commercial Software designed for mainframe platforms and for Commercial Software designed for PC or PC-based servers and costing more than $10,000.00 per license or per copy, the warranty period will be the longer of one year after acceptance or the licensor's standard warranty period. For Commercial Software designed for PC or PC-based servers and costing less than $10,000.00 per license or per copy, the warranty period will be the longer of three months after acceptance or the licensor's standard warranty period. For PC and PC-based servers, the warranty will not include updates, improvements, enhancements, or modifications to the Commercial Software and documentation, if such are not provided as part of the licensor's standard warranty or license fee.

Software documentation means well written, readily understood, clear, and concise instructions for the software's users as well as a system administrator. The software documentation must provide the users of the software with meaningful instructions on how to take full advantage of all of the capabilities designed for end users. It also means installation and system administration documentation for a system administrator to allow proper control, configuration, and management of the software. Source code means the uncompiled operating instructions. The Contractor must provide the source code in the language in which it was written and must include such commentary or annotations as would allow a competent programmer proficient in the source language to readily

interpret the source code and understand the purpose of all routines and subroutines contained within the source code.

7.3 **EQUIPMENT WARRANTY.** If any computer hardware or other type of electrical equipment ("Equipment") will be a part of any Deliverable, the following warranties apply. The Contractor warrants that the Equipment fully complies with all government environmental and safety standards applicable to the Equipment. The Contractor also warrants for the warranty period described in the next paragraph that the Equipment will perform substantially in accordance with its user manuals, technical materials, and related writings published by the manufacturer with respect to such Equipment, and that such Equipment will achieve any function described in such writings. The foregoing warranty will not apply to Equipment that the State modifies or damages after title passes to it. The warranty period for all Equipment will be the longer of one year after the State accepts the Equipment or the Contractor's standard warranty period.

If any Equipment does not meet the above warranties during the applicable warranty period, the Contractor must fix the nonconforming Equipment so it performs substantially in accordance with its user manuals, technical materials, and related publications, replace the Equipment, or grant the State a refund equal to the amount it paid for the Equipment. The Contractor must either fix or replace the Equipment or refund the purchase price to the State with all due speed, not to exceed seven days in the case of a fix or a replacement or 30 days in the case of a refund. The Contractor will be responsible for all shipping costs associate with fixing, replacing, or returning any defective equipment.

7.4 **INDEMNITY.** The Contractor must indemnify the State against all liability or expense resulting from bodily injury to any person (including injury resulting in death) or damage to property arising out of its performance under this Contract, provided such bodily injury or property damage is due to the negligence or other tortious conduct of the Contractor, its employees, agents, or subcontractors. The Contractor also must indemnify the State against any claim of infringement of a copyright, patent, trade secret, or other intellectual property rights based on the State's proper use of any Deliverable under this Contract. This obligation of indemnification will not apply where the State has modified the Deliverable and the claim of infringement is based on the modification. The State will give the Contractor notice of any such claim as soon as reasonably practicable. If a successful claim of infringement is made, or if the Contractor reasonably believes that an infringement claim that is pending may actually succeed, the Contractor will do one of the following four things:

(a) Modify the Deliverable so that it is no longer infringing;
(b) Replace the Deliverable with an equivalent or better item;
(c) Acquire the right for the State to use the Deliverable as it was intended for the State to use under this Contract; or
(d) Remove the Deliverable and refund the fee the State paid for the Deliverable and the fee for any other Deliverable that required the availability of the infringing Deliverable for it to be useful to the State.

7.5 **LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS CONTRACT OR ANYTHING INCORPORATED BY REFERENCE INTO THIS CONTRACT, THE PARTIES AGREE AS FOLLOWS:

(a) NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOST PROFITS, EVEN IF THE PARTIES HAVE BEEN ADVISED, KNEW, OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

(b) THE CONTRACTOR WILL BE LIABLE FOR ALL DIRECT DAMAGES DUE TO THE FAULT OR NEGLIGENCE OF THE CONTRACTOR OR ITS BREACH OF ANY PROVISION OF THIS CONTRACT.

8 - MAINTENANCE

8.1 **SOFTWARE MAINTENANCE.** If this Contract involves any custom software as a Deliverable, then during the warranty period, the Contractor must correct any material programming errors that are attributable to the Contractor within a reasonable time, provided the State notifies the Contractor, either orally or in writing, of a problem with the software and provides sufficient information to identify the problem. The Contractor's response to a programming error will depend upon the severity of the problem. In the case of programming errors that slow the processing of data by a small degree, render minor and non-critical functions of the System inoperable or unstable, or require users or administrations to employ workarounds to fully use the software, the Contractor must respond to requests for resolution within four business hours and begin working on a proper solution within one business day, dedicating the resources of one qualified programmer full-time to fixing the problem. In the case of any defects with more significant consequences, including those that render key functions of the software inoperable or significantly slow data processing, the Contractor must respond within two business hours of notification and, if requested, provide on-site assistance and dedicate all available resources to resolving the problem.
For Commercial Software other than PC or PC-based server software costing less than $10,000.00 per copy or license, the Contractor must provide maintenance during the warranty period at no cost to the State. At a minimum, that maintenance must be the standard maintenance program that the licensor, whether the Contractor or a third party, normally provides to its client base. That maintenance program must include all new releases, updates, patches, and fixes to the Commercial Software. It also must include a commitment to keep the software current with the operating environment in which it is designed to function and a commitment to promptly correct all material defects in the software.

Additionally, the Contractor will make (or obtain a commitment from the third-party licensor to make) maintenance available for the software for at least five years after the warranty period. If the licensor, whether it is the Contractor or a third-party, is unable to provide maintenance during that period, then the licensor must do one of the following things: (a) give the State a *pro rata* refund of the license fee based on a five-year useful life; or (b) release the source code for the software to the State for use by the State solely for the purpose of maintaining any copies of the software for which the State has a proper license. The State will treat the source code as Confidential Information under the Confidentiality Section of this Contract. In the case of third-party Commercial Software, the Contractor warrants that it has legally bound the third-party licensor to the obligations of this Contract or that the Contractor has the right to make these commitments directly to the State.

For Commercial Software designed for PC or PC-based server platforms and costing less than $10,000.00 per copy or license, the Contractor must provide the same maintenance and user assistance during the warranty period at no additional cost to the State as the Contractor or the third-party licensor makes generally available at no additional charge to its other customers.

8.2 **SOFTWARE UPGRADES.** After an initial acquisition of a license in Commercial Software, the State may want to acquire a broader license than the original. Or the State may later want to migrate to another platform for the Commercial Software. When the Contractor or third-party licensor make the broader license generally available to its customer base or makes the version of the Commercial Software that runs on the new platform to which the State wants to migrate, then the State will have a right to upgrade any of its licenses to that broader license or to acquire the version of the Software that is appropriate for the new platform that the State intends to use. In these cases, the Contractor will provide the broader license or other version of the Commercial Software in exchange for a license fee that is based on the lesser of the following:

(a) The Contractor's (or third party licensor's) standard upgrade or migration fee;
(b) The upgrade or migration fee in Exhibit I; or
(c) The difference between the license fee originally paid and the then-current license fee for the license or version of the Commercial Software that the State seeks to acquire.

The foregoing will not apply to Commercial Software for PCs and PC-based server software with a license fee of less than $10,000.00, unless the Contractor or third-party licensor makes upgrade packages available for the Commercial Software to other customers. If PC or PC-based server software upgrades are available, the State will be entitled to the most favorable license fee on which such are made available to other most favored customers or dealers, as appropriate.

8.3 **EQUIPMENT MAINTENANCE.** If this Contract involves computer or telecommunications hardware or other mechanical or electrical equipment ("Equipment") as a Deliverable, then, during the warranty period and during any period covered by annual maintenance, the Contractor must provide maintenance to keep the Equipment in or restore the Equipment to good working order. This maintenance must include preventative and remedial maintenance, installation of safety changes, and installation of engineering changes based upon the specific needs of the individual item of Equipment. This maintenance also must include the repair, replacement, or exchange deemed necessary to keep the Equipment in good working order. For purposes of this Contract, Equipment restored to good working order means Equipment that performs in accordance with the manufacturer's published

specifications. The Contractor must use its best efforts to perform all fault isolation and problem determination attributed to the Equipment. The following services are outside the scope of this Contract:

(a) Maintenance to bring the Equipment into compliance with any law, rule, or regulation, if such law, rule, or regulation was not in effect on the acceptance date;

(b) Repair and replacement work or increase in maintenance time as a result of damage or loss resulting from accident, casualty, neglect, misuse, or abuse, if such is the State's fault (and beyond normal wear and tear), damage resulting from improper packing or failure to follow prescribed shipping instruction (If such is done by the State), failure of electrical power, air conditioning or humidity control, use of supplies not approved by the original manufacturer of the Equipment as describe in the Equipment's documentation, or causes other than ordinary use of Equipment;

(c) Furnishing platens, supplies, or accessories, making specification changes, or adding or removing approved accessories, attachments, or other devices except as permitted in the Equipment's user documentation;

(d) Maintenance or increased maintenance time resulting from any improper use, maintenance, or connection to other equipment (not done by the Contractor) that results in damage to the Equipment;

(e) Repairs needed to restore the Equipment to good operating condition if the Equipment has been damaged by anyone other than the Contractor's authorized service personnel repairing, modifying, or performing maintenance on the Equipment.

8.4 **Equipment Maintenance Standards.** Except in the case of excusable delay, remedial Equipment maintenance by the Contractor will be completed within eight business hours after notification by the State that maintenance is required. In the case of preventative maintenance, the Contractor will perform such in accordance with the manufacturer's published schedule and specifications. If maintenance is not completed within eight hours after notification by the State, the Contractor will be in default. Failure of the Contractor to meet or maintain these requirements will provide the State with the same rights and remedies as specified elsewhere in this Contract for default, except that the Contractor will only have eight hours to remedy a default. The Contractor will provide adequate staff to provide the maintenance required by this Contract.

8.5 **Equipment Maintenance Continuity.** If the Contractor is unable to provide Equipment maintenance to meet the State's ongoing performance requirements and if, in the State's sole opinion, the Contractor is unlikely to resume providing warranty services that meets the State's ongoing performance requirement, the Contractor will be in default, and the State will be entitled to the remedies in the default section of this Contract. The State will also be entitled to the following items from the Contractor:

(a) All information necessary for the State to perform the maintenance, including but not limited to logic diagrams, maintenance manuals, and system and unit schematics, with all changes noted;

(b) A listing of suppliers capable of supplying necessary spare parts;

(c) Adequate information to permit the State to have spare parts manufactured elsewhere; and

(d) A listing of spare parts and their recommended replacement schedule to enable the State to create a centralized inventory of spare parts.

The State will treat as Confidential Information in accordance with the Confidentiality Section of this Contract any information in items (a) through (d) above that the Contractor rightfully identifies in writing as confidential. And when disclosure to a third-party is necessary for the State to continue the maintenance, the State will require any third-party to whom disclosure is made to agree to hold the Confidential Information in confidence and to make no further disclosure of it. Further, the State agrees that any such Confidential Information will be used solely to perform maintenance for the State and will be returned to the Contractor or destroyed when such use is no longer needed.

8.6 **Principal Period of Maintenance (General).** Software and Equipment maintenance must be available nine working hours per weekday, between 8:00 a.m. and 5:00 p.m. Eastern Standard Time. Travel time and expenses related to remedial and preventative maintenance will not be billable and must be included in the price of the maintenance.

8.7 **Maintenance Access (General).** For all Software and Equipment maintenance under this Contract, the State will provide the Contractor with reasonable access to the Deliverable to perform maintenance. All maintenance that requires a Deliverable to be inoperable must be performed outside the State's customary working hours, except when the Deliverable is already inoperable. Preventative or scheduled maintenance must be performed at mutually agreeable times, within the parameters of the manufacturer's published schedule.

9 - Assignment and Subcontracting

9.1 **Assignment.** The Contractor may not assign this Contract without the written consent of the State, which the State will not be obligated to provide.

9.2 SUBCONTRACTING. The State recognizes that it may be necessary for the Contractor to use subcontractors to perform portions of the work under this Contract. In those circumstances, before the Contractor engages any such subcontractor, the Contractor must submit a list identifying its subcontractors or joint venture partners performing portions of the work under the Contract. If any changes to that list occur during the term of the Contract, the Contractor must immediately provide the State an updated list of subcontractors or joint venture business partners. In addition, all subcontractors and joint venture business partners must agree in writing to be bound by all of the terms and conditions of this Contract and any specifications of any order under this Contract for which they perform work. The State may reject any subcontractor submitted by the Contractor.

10 – CONSTRUCTION

10.1 HEADINGS. The headings used in this Contract are for convenience only and may not be used in interpreting this Contract.

10.2 ENTIRE DOCUMENT. This Contract, which includes the Contractor's pricelist attached as Exhibit I and all documents referred to in this Contract, constitutes the entire agreement between the parties with respect to the subject matter and supersedes any previous agreements, whether oral or written.

10.3 BINDING EFFECT. This Contract will be binding on and benefit the respective successors and assigns of the State and the Contractor.

10.4 AMENDMENTS – WAIVER. No amendment or modification of this Contract will be effective unless it is in writing and signed by both parties. The failure of either party at any time to demand strict performance by the other party of any of the terms or conditions of this Contract may not be construed as a waiver of any those terms or conditions, and either party may at any time demand strict and complete performance by the other party.

10.5 SEVERABILITY. If a court of competent jurisdiction finds any provision of this Contract to be unenforceable, the remaining provisions of this Contract will remain in full force and affect.

10.6 CONSTRUCTION. This Contract must be construed in accordance with the plain meaning of its language and neither for nor against the drafting party.

10.7 NOTICES. For any notice under this Contract to be effective, the noticing party must make it in writing and sent it to the address of the other party first appearing above, unless that party has notified the other party, in writing and in accordance with the provisions of this section, of a new mailing address for the receipt of notices. This notice requirement will not apply to any notices that this Contract expressly authorizes to be made orally.

10.8 CONTINUING OBLIGATIONS. Any terms, conditions, representations, or warranties contained in this Contract that must survive termination or expiration of this Contract to be fully effective will survive the termination or expiration of the Contract. Additionally, termination or expiration of this Contract will not affect the State's right to continue to use any Deliverable for which it has paid, including licensed material. And no termination or expiration of the Contract will affect the State's right to receive maintenance, warranty work, or other services for which the State has paid.

10.9 PRIORITY. If there is any inconsistency or conflict between this document and any provision of anything incorporated by reference, this document will prevail.

10.10 DAYS. When this Contract refers to days, it means calendar days, unless it expressly provides otherwise.

11 - LAW AND COURTS

11.1 EEO. The Contractor must comply with all Ohio laws regarding equal employment opportunity, including among others Code § 125.111, as well as all related Executive Orders of the Governor of Ohio.

11.2 DRUG FREE WORKPLACE. The Contractor must comply with all Ohio laws regarding maintaining a drug-free workplace and make a good faith effort to ensure that all its employees do not possess and are not under influence of illegal drugs or alcohol or abuse prescription drugs while working on State property.

11.3 OHIO ETHICS LAW AND LIMITS ON POLITICAL CONTRIBUTIONS. The Contractor certifies that it is currently in compliance and will continue to adhere to the requirements of the Ohio ethics laws. In accordance with Executive Order 2007-01S, the Contractor, by signature on this document, certifies: (1) it has reviewed and understands Executive Order 2007-01S, (2) has reviewed and understands the Ohio ethics and conflicts of interest laws, and (3) will take no action inconsistent with those laws and this order. The Contractor understands that failure to comply with Executive Order 2007-01S is, in itself, grounds for termination of this Contract and may result in the

loss of other contracts or grants with the State. The Contractor hereby certifies that all applicable parties listed in Division (I)(3) or (J)(3) of Ohio Revised Code Section 3517.13 are in full compliance with Divisions (I)(1) and (J)(1) of Ohio Revised Code Section 3517.13.

11.4 **SECURITY & SAFETY RULES.** When using or possessing State data or accessing State networks and systems, the Contractor must comply with all applicable State rules, policies, and regulations regarding data security and integrity. And when on any property owned or controlled by the State, the Contractor must comply with all security and safety rules, regulations, and policies applicable to people on those premises.

11.5 **LAW AND VENUE.** This Contract is governed by and will be construed under Ohio law, and venue for all disputes will lie exclusively with the appropriate court in Franklin County, Ohio.

11.6 **UNRESOLVED FINDINGS.** The Contractor represents that it is not subject to an unresolved finding for recovery under Code § 9.24. If this warranty proves false when the parties sign this Contract, the Contract will be void. Additionally, if this representation proves false on the date of any renewal or extension of the Contract, the renewal or extension will be void.

11.7 **TERROR DECLARATION.** In accordance with R.C. 2909.33(C), Contractor certifies that it meets one of the following conditions:

(a) Contractor has **not** received, nor will receive as a result of this contract, an aggregate amount greater than one hundred thousand dollars ($100,000) in business or funding, excluding personal benefits, from the state, instrumentalities, or political subdivisions during the current fiscal year;
or

(b) (1) Contractor has received, or will receive as a result of this contract, an aggregate amount greater than one hundred thousand dollars ($100,000) in business or funding, excluding personal benefits, from the state, instrumentalities, or political subdivisions during the current fiscal year.
and,

(2) Contractor has either precertified with the Office of Budget and Management, or has completed the attached Declaration of Material Assistance form certifying that Contractor has not provided material assistance to any organization on the Terrorist Exclusion List, as that term is defined in R.C. 2909.21.

11.7 **ANTITRUST.** The State and the Contractor recognize that, in actual economic practice, overcharges resulting from antitrust violations are usually borne by the State. The Contractor therefore assigns to the State all state and federal antitrust claims and causes of action that the Contractor has or acquires relating to the goods and services acquired under this Contract.

TO SHOW THEIR AGREEMENT, the parties have executed this Contract on the date(s) identified below, and this Contract will be effective as of the date it is signed on behalf of the State.

CONTRACTOR

BY: _____

DATE: 8/10/09

STATE OF OHIO,
DEPARTMENT OF ADMINISTRATIVE SERVICES
OFFICE OF STATE PURCHASING

BY: _____
HUGH QUILL, DIRECTOR,
DEPARTMENT OF ADMINISTRATIVE SERVICES

DATE: 8-19-09

Price List:

SIN 874 9: Computer Training Devices

Meridian offers various computer training items in a variety of packages and options. We offer software products, online courses, web server hosting services for online training materials, as well as customized products and services. Customers may select items from the following list either as individual items or as groups of items.

Item Number MKSI-001 Meridian Knowledge Centre™

Product Description:

The Meridian Knowledge Centre™ combines the functionality of a robust Learning Management System (LMS) and a Knowledge Management system. This SCORM certified and Section 508 compliant infrastructure provides support for online learning, classroom offerings, and blended learning for organizations of any size. The Knowledge Centre has proven scalability in enterprise implementations and within highly secure network environments.

Item Number	Product Name	Unit Cost	Unit of Issue	Discount
MKSI-001A	Meridian Knowledge Centre ™ - Limited User License (Maximum of 1,000 registered users, single branded site)	$45,000	Each License	0.5% discount for purchases of 1-4, 5% discount for purchasing 5 or more
MKSI-001B	Meridian Knowledge Centre ™ - Limited User License (Maximum of 2,500 registered users, single branded site)	$65,000	Each License	0.5% discount for purchases of 1-4, 5% discount for purchasing 5 or more
MKSI-001C	Meridian Knowledge Centre ™ - Limited User License (<5,000 registered users, single branded site)	$95,000	Each License	0.5% discount for purchases of 1-4, 5% discount for purchasing 5 or more
MKSI-001D	Meridian Knowledge Centre ™ - Limited User License (<10,000 registered users, single branded site) (includes Competency Management Suite)	$150,000	Each License	0.5% discount for purchases of 1-4, 5% discount for

Item Number	Product Name	Unit Cost	Unit of Issue	Discount
				purchasing 5 or more
MKSI-001E	Meridian Knowledge Centre ™ - Limited User License (<20,000 registered users, single branded site) (includes Competency Management Suite)	$220,000	Each License	0.5% discount for purchases of 1-4, 5% discount for purchasing 5 or more

Item Number	Product Name	Unit Cost	Unit of Issue	Discount
MKSI-001F	Meridian Knowledge Centre ™ - Limited User License (<35,000 registered users, single branded site) (includes Competency Management Suite)	$300,000	Each License	0.5% discount for purchases of 1-4, 5% discount for purchasing 5 or more
MKSI-001G	Meridian Knowledge Centre ™ - Limited User License (<50,000 registered users, single branded site) (includes Competency Management Suite)	$390,000	Each License	0.5% discount for purchases of 1-4, 5% discount for purchasing 5 or more
MKSI-001H	Meridian Knowledge Centre ™ - Limited User License (<100,000 registered users, single branded site) (includes Competency Management Suite)	$490,000	Each License	0.5% discount for purchases of 1-4, 5% discount for purchasing 5 or more
MKSI-001I	Meridian Knowledge Centre ™ - Limited User License Expansion above 100,000 registered users (requires purchase of MKSI-001G)	$1,000	Per 1,000 users	0.5% discount for purchases of 1-4, 5% discount for purchasing 5 or more

Item Number MKSI-001J Meridian Knowledge Centre™ Derivative License

Product Description:
The Meridian Knowledge Centre™ Derivative License allows an organization to create another unique campus of the Knowledge Centre while still sharing the consolidated database. The result is a uniquely branded site that leverages the content holdings of the primary site while delivering central reporting from each site. Note: Derivative site registered users count in the total registered users for calculating Knowledge Centre license options (MKSI-001A through MKSI-001I)

Item Number	Product Name	Unit Cost	Unit of Issue	Discount
MKSI-001J	Knowledge Centre Derivative License (requires purchase of MKSI-001A, B, C, D, E, F, G or H)	$40,000	Each Branded Site	0.5% discount for purchases of 1-4, 5% discount for purchasing

Item Number	Product Name	Unit Cost	Unit of Issue	Discount
				5 or more

Item Number MKSI-001K Meridian Knowledge Centre™ Domain Manager

Item Number	Product Name	Unit Cost	Unit of Issue	Discount
MKSI-001K	Domain Manager (requires purchase of MKSI-001A, B, C, D, E, F, G or H) required to establish multiple domains within a Knowledge Centre implementation, allows uniquely branded interface for each domain.	$30,000	Each License	0.5% discount for purchases of 1-4, 5% discount for purchasing 5 or more

Item Number MKSI-002 Meridian Knowledge Centre™ Competency Management Suite

Product Description:

The Meridian Knowledge Centre™ Competency Management Suite is a robust add-on module for the Meridian Knowledge Centre that delivers proficiency assessments (up to 360 degree assessments), skills gap analysis, individual development planning, and talent management capabilities.

Note: This item must be purchased in conjunction with MKSI-001A, or B.

Item Number	Product Name	Unit Cost	Unit of Issue	Discount
MKSI-002	Meridian Knowledge Centre™ Competency Management Suite License (requires purchase of MKSI-001A or MKSI-001B)(included in items MKSI-001C through MKSI-001H	$20,000	Each License	0.5% discount for purchases of 1-4, 5% discount for purchasing 5 or more

Item Number MKSI-004 Integration and Professional Services

Product Description:
Systems integration, installation, testing and validation support as well as product customization support necessary to tailor the Meridian Knowledge Centre™ for organization specific requirements.

Item Number	Product Name	Unit Cost	Unit of Issue	Discount
MKSI-004	Meridian Knowledge Centre™ Integration and Professional Services	Direct Labor Rates	Per Hour	10% for over 4,000 labor hours

Item Number MKSI-005 Software Maintenance Agreement

Product Description:

Knowledge Centre, Domain Manager and Competency Management Suite Annual Maintenance Agreement – includes all service packs and new releases for one year and Site Administrator Support – Help Desk support (Monday – Friday, 9:00 AM till 6:00 PM EST) for 5 named administrators.
Note: This item must be purchased in conjunction with MKSI-001 or MKSI-002.

Item Number	Product Name	Unit Cost	Unit of Issue	Discount
MKSI-005	Annual Software Maintenance Agreement	19% of current STS license cost	Per License, Per Annum	0.50% discount for purchases of 1-4, 5% discount for purchasing 5 or more.

Item Number MKSI-006 Site Administration Training

Product Description:

Training for Site Administrators to prepare them for their role managing the Knowledge Centre. Training includes all references, hand outs, and class materials for up to 15 participants.

Item Number	Product Name	Unit Cost	Unit of Issue	Discount
MKSI-006A	Knowledge Centre Site Administration Training – First day	$4,000	First Day	0.50% discount for purchases of 1-4, 5% discount for purchasing 5 or more.
MKSI-006B	Knowledge Centre Site Administration Training – each additional day	$2,000	Per Day, each additional day	0.50% discount for purchases of 1-4, 5% discount for purchasing 5 or more.
MKSI-006C	Knowledge Centre Site Administration Training – Standard Product training at Meridian site (scheduled offering)	$695.00	Per Attendee	0.50% discount for purchases of 1-4, 5% discount for purchasing 5 or more.

Item Number MKSI-007 Meridian Anywhere Software License

Product Description:

The Meridian Anywhere offers *offline access to online courseware* for users with limited or no web access, allowing them to play and track SCORM conformant courses offline and then sync to a central LMS. It's a desktop application acting as a *mobile learning management system*, launching and tracking user progress for SCORM conformant content accessed from any source: CD, LAN connection or downloaded from the organization's LMS or another online source. The application synchronizes student data with the LMS via web communications or other file transfer media, allowing you to maintain centralized student records for all users in one place.

Item Number	Product Name	Unit Cost	Unit of Issue	Discount
MKSI-007A	Meridian Anywhere – Single user license	$129.00	Per License	0.50% Discount
MKSI-007B	Meridian Anywhere – 500 User License	$15,000	Per 500 Users	0.50% Discount
MKSI-007C	Meridian Anywhere – 1,000 User License	$20,000	Per 1,000 Users	0.50% Discount
MKSI-007D	Meridian Anywhere – 2,500 User License	$25,000	Per 2,500 Users	0.50% Discount
MKSI-007E	Meridian Anywhere – 5,000 User License	$45,000	Per 5,000 Users	0.50% Discount

Item Number	Product Name	Unit Cost	Unit of Issue	Discount
MKSI-007F	Meridian Anywhere – 10,000 User License	$80,000	Per 10,000 Users	0.50% Discount
MKSI-007G	Meridian Anywhere – 20,000 User License	$125,000	Per 20,000 Users	0.50% Discount
MKSI-007H	Meridian Anywhere – 35,000 User License	$165,000	Per 35,000 Users	0.50% Discount
MKSI-007I	Meridian Anywhere – 50,000 User License	$200,000	Per 50,000 Users	0.50% Discount
MKSI-007J	Meridian Anywhere – 100,000 User License	$300,000	Per 100,000 Users	0.50% Discount
MKSI-007K	Meridian Anywhere – Enterprise License	$300,000 + $1.50 per user over 100,000 users	Per License	0.50% Discount

Item Number MKSI-008 Enterprise Learning Workshop

Product Description:

The Meridian executives lead a tailored two-day workshop on the strategic implementation of learning technologies, learning management systems, competency modeling, and leveraging knowledge management within your organization's learning framework.

Item Number	Product Name	Unit Cost	Unit of Issue	Discount
MKSI-008	Enterprise Learning Workshop (Two-day)	$6,000	Each	0.50% discount for purchases of 1-4, 5% discount for purchasing 5 or more.

Item Number MKSI-009 Meridian Content Manager

Item Number	Product Name	Unit Cost	Unit of Issue	Discount
MKSI-009	Meridian Content Manager – Enterprise License	$50,000	Per License	0.50% discount for purchases of 1-4, 5% discount for purchasing 5

Item Number	Product Name	Unit Cost	Unit of Issue	Discount
				or more.

Item Number MKSI-010 Meridian Collaboration Space

Item Number	Product Name	Unit Cost	Unit of Issue	Discount
MKSI-010	Meridian Collaboration Space – Enterprise License	$27,500	one time cost	0.50% discount for purchases of 1-4, 5% discount for purchasing 5 or more.

Item Number MKSI-011 Meridian Assessment Center

Item Number	Product Name	Unit Cost	Unit of Issue	Discount
MKSI-011	Meridian Assessment Center – Enterprise License	$7,500	One time cost	0.50% discount for purchases of 1-4, 5% discount for purchasing 5 or more.

Item Number MKSI-012 Competency Modeling and Talent Management Consulting

Item Number	Product Name	Unit Cost	Unit of Issue	Discount
MKSI-012	Competency Modeling and Talent Management Consulting	Direct Labor Rates	Hour	0.50% discount for purchases of 1-4, 5% discount for purchasing 5 or more.

SIN 874 4: Development & Revision of Course Materials

The following items include custom courseware and content development to include courseware offered through the FAI OnLine University (http://www.faionline.com). For a detailed description and examples implementation of the following options, see the FAI OnLine University Courseware Customization example portion of this Price List.

Item Number	Product Name	Unit Cost	Unit of Issue	Discount
27-500-01	COR Mentor On-line Training Path Integration - internal hosting	$12,031	Each	0.5% discount for purchases of 1-2, 5% discount for purchasing 3 or more.
27-500-02	COR Mentor On-line Training Path Integration - external hosting	$21,315	Each	0.5% discount for purchases of 1-2, 5% discount for purchasing 3 or more.
27-500-03	Custom Courseware Design and Content Development	Direct Labor Rates	Hour	10% for over 4,000 labor hours
27-500-04	SCORM & Section 508 Courseware Conversion	Direct Labor Rates	Hour	10% for over 4,000 labor hours
27-500-05	Performance Roadmap Development	Direct Labor Rates	Hour	10% for over 4,000 labor hours

Direct Labor: Meridian offers consulting, courseware conversion, course development and integration support on a time and materials basis using the following Direct Labor rates. These services are also available in conjunction with our product offering on a Firm Fixed Price basis (FFP).

Meridian Direct Labor Rates	Rate	LC Code
Administrative Assistant	$42.08	DLR-AA
Application Developer I	$96.16	DLR-ADI
Application Developer II	$122.88	DLR-ADII
Application Developer III	$150.86	DLR-ADIII
Application Architect I	$132.46	DLR-AARI
Application Architect II	$151.70	DLR-AARII
Application Architect III	$170.95	DLR-AARIII
Computer Systems Analyst I	$53.30	DLR-CSAI
Computer Systems Analyst II	$77.14	DLR-CSAII
Computer Systems Analyst III	$115.01	DLR-CSAIII
Creative Media Specialist	$63.11	DLR-CMS

Director I	$154.61	DLR-DI
Director II	$173.53	DLR-DII
Director III	$208.24	DLR-DIII
Instructional Designer I	$53.30	DLR-IDI
Meridian Direct Labor Rates	**Rate**	**LC Code**
Instructional Designer II	$75.74	DLR-IDII
Instructional Designer III	$91.16	DLR-IDIII
Instructional Technologist I	$89.28	DLR-ITI
Instructional Technologist II	$110.25	DLR-ITII
Instructional Technologist III	$156.45	DLR-ITIII
Knowledge Management Consultant I	$77.47	DLR-KMCI
Knowledge Management Consultant II	$93.49	DLR-KMCII
Knowledge Management Consultant III	$133.57	DLR-KMCIII
Principal Systems Engineer/Architect	$129.03	DLR-PSE/A
Project Manager I	$107.49	DLR-PMI
Project Manager II	$120.51	DLR-PMII
Project Manager III	$144.61	DLR-PMIII
QA/QC Specialist I	$63.11	DLR-QCI
QA/QC Specialist II	$99.75	DLR-QCII
QA/QC Specialist III	$129.67	DLR-QCIII
Software Testing Engineering	$94.50	DLR-STE
Software Trainer	$89.25	DLR-STNG
Sr. Documentation Specialist	$106.85	DLR-SDS
Sr. Quality Analyst	$156.45	DLR-QA
Strategic HR Consultant	$426.87	DLR-SHRC
Strategic Implementation Consultant I	$173.60	DLR-SICI
Strategic Implementation Consultant II	$207.90	DLR-SICII
Strategic Implementation Consultant III	$262.50	DLR-SICIII
Web Designer I	$60.10	DLR-WDI
Web Designer II	$73.46	DLR-WDII
Web Designer III	$86.82	DLR-WDIII
SME / Instructor	$133.57	DLR-SI

Direct Labor Category Descriptions

Title	Responsibility	Education & Experience
Administrative Assistant	Administrative support	1 year of experience with a HS degree or equivalent
Application Developer I	software application development with supervision	Bachelor's degree or 2 years of experience
Application Developer II	Software application development	Bachelor's degree and 2 years experience or 4 years of experience
Application Developer III	Complex software application development	Advanced degree and 3 years of experience or 6 years of experience

Application Architect I	Software architecture design	Bachelor's degree or 2 years of experience
Application Architect II	Complex software architecture design	Advanced degree or 6 years of experience
Application Architect III	Complex and large scale software architecture design and systems integration design	Advanced degree and 4 years of experience or 8 years of experience
Computer Systems Analyst I	Support systems integration and implementation analysis	Bachelor's degree or 2 years of experience
Computer Systems Analyst II	Systems integration and implementation analysis	Bachelor's degree and 2 years experience or 4 years of experience
Computer Systems Analyst III	Complex or large scale systems integration and implementation analysis	Advanced degree or 8 years of experience
Creative Media Specialist	Web Media development and tool selection	Bachelor's degree and 2 years experience or 4 years of experience
Director I	Manage multiple system implementation projects and programs	Advanced degree and 4 years of experience or Bachelor's degree and 8 years of experience
Director II	Manage multiple complex system implementation projects and programs	Advanced degree and 7 years of experience or Bachelor's degree and 10 years of experience
Director III	Manage multiple complex and large scale system implementation projects and programs	Advanced degree and 10 years of experience or Bachelor's degree and 15 years of experience
Instructional Designer I	Develop content outlines and storyboards within an established instructional strategy	Bachelor's degree or 2 years of experience
Title	**Responsibility**	**Education & Experience**
Instructional Designer II	Develop instructional strategies at the course level and associated content outlines and storyboards	Bachelor's degree and 2 years experience or 4 years of experience
Instructional Designer III	Develop instructional strategies and learning interventions	Advanced degree and 4 years experience or 8 years of experience
Instructional Technologist I	Implement learning technologies to support instructional strategies	Bachelor's degree or 2 years of experience
Instructional Technologist II	Select and implement learning technologies to support instructional strategies	Bachelor's degree and 2 years experience or 4 years of experience
Instructional Technologist III	Select and implement learning technologies for complex or advanced programs	Advanced degree and 4 years experience or 8 years of experience

Knowledge Management Consultant I	Knowledge management consulting within an established KM strategy	Bachelor's degree and 2 years experience or 4 years of experience
Knowledge Management Consultant II	Advanced knowledge management consultin within an established KM strategy	Bachelor's degree and 4 years experience or 7 years of experience
Knowledge Management Consultant III	Knowledge management strategy development and implementation	Advanced degree and 4 years experience or 8 years of experience
Principal Systems Engineer/Architect	MIS analysis lead for systems integration and implementation analysis	Advanced degree and 3 years experience or 7 years of experience
Project Manager I	Project management for established or smaller projects	Bachelor's degree and 2 years experience or 4 years of experience
Project Manager II	Project management for sytems implementation with management responsibility for the system lifecycle	Advanced degree and 2 years experience or 6 years of experience
Project Manager III	Advanced project management in complex projects	Advanced degree and 4 years experience or 8 years of experience
QA/QC Specialist I	Quality control reviews of software and/or documentation	Bachelor's degree or 2 years of experience
QA/QC Specialist II	Quality control reviews of large scale or complex software and/or documentation	Bachelor's degree and 2 years experience or 4 years of experience
QA/QC Specialist III	Manage quality control reviews and supvervise QA specialists	Bachelor's degree and 4 years experience or 7 years of experience

Title	Responsibility	Education & Experience
Software Testing Engineering	Develop and implement test scripts for software testing.	Bachelor's degree and 2 years experience or 4 years of experience
Software Trainer	Train software applications to system administrators and end users	Bachelor's degree and 2 years experience or 4 years of experience
Sr. Documentation Specialist	Develop software documentation for system administration and end user manuals	Bachelor's degree and 4 years experience or 7 years of experience
Sr. Quality Analyst	Quality assurance for projects and programs	Bachelor's degree and 6 years experience or 10 years of experience
Strategic HR Consultant	Strategic consulting for the successful implementation of complex HR systems and related processes	Advanced degree and 15 years of experience or Bachelor's degree and 20 years of experience
Strategic Implementation Consultant I	Strategic consulting for the successful implementation of learning and knowledge management systems and related processes	Advanced degree and 4 years of system implementation management experience or Bachelor's degree and 8 years of experience
Strategic Implementation Consultant II	Strategic consulting for the successful selection and implementation of learning and knowledge management systems and related processes	Advanced degree and 7 years of system implementation management experience or Bachelor's degree and 10 years of experience
Strategic Implementation Consultant III	Strategic consulting for the successful selection and implementation of learning and knowledge management systems and related processes in large or complex organizations	Bachelor's degree or 2 years of experience
Web Designer I	Web site design	Bachelor's degree or 2 years of experience
Web Designer II	Web site design and online courseware development in HTML	Bachelor's degree and 2 years experience or 4 years of experience
Web Designer III	Web site design and online courseware development in HTML and other interactive media	Bachelor's degree and 4 years experience or 6 years of experience
SME / Instructor	Provide subject matter expertise in a given functional area for the development of online learning or the development and delivery within a traditional instructional environment.	Specialized education and experience within a given functional area

Exhibit II

SOFTWARE LICENSE AGREEMENT
GENERAL TERMS AND CONDITIONS

BY USING THIS SOFTWARE, YOU ARE CONSENTING TO BE BOUND BY THIS LICENSE AGREEMENT. IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, DO NOT USE THIS SOFTWARE.

The State Term Schedule and tHESE TERMS AND CONDITIONS CONSTITUTE THE ENTIRE LEGAL AGREEMENT BETWEEN CUSTOMER AND MERIDIAN KNOWLEDGE SOLUTIONS, LLC. ("MERIDIAN") CONCERNING THE PROPRIETARY MERIDIAN GLOBAL SOFTWARE PROGRAM AND ASSOCIATED DOCUMENTATION ("SOFTWARE").

A. Meridian has developed the proprietary software applications and associated documentation (the "Software") described in the License Agreement.

B. Meridian has the right to grant sublicenses to certain third-party software, other products and associated documentation (the "Sublicensed Third-Party Products") used in connection with the Software.

C. Customer wishes to be granted certain limited rights to modify and use the Software and to use the Sublicensed Third-Party Products, and Meridian wishes to grant such rights to Customer, as described in this Agreement.

1. **License Grant.**
   a. **License Grant – Software.** For each item of Software named in a Schedule, Meridian hereby grants to Customer a perpetual, non-exclusive, non-transferable, limited license (the "License"), for the term set forth in such Schedule, to (i) use such Software; (ii) install such Software on the number of servers set forth in such Schedule; (iii) make one (1) additional copy of such Software to use solely for backup and archival purposes; (iv) distribute, publish and display such Software to Customer's employees and independent contractors solely for the purpose of exercising Customer's rights and performing Customer's obligations hereunder; (v) make a reasonable number of copies of any user guides for such Software for use by the authorized users of such Software; (vi) if such Software is furnished by Meridian in source code form, modify such Software in order to (a) integrate Customer's Content with such Software and (b) customize such Software to suit Customer's internal needs and business purposes; and (vii) make one (1) additional copy of such Software and any derivative work authorized hereunder to use solely to develop and test the modifications described in clause (vi). The foregoing license grant is subject to the restrictions below and the other terms and conditions of this Agreement.
   b. **License Grant – Sublicensed Third-Party Products.** For each item of Sublicensed Third-Party Products named in a Schedule, Meridian hereby grants to Customer a perpetual, non-exclusive, non-transferable, limited sublicense (the "Sublicense"), for the term set forth in such Schedule, to (i) use such Sublicensed Third-Party Products, and; (ii) install such Sublicensed Third-Party Products on the number of servers set forth in such Schedule. The foregoing license grant is subject to the restrictions below and the other terms and conditions of this Agreement.
   c. **Restrictions on Use.** Customer will use, and modify the Software only for Customer's internal business purposes, subject to the additional restrictions set forth in this Agreement. Except as expressly authorized herein, Customer will not: (i) reproduce or copy the Software, any derivative work thereof or the Sublicensed Third-Party Products, in whole or in part; (ii) distribute, publish or display the Software, any derivative work thereof or the Sublicensed Third-Party Products, in whole or in part, to any person; (iii) rent, sell, sublicense, assign (except as permitted herein), lease, transfer, subcontract, or otherwise make available all or any part of the Software, any derivative work thereof or the Sublicensed Third-Party Products, in whole or in part, to or for the benefit of any third party (including, without limitation, on a time-share or service bureau basis); (iv) install the Software, any derivative work thereof or the Sublicensed Third-Party Products on more than the number of servers specified in the applicable Schedule; or (v) permit persons other than the authorized users specified in the applicable Schedule to use the Software, any derivative work thereof or the Sublicensed Third-Party Products. In no event will any affiliate of Customer be permitted as an authorized user under this Agreement, unless otherwise specified in a Schedule. For purposes of this Agreement, an "affiliate" of Customer means any person or entity that directly or indirectly controls, is controlled by, or is under common control with, Customer.

2. **Fees; Payment Terms.**
   a. **Fees.** In consideration of the License and the Sublicense granted under this Agreement, Customer will pay to Meridian the license fees set forth in the applicable Schedule (the "License Fees"). In consideration of the software maintenance support provided under this Agreement (the "Maintenance Support"), Customer will pay the maintenance support fees set forth in the applicable Schedule (the "Maintenance Support Fees"). In consideration of any other products provided or services performed under this Agreement, Customer will pay the fees and charges described in the applicable State Term Schedule pricelist .
   b. **Acceptance.** Acceptance of the Software will be upon installation in the Meridian development environment, where Customer will have access to the software for configuration, customization, and related implementation services, or upon Customer receipt of packaged Software at a destination designated by Customer.
   c. .

3. **Proprietary Rights.** Customer acknowledges and agrees that the Software is protected by U.S. and international copyright, patent, trademark, trade secret and other intellectual property rights and registrations. Customer acknowledges that all right, title and interest in and to the Software and all intellectual property rights thereto will be owned solely by Meridian and its licensors, as applicable. Customer will not remove, obliterate, obscure or alter any copyright or other proprietary rights notice that appears on the Software. Except for the limited rights expressly granted to Customer under this Agreement, Customer is not granted any other rights in or to the Software. All rights in and to the Software not specifically granted herein are reserved to Meridian and its licensors, as applicable.

4. **Confidentiality Obligations.**

   a. **Confidential Information.** "Confidential Information" means any and all information that is of a confidential, proprietary or trade secret nature that is furnished or disclosed by Meridian to Customer under this Agreement. Without limiting the generality of the foregoing, "Confidential Information" includes the Software (including the object code and source code forms thereof), the specific business terms of this Agreement and any other information that is marked as "Confidential," "Proprietary," "Trade Secret" or in some other manner to indicate its confidential, proprietary or trade secret nature. "Confidential Information" will not include: (i) information that is or becomes publicly known through no fault of Customer; (ii) information received from a third party that was disclosed without breach of any confidentiality obligation; (iii) information approved for release by written authorization of Meridian; (iv) information developed or created independently by Customer without reference to, or use of, Meridian's Confidential Information; or (v) information that may be required by law, regulation or an order of any court, agency or proceeding to be disclosed, provided that Customer will provide Meridian with written notice of any such required disclosure once Customer has knowledge of it and will help Meridian at the expense of Customer to the extent reasonable to obtain an appropriate protective order.
   b. **Non-Disclosure.** All Confidential Information will remain the property of Meridian, and Customer will not be deemed by virtue of its access to Meridian's Confidential Information to have acquired any right or interest in or to any such Confidential Information, other than as specifically set forth herein. Customer agrees: (i) to hold the Confidential Information in strict confidence; (ii) except as expressly authorized in this Agreement, not to disclose any Confidential Information to any third party other than employees and independent contractors of Customer who have a need to know the Confidential Information for the purposes of this Agreement and who are subject to a confidentiality agreement that affords at least as much protection to the Confidential Information as this Section 6; (iii) to use the Confidential Information solely and exclusively in accordance with the terms of this Agreement in order to carry out Customer's obligations and exercise its rights under this Agreement; and (iv) to notify Meridian promptly of any unauthorized use or disclosure of the Confidential Information and to cooperate with and assist Meridian in every reasonable way to stop or minimize such unauthorized use or disclosure.
   c. **Injunction.** Customer agrees that if a court of competent jurisdiction determines that Customer has breached, or attempted or threatened to breach, its confidentiality obligations to Meridian or Meridian's proprietary rights, Meridian will be entitled to obtain appropriate injunctive relief and other measures restraining further attempted or threatened breaches of such obligations. Such injunctive relief or other measures will be in addition to, and not in lieu of, any other rights and remedies available to Meridian.

5. **Third Party Products.** Customer acknowledges that the Software may require the use of certain non-sublicensed third-party products described as such in the applicable Schedules (the "Other Third-Party Products") in order to be operable. Prior to using the Software, Customer will obtain licenses to use the Other Third-Party Products specified in each applicable Schedule from the applicable licensors. Meridian will sublicense the Sublicensed Third-Party Products to Customer subject to the terms and conditions of this Agreement. Meridian provides no license to use Third-Party Products other than the Sublicensed Third-Party Products. The installation and use of Updates may require Customer to acquire, at its own expense, updated versions of the Third-Party Products or additional third party products (which themselves will become Third-Party Products hereunder). MERIDIAN EXPRESSLY DISCLAIMS ALL LIABILITIES, WARRANTIES AND MAINTENANCE OBLIGATIONS ASSOCIATED WITH OR RESULTING FROM ANY THIRD-PARTY PRODUCTS, INCLUDING THE SUBLICENSED THIRD-PARTY PRODUCTS.

6. **Limited Warranty.** Meridian warrants that for a period of thirty (90) days after installation (the "Warranty Period"), the Software, when properly used, will operate substantially in accordance with the specifications set forth in the applicable Schedule. Meridian does not warrant that Customer's use of the Software will be uninterrupted or error free. If, during the Warranty Period, the Software does not meet this limited warranty, Customer may contact Meridian and Meridian shall, at its option, either replace the Software or refund Customer's purchase price. The foregoing constitutes Customer's remedy for breach by Meridian of any warranties (express or implied) made under this Agreement. The limited warranties set forth in this Agreement do not apply to any deviation by the Software from the specifications set forth in the applicable Schedule that is caused by, or results from, (i) modification of the Software by anyone other than Meridian; (ii) use of the Software for any purpose other than that authorized in this Agreement; (iii) use of the Software in combination with other software, data or products that are defective or incompatible with, or are not authorized by Meridian for use with, the Software; (iv) any malfunction of Customer's software, hardware, computers or computer-related equipment; (v) Customer's failure to use any Updates made available by Meridian; or (vi) an event of Force Majeure (defined below). Any replacement Software will be warranted for thirty (90) days from your date of receipt.

7. **Indemnification.** Meridian will defend Customer from and against any and all liability, damage, loss or expense (including reasonable attorneys' fees) finally awarded against Customer by a court of competent jurisdiction arising out of any claim, demand, action or proceeding based on allegations that Customer's use of the Software pursuant to the terms of this Agreement and any applicable Schedule infringes any currently existing United States copyright, patent, trademark or trade secret of a third party. Meridian will have no obligation to defend Customer with respect to any claim, demand, action or proceeding, described herein, that is based upon (i) Software that has been modified by anyone other than Meridian; (ii) use of other than the then-current release of the Software, if infringement could have been avoided by use of the then-current release and the then-current release has been made available to Customer; (iii) use of the Software in conjunction with Customer's data, where use with such data gave rise to the infringement claim; (iv) use of the Software with other software or hardware, where use of such other software or hardware gave rise to the infringement claim; (v) use of any Software in a manner inconsistent with its documentation; or (vi) use of any Software in a manner that breaches this Agreement. .

8. **Government Use/Procurement.** The Software and the Sublicensed Third-Party Products are a "commercial item" as that term is defined in 48 C.F.R. § 2.101 (2001), consisting of "commercial computer software" and "commercial computer software documentation," as such terms are used in 48 C.F.R. § 12.212 (2001) and 48 C.F.R. § 227.72 (2001). Consistent with 48 C.F.R. § 12.212 (2001) and 48 C.F.R. §§ 227.7202-1 through 227.7202-4 (2001), all U.S. Government end users acquire the Software and the Sublicensed Third-Party Products with only those rights set forth herein.

9. **Assignment.** The parties may not assign or otherwise transfer this Agreement or its rights and obligations hereunder without the prior written consent of the other party, which consent will not be unreasonably withheld. Any transaction or series of transactions in which (i) more than fifty percent (50%) of the outstanding voting stock or membership interests of Customer are transferred to a third party, or (ii) all or substantially all of Customer's assets are sold to a third party, will be deemed an assignment of this Agreement. Any purported assignment or other transfer without the consent of Meridian (a) will be void and of no force or effect, and (b) will constitute a material breach of this Agreement.

10. **Force Majeure.** Except for a party's payment obligations hereunder, neither party will be deemed in default of this Agreement to the extent that performance of its obligations, or attempts to cure any breach thereof, are delayed or prevented by reason of any act of God, fire, natural disaster, accident, terrorist attack, act of government, network or telecommunication system failure, sabotage or any other cause beyond the control of such party ("Force Majeure"), provided that such party promptly gives the other party notice thereof. In the event of such Force Majeure, the time for performance or cure will be extended for a period equal to the duration of the Force Majeure but not in excess of six (6) months.

11. **Severability.** If a court of competent jurisdiction determines that any provision of this Agreement is illegal, invalid or otherwise unenforceable for any reason, such provision will be deemed stricken to the extent that it is illegal, invalid or otherwise unenforceable. All remaining provisions will remain in full force and effect and this Agreement will be interpreted as if it had not contained the severed provision.

12. **Governing Law.** Issues regarding the validity, ownership or enforcement of any copyright, patent, trademark or other proprietary right licensed or sublicensed hereunder will be determined under the applicable law of the United States and the State of Ohio, as applicable. With respect to all other issues, this Agreement will be construed under and governed by the substantive laws of the State of Ohio without resort to conflict of laws principles. Each party agrees that any legal proceeding commenced by one party against the other party under this Agreement will be brought in any state or Federal court having jurisdiction over Franklin, County, Ohio. Each party submits to such jurisdiction and waives any objection to venue or claim of inconvenient forum. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.

13. **Headings.** Captions and section headings used herein are for reference purposes only and will not control or alter the meaning of this Agreement as set forth in the text.

14. **Entire Agreement.** The State Term Schedule and this Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, negotiations and understandings, oral or written, between the parties with respect to the subject matter hereof. This Agreement will be binding on and inure to the benefit of the legal representatives, successors and permitted assigns of the parties. This Agreement may be modified only by an instrument in writing executed by duly authorized representatives of each party. In the event of any conflict between these General Terms and Conditions and a provision of any Schedule, the provision of the Schedule will control, but only with respect to the subject matter of the Schedule.

MERIDIAN KNOWLEDGE SOLUTIONS, LLC
ANNUAL SOFTWARE MAINTENANCE AGREEMENT

A. Meridian has developed the proprietary software applications and associated documentation (the "Software") described in the Software License Agreement.

B. Customer wishes to be granted certain limited rights to modify and use the Software and to use the Sublicensed Third-Party Products, and Meridian wishes to grant such rights to Customer, as described in the Agreement.

C. **Maintenance Support**

1. **Maintenance Support Term.** Subject to payment by Customer of the applicable Maintenance Support Fees, Meridian will provide Customer with Maintenance Support described in Section 2 for a period of one (1) year commencing on the Effective Date of the Software License Agreement, renewable for successive one (1) year periods by agreement of the parties and upon the payment of the Support Fees for each such period. Failure to pay for one or more periods shall require payment of all outstanding Support Fees in arrears before the current period shall be considered effective. In cases where a partial period must be paid in arrears, the Fee shall be prorated on a monthly basis.

2. **Maintenance Support.** Meridian will provide to Customer any service packs, improvements, enhancements and other updates to the Software (the "Updates") that Meridian makes generally available to its other customers who have paid a maintenance support fee, including enhancements required to make the Software compatible with the most recent versions of any applicable Third-Party Products (as defined in the Software License Agreement). Customer will be responsible for all costs associated with the installation of Updates. Upon receipt of an Update by Customer, such Update will be deemed to

be part of the Software for all purposes of the Software License Agreement. "Maintenance Support" is provided by the Meridian Customer Care Center (CCC), and includes the following:

a. Notification of and access to Updates in base product format.
b. Administrator help desk support to provide guidance on the use of existing base product functions and Customer modifications for up to five (5) named system administrators. Support will be provided during standard business days, from 8am to 8pm Eastern Time by telephone and/or email.
c. Troubleshooting of reported functional issues including assistance with the following types of questions or issues:
    i. Investigating and finding the cause of issues associated with base product functions. Meridian will determine whether the issue is inherent in the base product, or the result of modifications or integrations done specifically for Customer.
    ii. For base product issues, the CCC will report all issues and desired modifications to the Meridian product team. If the issue falls within the scope of the Limited Warranty set forth in the Software License Agreement, the terms of the Limited Warranty shall apply. All other product issues will be reported, tracked and managed by the CCC in coordination with the Meridian product team. Determination of the need and prioritization of Updates to address reported issues outside of the scope of the Limited Warranty is at the sole discretion of Meridian, and this Maintenance Agreement shall not be construed as an addition or change to the terms set forth in the Limited Warranty.
    iii. Issues associated with modified functions or integrations will be subject to the terms and conditions associated with the specific statement of work for that task.

3. **Exclusions.** The following services are not included in the above terms and conditions, but can be provided as separate, optional tasks:

a. Installation of Updates is excluded from standard maintenance support. The customer may install and integrate Updates using internal resources, third-party vendors, or by purchasing optional Meridian support services. Limited assistance for internal and third-party vendors can also be provided using optional Meridian support services.
b. Training on Software functions and modifications in excess of standard help desk support. Training shall be defined as one or more discussions about one function within the Software, where the total discussion time exceeds one (1) hour.
c. End User support, or support to any person other than the five named administrators.
d. Troubleshooting of problems related to Customer or third-party installation of Updates.
e. Troubleshooting of problems related to Customer or third-party modifications to the Software.
f. Troubleshooting or resolution of hardware, software, security, or network-related issues on Customer servers or workstations.
g. Project management support, including administration of client funding and project reports to Customer.
h. Courseware support, including loading of content into the site, troubleshooting issues with third party or client developed courseware, or troubleshooting user or browser configuration or related issues with viewing courseware.
i. Integration with customer applications (such as Active Directory, HRIS, or others).
j. Modifications to Software functions or interface.

4. **Limitation.** Meridian will not be required to perform any Maintenance Support under this Agreement or any Schedule or to provide Updates with respect to any Software if (i) Customer has failed to pay the applicable License Fees and Support Fees when due and payable or (ii) the License has expired or been terminated for any reason.

D. Maintenance Support Fee:

For twelve (12) months commencing on the Effective Date of this Agreement: *[Cost of maintenance/support according the current State Term Schedule pricelist]*

CONTRACTOR

BY: Jason Mann

DATE: 8/10/09

STATE OF OHIO,
DEPARTMENT OF ADMINISTRATIVE SERVICES
OFFICE OF STATE PURCHASING

BY: Hugh Quill/SAM
HUGH QUILL DIRECTOR,
DEPARTMENT OF ADMINISTRATIVE SERVICES

DATE: 8-18-09