Restated Master Contract

T01-MST-002

Restated as of September 2004

for

Electronic Forms Software and Associated Services

between the

State of Washington

Department of Information Services

and

FileNet Corporation

Contract Effective Date: December 18, 2000

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Note: ***Exhibits A, B, C and D are not attached but are available upon request from the DIS Contract Administrator***

Restated Master Contract
T01-MST-002

for

Electronic Forms Software and Associated Services

Parties

This Restated Master Contract, restated as of September 2004, is entered into by and between the state of Washington acting through the **Department of Information Services,** an agency of Washington State government ("DIS") located at 1110 Jefferson St SE, Olympia, Washington 98504-2445, and **FileNet Corporation,** a corporation licensed to conduct business in the state of Washington under UBI number 601-091-520 ("FileNet" or "Vendor"), located at 3565 Harbor Blvd, Costa Mesa, CA 92626 for the purpose of licensing electronic forms software and providing associated services.

Recitals

Whereas, the state of Washington acting by and through DIS conducted an open, competitive acquisition process and issued a Request for Proposals Round 1, (hereafter "RFP 1") dated September 15, 2000, Exhibit A hereto and Request for Proposals Round 2 Requirements (hereafter "RFP 2") dated October 24, 2000 Exhibit B hereto, (both collectively referred to as "RFP") for the purpose of obtaining electronic forms software and associated development and training services for the Academy; and

Whereas, the Shana Corporation, USA submitted a timely Response, Exhibit C hereto, to the DIS RFP 1 and,

Whereas, the Shana Corporation, USA submitted a timely Response, Exhibit D hereto, to the DIS RFP 2;

Whereas, DIS evaluated all Responses properly submitted in response to the above-referenced RFP and identified Shana Corporation as the apparently successful Vendor;

Whereas, DIS awarded to Shana Corporation, USA this Master Contract for electronic forms software and associated purchased and personal services; and

Whereas, Shana Corporation, USA was bought by and merged with FileNet Corporation;

Now therefore, DIS and FileNet Corporation have restated herein the terms and conditions for this Restated Master Contract, which shall govern Vendor's furnishing to Purchasers of electronic forms software (hereinafter "Software") and associated purchased and personal services (hereinafter "Services") at the prices set forth on Schedule A.

This Restated Master Contract is an Optional Use Contract that neither financially binds the State nor otherwise obligates the State to purchase any Software or Services hereunder. Nor does this Restated Master Contract prevent the State from purchasing the same or similar Software and Services from other sources, *provided that,* all legal acquisition requirements are satisfied. This Restated Master Contract is not for personal use.

1. Definitions

"Business Days and Hours" shall mean Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by the state of Washington.

"Confidential Information" shall mean information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.17 RCW or other state or federal statutes. Confidential Information includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records, Purchaser source code or object code, or Purchaser security data.

"Delivery Date" shall mean the date the Software ordered hereunder is shipped.

"DIS Contract Administrator" shall mean the TSD Contract Administrator, designated by DIS as responsible for the maintenance and administration of this Master Contract, notices, reports and any other pertinent documentation or information. The DIS Contract Administrator may also conduct periodic performance or financial audits related to this Master Contract.

"DIS Contracting Officer" shall mean the Director of the Department of Information Services or the person(s) to whom signature authority has been delegated in writing.

"Effective Date" shall mean the date this Master Contract is in full force and effect. It may be a specific date agreed to by the parties; or, if not so specified, the date of the last signature of a party to this Master Contract.

"Fulfillment Partner" shall mean a Subcontractor who may provide Services under this Contract at the Prices set forth in Schedule A and bill Purchasers directly for such Services.

"Master Contract" shall mean this Restated Master Contract document, all schedules and exhibits, and all amendments hereto.

"Order"/"Order Document" shall mean any official document and attachments thereto specifying the Products or Services to be purchased or licensed from Vendor under this Master Contract.

"Personal Services" shall mean consulting services where Vendor provides judgment and advice or balances time, resources and expense to produce applications or other deliverables as set forth in a Statement of Work. This includes leading or performing design and/or development where Vendor is responsible for the quality of design or overall integration and operation of the application or deliverable.

"Price" shall mean charges, costs, rates, and/or fees charged for the Software and Services under this Master Contract and shall be paid in United States dollars.

"**Products**" shall include Software and all other Vendor supplied software or equipment related to E-Forms available under this Master Contract.

"Purchased Services" shall mean E-form related programming services according to a Purchaser's design as set forth in a Statement of Work, as applicable. The Purchaser is responsible for the overall integration of the application and its proper operation. Purchased services also include routine and continuing technology services such as data entry, program code support, installation, maintenance, archival services, etc.

"Purchaser" shall mean DIS and those governmental or nonprofit entities that have entered into an interlocal or Customer Service Agreement with the Department of Information Services.

"Purchaser Site License Program" shall mean a purchasing option for a single enterprise license that enables unlimited use of the Forms Manager user license software by an unlimited number of users within Purchaser's organization and includes the right to deploy an unlimited number of Purchaser forms for use by an unlimited number of internal and external users. Purchaser must purchase and license the Software in accordance with Section 9, Software License.

"RCW" shall mean the Revised Code of Washington.

"RFP" shall mean the Request for Proposals Round 1 and Round 2 collectively used as a solicitation document in this procurement, as well as all amendments and modifications thereto.

"RFP 1"shall mean the Request for Proposals Round 1, dated September 15, 2000, Exhibit A.

"RFP 2" shall mean the Request for Proposals Round 2 Requirements dated October 24, 2000 Exhibit B.

"Response" shall mean Vendor's Responses to Purchaser's Request for Proposal Round 1 and Round 2 Requirements for Electronic Forms Project Development and Training, Exhibits C and D hereto.

"Response 1" shall mean Vendor's Response to Purchaser's Request for Proposal Round 1 for Electronic Forms Project Development and Training for the Digital Government Applications Academy, Exhibit C hereto.

"Response 2" shall mean Vendor's Response to Purchaser's Request for Proposal Round 2 Requirements for Electronic Forms Project Development and Training for the Digital Government Applications Academy, Exhibit D hereto.

"Schedule A: *Authorized Product and Price List*" shall mean the attachment to this Master Contract that identifies the Prices for all the Products and Services available under this Master Contract.

"Schedule B: *Statement of Work Template*" shall mean the attachment to this Master Contract that provides example terms and conditions for a Statement of Work between Vendor and a Purchaser for Services delivered hereunder.

"Schedule C: *Software Support Schedule*" shall mean the attachment to this Master Contract setting forth the terms and conditions of Vendor's Software Support offering.

"Seat(s)" shall mean a Purchaser's computer that can operate the Products, excluding servers and mainframes.

"Services" shall mean those services related to the Software being acquired, that are appropriate to the scope of this Master Contract and includes such things as configuration and engineering support, technical support, forms design or systems administration, installation services, support, training, etc.

"Software" shall mean the object code version of computer programs comprising Vendor's entire product suite of eforms related software and any related documentation, excluding maintenance diagnostics. Software also means the source code version, where provided by

Vendor. "Software" includes all prior, current, and future versions of the Software and all support updates and error corrections.

"SOW" shall mean Statement of Work, as defined below.

"Specifications" shall mean the technical and other specifications set forth in the RFP, Exhibits A and B, and any additional specifications set forth in Vendor's Response, Exhibits C and D, collectively.

"State" shall mean DIS, any division, section, office, unit or other entity of DIS or any of the officers or other officials lawfully representing DIS. **State** may also include Purchaser.

"Statement of Work" or **"SOW"** shall mean a separate statement of the work for Services to be accomplished by Vendor under the terms and conditions of this Contract. A SOW template is attached hereto as Schedule B.

"Subcontractor" shall mean one not in the employment of Vendor, who is performing all or part of the business activities under this Master Contract under a separate contract with Vendor. The term "Subcontractor" means Subcontractor(s) of any tier.

"Vendor" shall mean FileNet Corporation its employees and agents. "Vendor" also includes any firm, provider, organization, individual, or other entity providing Software or performing services under this Master Contract. It shall also include any Subcontractor retained by Vendor as permitted under the terms of this Master Contract.

"Vendor Account Manager" shall mean a representative of Vendor who is assigned as the primary contact person whom DIS or the Purchaser Project Manager shall work with for the duration of this Master Contract unless replaced, with advance Purchaser approval, by another representative, and as further defined in the section titled **Vendor Account Manager**.

"Vendor Contracting Officer" shall mean the Vendor Officer with signature authority, or the person to whom signature authority has been delegated in writing. This term includes, except as otherwise provided in this Contract, an authorized representative of Vendor Contracting Officer acting within the limits of his/her authority.

Contract Term

2. Term

2.1 Initial Term. The initial term for purchases under this Master Contract shall be three (3) years, commencing upon the Effective Date.

2.2 Subsequent Terms. The term of this Master Contract may be extended by three (3) additional one (1) year terms, provided that, the extensions shall be at the option of DIS and shall be effected by DIS giving written notice of its intent to extend this Master Contract to Vendor not less than thirty (30) days prior to the expiration of the then-current Contract term and Vendor accepting such extension prior to the expiration of the then-current Contract term. No change in terms and conditions shall be permitted during these extensions unless specifically agreed to in writing.

3. Survivorship

The terms, conditions and warranties contained in this Master Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Master Contract shall so survive. Specifically, the terms of the sections titled **Software License Terms**; **Publicity, Protection of Purchaser's Confidential Information, Patent and Copyright Indemnification, Disputes,** and **Limitation of Liability** shall survive the termination of this Master Contract.

Pricing, Invoice and Payment

4. Pricing

4.1 Vendor agrees to provide the Software and Services at the prices set forth in the Authorized Product and Price List attached as Schedule A to this Master Contract. All prices in Schedule A are in United States Dollars. Prices may not be increased during the term of this Master Contract except as specifically provided in this section or in Schedule A. No other costs shall be payable to Vendor, except for the DIS Master Contract Administration Fee.

4.2 Purchaser Site License Program. The price for purchasing the Forms Manager User software under the Purchaser Site License Program is based on the approximate number of Purchaser's computers that will operate the Products ("Seats") at the intial time of purchase. All prices and rates for the Site License Program are detailed in Schedule A. The details of all purchases shall be set forth in accordance with Section 6 **Invoice and Payment**.

4.3 If, after the initial purchase of the Site License Program, Purchaser exceeds the number of Seats on which the original site license was based by ten percent (10%), Purchaser shall compensate Vendor at the applicable Site License Program rate for the incremental number of Seats to remain in the Site License Program.

4.4 Software Support Fees. Vendor provides a Software Support Program under the Purchaser Site License Program. The Software Support Program provides services as set forth in Schedule C at the prices set forth in Schedule A.

4.5 Retail Public Prices. Purchasers choosing not to join the Site License Program may acquire, under the provisions of this Master Contract, the Products and Software Support and related Services listed in the Master Contract at Vendor's then current retail public prices as posted by Vendor.

5. Taxes

Purchaser will pay sales and use taxes imposed on the Software or Services at Purchaser's local rate. Vendor shall pay all other taxes including, but not limited to, Washington Business and Occupation Taxes, other taxes based on Vendor's income or gross receipts, or personal property taxes levied or assessed on Vendor's personal property, except for any personal property tax or like tax assessed against Software licensed to Purchaser. Purchaser, as an agency of the Washington State government, is exempt from property tax.

6. Invoice and Payment

6.1 Vendor will submit properly itemized invoices to Purchaser. Invoices shall provide and itemize the following, as applicable:

a) Vendor's name and address and remittance address, if different, phone number and Taxpayer Identification Number;

b) Purchaser's name and address, and Order Document number;

c) This Master Contract number (T01-MST-002);

d) Description of purchased Purchaser Site License Program including but not limited to the number of Seats included in Program;

e) Description of Software, including price and quantity ordered;

f) Description of Service, including price and period of performance;

g) Date of delivery;

h) Total invoice price, excluding sales tax;

i) DIS Master Contract Administration Fee;

j) Sales or other applicable taxes;

k) Shipping costs;

l) Total invoice price; and

m) Payment terms including any available prompt payment discounts.

6.2 Payments shall be due within thirty (30) calendar days after the Delivery Date of such Software and Services or thirty (30) calendar days after receipt of properly prepared invoices, whichever is later.

6.3 Incorrect or incomplete invoices will be returned by Purchaser to Vendor for correction and reissue.

6.4 This Master Contract number (T01-MST-002) shall appear on all invoices, bills of lading, packages, and correspondence relating to this Contract.

6.5 If Purchaser fails to make timely payment, Vendor may invoice Purchaser one percent (1%) per month on the amount overdue or a minimum of $1.00. Payment will not be considered late if a check or warrant is postmarked within thirty (30) calendar days of accepting the Software or receipt of Vendor's properly prepared invoice, whichever is later.

7. Overpayment to Vendor

Vendor shall refund to Purchaser the full amount of any mutually agreed upon erroneous payment or overpayment under this Master Contract within thirty (30) days' written notice. If Vendor fails to make timely refund, Purchaser may charge Vendor one percent (1%) per month, from the date of the original notice, on the amount due, until paid in full.

8. Advance Payment Prohibited

No advance payment shall be made for the Software and Services furnished by Vendor under this Master Contract. Notwithstanding the above, Software Support fees may be made on an annual basis at the beginning of the support term.

Software License

9. License Grant

Each Software product, including any documentation relating to or describing such Software, such as, but not limited to, manuals, flow charts and improvements or updates provided by Vendor (collectively "Software"), is furnished to Purchaser under a personal, non-exclusive, irrevocable (except in accordance with the terms of this Master Contract) nontransferable license solely for Purchaser's own internal use, unless otherwise agreed to by Vendor and Purchaser (e.g., City of Bellevue and Multiple City Permitting Application), on Purchaser's servers and client devices ("System") in compliance with this license and all applicable laws and regulations. Purchaser agrees that this license does not permit Purchaser to: (1) use the Software for a service bureau application or (2) sublicense the Software. Title to and ownership of the Software and any portions (or any modifications, translations, or derivatives thereof, even if unauthorized) and all applicable rights in patents, copyrights and trade secrets in the Software shall remain exclusively with Vendor and its licensors, if any. Software provided hereunder is valuable, proprietary, and unique, and Purchaser agrees to be bound by and observe the proprietary nature thereof as provided herein. Purchaser agrees to take diligent action to fulfill its obligations hereunder by instruction or agreement with its employees or agents (whose confidentiality obligations shall survive termination of employment or agency) who are permitted access to the Software. Access shall only be given on a need-to-know basis. Except as set forth in this Contract or as may be permitted in writing by Vendor, Purchaser shall not use, provide or otherwise make available the Software or any part or copies thereof to any third party. Certain information and materials supplied by Vendor with the Software such as, but not limited to, manuals, diagrams, and drawings, are Vendor confidential or proprietary trade secrets and Vendor furnishes them solely to assist Purchaser in the installation, operation and use of the Software. Vendor marks all such confidential and proprietary information and Purchaser must abide by the terms of those markings, and not reproduce, copy or disclose such information except as is reasonable and necessary to properly use the Software or as required by law. Purchaser acknowledges that unauthorized reproduction, use, or disclosure of the Software or any part thereof may cause irreparable injury to Vendor and/or its licensors, who may therefore be entitled to injunctive relief to enforce these license restrictions, in addition to any other remedies available at law, in equity, or under this Contract.

9.1 License Audit

Vendor may audit Purchaser's Software usage on-site during service calls or upon reasonable notice during Business Hours. Should an audit determine that Purchaser's usage has exceeded the licensed scope Purchaser agrees to purchase additional licenses in compliance with this Contract.

9.2 License Termination

Notwithstanding the foregoing, Vendor shall have the right to terminate Purchaser's license if Purchaser fails to pay any and all required license fees or otherwise fails to comply with these license terms and conditions within thirty (30) calendar days notice of such failure from Vendor. Any termination of the license shall automatically terminate Support with respect to the Software for which the license is terminated.

THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT WITH RESPECT TO THIS CONTRACT OR THE SOFTWARE LICENSED HEREUNDER.

9.3 U.S. Government Restricted Rights.

The Software is Commercial Software and the Software and Documentation are provided with Restricted Rights. Use, duplication or disclosure by the Government is subject to restrictions as set forth in paragraph (c) (1) (ii) of the Rights in Technical Data and Computer Software Clause at DFARS 252.227-7013 or subparagraphs (c) (1) and (2) of the Commercial Computer Software-Restricted Rights at 48 CFR 52.227-19, as applicable. Vendor /manufacturer is FileNet Corporation, 3565 Harbor Blvd., Costa Mesa, California 92626.

9.4 Purchaser's license to use the Software includes the development and deployment of an unlimited number of forms and the unlimited number of persons who may download, fill, send or otherwise use the forms.

9.5 Use by the Public. The license granted to Purchaser includes the right to deploy and distribute Forms Manager viewer software on Purchaser's web site or other appropriate portal for use by the public to complete and send Purchaser forms through the Internet. Use by the public shall not include any Vendor provided documentation or Vendor support. Vendor agrees that the public will not be required to obtain a license from Vendor nor pay a fee in order to download Forms Manager viewer software from Purchaser's website. Vendor acknowledges that Purchaser cannot restrict or control how the Forms Manager viewer software is used by the public once downloaded from the Internet. Vendor agrees that Purchaser is not responsible for nor shall Purchaser be held liable for any use of Forms Manager viewer software by the public.

9.6 Purchaser will not decompile or disassemble any Software provided under this Contract.

9.7 Purchaser will make and maintain no more than one archival copy of each item of Software, and each copy will contain all legends and notices and will be subject to the same conditions and restrictions as the original. Purchaser may also make copies of the Software in the course of routine backups of hard drive(s) for the purpose of recovery of hard drive contents. Purchaser may use backup or archival copies of the Software, without reinstallation or interruption of production copy(ies), for disaster recovery exercises at its disaster recovery site(s), without additional charge. Purchaser may make these backup or archival copies available to the disaster recovery site(s)' employees who require use of the Software in order to assist Purchaser with disaster recovery exercises. Purchaser agrees that production use of the Software at the disaster recovery site(s) shall be limited to times when Purchaser's facilities, or any portion thereof, are inoperable due to emergency situations.

9.8 Freedom of Use. Vendor understands that Purchaser may provide information processing services to other users that are agencies of state government and other tax supported entities. Vendor further understands that Purchaser or other users that are agencies of state government and other tax-supported entities may provide services to the public through Internet applications. Software delivered hereunder may be used in the delivery of these services. Vendor acknowledges and agrees that such use of Software products is acceptable under the licensing agreements contained herein.

10. Software Ownership

Vendor shall maintain all title, copyright, and other proprietary rights in the Software. Purchaser does not acquire any rights, express or implied, in the Software, other than those specified in this Master Contract. Vendor hereby warrants and represents to Purchaser that Vendor is the owner of the Software licensed hereunder or otherwise has the right to grant to Purchaser the licensed rights to the Software provided by Vendor through this Master Contract without violating any rights of any third party worldwide. Vendor represents and warrants that Vendor has the right to license the Software to Purchaser as provided in this Master Contract; and that Purchaser's use of the Software and Documentation within the terms of this Master Contract will not infringe upon any copyright, patent, trademark or other intellectual property right worldwide or violate any third party's trade secret, contract or confidentiality rights worldwide. Vendor represents and warrants that Vendor has no actual knowledge that the Software infringes upon any patents, copyrights, or trade secrets of any third party.

11. Ownership/Rights in Data

Title to and ownership of all written material, including without limitation all software, magnetic and optical disks, tapes, listings, documentation, and all deliverables first developed or created by Vendor for Purchaser through a Statement of Work (SOW) under this Contract (collectively referred to as "Data") and all proprietary rights therein will at all times remain with Vendor. Upon payment to Vendor of all fees related to the SOW, Purchaser shall have a personal, non-exclusive, non-transferable, royalty-free, irrevocable (except in accordance with the License Terms of this Master Contract) license to use the Data furnished to Purchaser under the SOW. Any other Vendor Software and related documentation furnished under a SOW will be subject to Software License terms contained in Section 9 above. Except and to the extent expressly provided in this Section 11, no license or other right is transferred or granted to Purchaser, including any license by implication, estoppel or otherwise, under any patent, trade secret, trademark or copyright.

12. Software Specifications

12.1 The RFP Specifications and the Specifications of Vendor's Response are incorporated into and are essential substantive terms of this Master Contract. Software provided under this Master Contract shall meet or exceed all of the mandatory technical requirements of the RFP. Vendor is not required to specify the specific product that meets the mandatory RFP Specifications and evaluation criteria. All Software will conform to that item's detailed Specification in all respects. Vendor warrants that Products delivered hereunder shall perform in accordance with these Specifications.

12.2 The parties agree that due to developments in technology since the issuance of the RFP, some of functionality originally outlined in the RFP has potentially been enhanced, added or removed. Purchaser acknowledges that all of the RFP requirements have been met through its continued use of the Software during the initial term of this Agreement.

Vendor's Responsibilities

13. Shipping and Risk of Loss

All Products are considered delivered to Purchaser, F.O.B. origin, upon transfer to either a common carrier or Purchaser at a Vendor designated location. The date of shipment shall be the "Delivery Date." Vendor will ship all Software prepaid and will then invoice Purchaser separately for related transportation costs. In the absence of prior shipping instructions, Vendor will select the carrier on behalf of Purchaser, but assumes no liability for shipment. Vendor will replace, at no charge to Purchaser, any physical media that is damaged or lost by Purchaser upon written request by Purchaser. If any Software shipped to Purchaser does not arrive in a commercially reasonable time, Vendor will reship the Software media at no charge to Purchaser.

14. Software Delivery

14.1 Vendor shall deliver the Software ordered pursuant to this Master Contract on or before the date established in the Purchaser's Order Document. For any exception to this Delivery Date, the Vendor must notify the Purchaser and obtain prior approval in writing.

14.2 Unless the Vendor has obtained prior written approval from Purchaser, which shall not be withheld unreasonably, incomplete deliveries or backorders will not be Accepted. All packages must be accompanied by a packing slip which identifies all items included with the shipment and the Purchaser's Purchase order number.

14.3 Any additional delivery instructions shall be included in the Purchaser's Order Document.

15. Site Security

While on Purchaser's premises, Vendor, its agents, employees, or Subcontractors shall conform in all respects with physical, fire, or other security regulations.

16. Installation

16.1 All installation of the Software purchased pursuant to this Master Contract by Purchaser will be by and at the sole expense of Purchaser, except as set forth below.

16.2 At Purchaser's request and at the prices set forth in Schedule A, Vendor will install the Software. Vendor's installation services are limited to loading the Software onto a System and testing the Software using Vendor's standard set of test data. Purchaser shall be responsible for configuring and installing any required disk storage systems, network software, application servers, systems and computer terminals and workstations prior to installation of the Software. Installation will be deemed successful and completed when the Software is loaded on a System and is ready for use. At Purchaser's request, and at the hourly rates in Schedule A and additional terms to be agreed upon separately in a SOW, Vendor may agree to provide pre-installation support, installation support, and training for the Software.

17. Physical Media Warranty

17.1 Vendor warrants to Purchaser that each licensed copy of the Software provided by Vendor is and will be free from physical defects in the media that tangibly embodies the copy (the "Physical Media Warranty").

17.2 The Physical Media Warranty does not apply to defects arising from acts of non-Vendor employees, agents, or Subcontractors after the media has left Vendor's control in cases of theft, vandalism, fire, water, acts of God or other perils beyond the control of Vendor. However, Vendor will replace any physical media which is damaged or lost by Purchaser upon written request by Purchaser, at no charge to Purchaser.

18. No Surreptitious Code Warranty

18.1 Vendor warrants to Purchaser that no licensed copy of the Software provided to Purchaser contains or will contain any Self-Help Code nor any Unauthorized Code as defined below. Vendor further warrants Vendor will not introduce via modem or otherwise any code or mechanism which electronically notifies Vendor of any fact or event, or any key, node lock, time-out or other function, implemented by any type of means or under any circumstances, which may restrict Purchaser's use of or access to any programs, data or equipment based on any type of limiting criteria, including frequency or duration of use for any copy of the licensed Software provided to Purchaser under this Contract. The warranty is referred to in this Master Contract as the "No Surreptitious Code Warranty."

18.2 As used in this Master Contract, "Self-Help Code" means any back door, time bomb, drop dead device, or other software routine designed to disable a computer program automatically with the passage of time or under the positive control of a person other than a licensee of the Software. Self-Help Code does not include software routines in a computer program, if any, designed to permit an owner of the computer program (or other person acting by authority of the owner) to obtain access to a licensee's computer system(s) (e.g., remote access via modem) solely for purposes of maintenance or technical support.

18.3 As used in this Master Contract, "Unauthorized Code" means any virus, Trojan horse, worm or other software routines or Equipment components designed to permit unauthorized access: to disable, erase, or otherwise harm software, Equipment, or data; or to perform any other such actions. The term Unauthorized Code does not include Self-Help Code.

18.4 Vendor will handle any report of Software that does not comply with this warranty under the Support terms set forth in Schedule C; any such report will be handled as a P1 incident (highest priority) and a compliant copy of the Software will be supplied as quickly as possible.

19. Reauthorization Code Required

Vendor's Software shall not require a reauthorization code in order for the Software to remain functional upon Purchaser's movement of the Software to another computer system.

20. Software Support Services

Vendor shall provide Software support services as described in Schedule C, as the prices set forth in Schedule A.

21. Training

As long as the Software purchased under this Master Contract is licensed by Purchaser, Purchaser shall have the right to use Vendor's materials for instruction of its personnel at no additional cost, including the right to reproduce Vendor's instructional materials, (with the proper inclusion of Vendor's copyright notice and any other proprietary notice and/or trademarks). Such use and reproduction by Purchaser shall not be deemed to violate or infringe upon any patent, copyright, or other proprietary right of the Vendor.

22. Purchased Services

22.1 All Purchased Services to be performed for Purchaser under this Master Contract shall be documented in a Statement of Work (SOW) established between Vendor and Purchaser. A Template SOW is attached to this Contract as Schedule B. Vendor shall be directly responsible to Purchaser for all Purchased Services performed under the SOW. Purchaser is responsible for the oversight of Vendor's performance of all work performed under the SOW. The SOW will reference this Master Contract Number, T01-MST-002.

22.2 The SOW shall at a minimum:

a) Define project objectives;
b) Describe the scope of Services to be performed,
c) Identify deliverables;
d) Describe Vendor responsibilities;
e) Specify a timeline and period of performance;
f) Specify the total cost of the project and total Vendor hours to be provided;
g) Specify travel charges and mileage and per diem reimbursement, if applicable;
h) Identify specific Vendor staff.

22.3 Purchaser may, with reasonable cause, request that Vendor staff assigned to any SOW be replaced.

22.4 The terms and conditions of any SOW cannot conflict with the terms and conditions of this Master Contract. In the event of any conflict, the Master Contract shall prevail.

22.5 Vendor shall keep a record of every SOW established under this Master Contract in accordance with the records retention provisions, Review of Vendor's Records, herein.

23. Personal Services

23.1 All Personal Services to be performed under this Master Contract shall be limited to Personal Services related to the deployment, development or use of applications that include the Software available under this Master Contract. All Personal Services to be performed for Purchaser under this Master Contract shall be documented in a Statement of Work (SOW) established between Vendor and Purchaser. A Template SOW is attached to this Contract as Schedule B. Vendor shall be directly responsible to

Purchaser for all Personal Services performed under the SOW. Purchaser is responsible for the oversight of Vendor's performance of all work performed under the SOW. The SOW will reference this Master Contract Number, T01-MST-002.

23.2 The SOW shall at a minimum:

a) Define project objectives;
b) Describe the scope of Services to be performed,
c) Identify deliverables;
d) Describe Vendor responsibilities;
e) Specify a timeline and period of performance;
f) Specify the total cost of the project and total Vendor hours to be provided;
g) Specify travel charges and mileage and per diem reimbursement, if applicable;
h) Identify specific Vendor staff.

23.3 Purchaser may, with reasonable cause, request that Vendor staff assigned to any SOW be replaced.

23.4 The terms and conditions of any SOW cannot conflict with the terms and conditions of this Master Contract. In the event of any conflict, the Master Contract shall prevail.

23.5 Vendor shall keep a record of every SOW established under this Master Contract in accordance with the records retention provisions, Review of Vendor's Records, herein.

24. Protection of State's Confidential Information

24.1 Vendor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Master Contract or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.17 RCW or other state or federal statutes ("Confidential Information"). Confidential Information includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records, Purchaser source code or object code, or Purchaser security data. Vendor agrees to hold Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this Master Contract, to release it only to authorized employees or Subcontractors requiring such information for the purposes of carrying out this Master Contract, and not to release or disclose it to any other party. Vendor agrees to release such information or material only to employees or Subcontractors who have signed an appropriate nondisclosure agreement. Vendor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information.

24.2 Immediately upon expiration or termination of this Master Contract, Vendor shall, at Purchaser's option: (i) certify to Purchaser that Vendor has destroyed all Confidential Information, or (ii) return all Confidential Information to Purchaser; or (iii) take whatever other steps Purchaser requires of Vendor to protect Purchaser's Confidential Information.

24.3 Purchasers may use any reasonable procedures, such as salting databases, to determine how Vendor and Subcontractors use Confidential Information obtained through performance of this Master Contract.

24.4 Violation of this section by Vendor or its Subcontractors may result in termination of this Master Contract, monetary damages, or penalties.

25. Vendor Commitments, Warranties and Representations

Any written commitment by Vendor within the scope of this Master Contract shall be binding upon Vendor. Failure of Vendor to fulfill such a commitment may constitute breach. For purposes of this Master Contract, a commitment by Vendor which shall be in writing includes prices, discounts, and options committed to remain in force over a specified period of time.

Purchaser's Authority and Responsibilities

26. Purchaser Use of Master Contract

26.1 This Master Contract may be used by authorized Purchasers only and is not for personal use. Reference of the Master Contract Number and/or Purchaser's signature on the Order Document signifies agreement to comply with such restrictions on the use of covered Software and Service. Failure to abide by these restrictions may result in the Purchaser forfeiting the right to make future purchases under this or other Master Contracts.

26.2 Purchaser shall comply with the Software License Terms and Export Restrictions set forth in Section 9 above, and the notice requirements set forth in the provision titled Vendor's Proprietary Information, Section 50 below. Reference of this Master Contract Number and/or Purchaser's signature on the Order Document signifies agreement to comply with Vendor's software license terms, export restrictions and protection of Vendor's confidential or proprietary information.

Contract Administration

27. Legal Notices

27.1 Any notice or demand or other communication required or permitted to be given under this Master Contract or applicable law shall be effective only if it is in writing and signed by the applicable party, properly addressed, and either delivered in person, or by a recognized courier service, or deposited with the United States Postal Service as first-class mail, postage prepaid, or via facsimile, to the parties at the addresses and facsimile numbers provided in this section. For purposes of complying with any provision in this Master Contract or applicable law that requires a "writing," such communication, when digitally signed with a Washington State Licensed Certificate, shall be considered to be "in writing" or "written" to an extent no less than if it were in paper form.

To Vendor at:

FileNet Corporation
Attn: Contracts Administration
3565 Harbor Blvd
Costa Mesa, CA 92626
Phone number: (714) 327-3400
Fax number: (714) 327-3232

And to Vendor at:

FileNet Corporation
Attn: Shawn Whitcomb, Account Executive
720 4th Avenue NE
Kirkland, WA 98033
Phone number: (425) 893-7038
Fax number: (425) 893-7102

To DIS at:

State of Washington
Department of Information Services
Attn: TSD Contract Administrator

If by US Postal Service:	***If by Overnight Courier:***
PO Box 42445	2411 Chandler Court SW
Olympia, WA 98504	Olympia, WA 98502

Phone number: (360) 725-4200
Fax number: (360) 664-0711

or to **Purchasers** at the address and fax number listed on their purchase order.

27.2 Notices shall be effective upon receipt or four (4) Business Days after mailing, whichever is earlier. The notice address as provided herein may be changed by written notice given as provided above.

27.3 In the event that a subpoena or other legal process commenced by a third party, in any way concerning the Software or Services provided pursuant to this Master Contract is served upon Vendor or Purchaser, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Vendor and Purchaser further agree to cooperate with the other party in any lawful effort by the other party to contest the legal validity of such subpoena or other legal process commenced by a third party.

28. DIS Contract Administrator

DIS shall appoint the TSD Contract Administrator as the DIS Contract Administrator for this Master Contract and will provide oversight of the activities conducted hereunder. DIS Contract Administrator will manage this Master Contract on behalf of DIS and will be the principal point of contact for Vendor concerning Vendor's performance under this Master Contract. DIS shall notify Vendor, in writing, when there is a new DIS Contract Administrator assigned to this Master Contract.

29. Vendor Account Manager

Vendor appoints Shawn Whitcomb as the Account Manager for the State's account. Vendor Account Manager will be the principal point of contact for the DIS Contract Administrator and Purchasers concerning Vendor's performance hereunder and for receipt of notices. Vendor

Account Manager will also serve as the focal point for business matters, support coordination, and administrative activities.

Contractor Account Manager: Shawn Whitcomb		
Address: 720 4th Avenue NE, Suite 100, Kirkland, WA 98033		
Phone: (425) 893-7038	Fax: (425) 893-7102	E-mail: swhitcomb@filenet.com

30. Section Headings, Incorporated Documents and Order of Precedence

30.1 The headings used herein are inserted for convenience only and shall not control or affect the meaning or construction of any of the sections.

30.2 Each of the documents listed below is incorporated by this reference into this Master Contract as though fully set forth herein.

a) Exhibit A - State of Washington, DIS Request for Proposals for Electronic Forms Software and Associated Services, Round 1, dated September 15, 2000;

b) Exhibit B – State of Washington, DIS Request for Proposals Round 2 Requirements, dated October 24, 2000;

c) Exhibit C – Vendor's Response, Round 1 dated October 10, 2000, including all written information provided with Vendor's Response;

d) Exhibit D – Vendor's Response, Round 2 dated November 3, 2000 including all written information provided with Vendor's Response;

e) The terms and conditions contained on Purchaser's Order Documents, if used;

f) The terms and conditions included on any FileNet software license; and,

g) All Vendor or manufacturer publications, written materials and schedules, charts, diagrams, tables, descriptions, and other written representations Vendor made available to Purchaser and used to effect the sale of Software to Purchaser.

30.3 In the event of any inconsistency in this Master Contract, it shall be resolved in the following order of precedence:

a) Applicable federal and state statutes, laws, and regulations;

b) Provisions of this Master Contract (T01-MST-002), including the schedules;

c) Exhibit A - State of Washington, DIS Request for Proposals for Electronic Forms Software and Associated Services, Round 1, dated September 15; 2000;

d) Exhibit B – State of Washington, DIS Request for Proposals Round 2 Requirements, dated October 24, 2000;

e) Exhibit C – Vendor's Response, Round 1 dated October 10, 2000, including all written information provided with Vendor's Response;

f) Exhibit D – Vendor's Response, Round 2 dated November 3, 2000 including all written information provided with Vendor's Response; and

g) The terms and conditions contained on Purchaser's Order Documents, if used;

h) The terms and conditions included on any FileNet software license.

31. Entire Agreement

31.1 This Master Contract sets forth the entire agreement between the parties hereto with respect to the subject matter hereof and except as provided in the section Vendor Commitments, Warranties and Representations, understandings, agreements, representations, or warranties not contained in this Master Contract or a written amendment hereto shall not be binding on either party. Except as provided herein, no alteration of any of the terms, conditions, delivery, price, quality, or Specifications of this Master Contract will be effective without the written consent of both parties.

31.2 Vendor has embedded in the Software a License Agreement for the Forms Manager software, Designer software and Informed Deployment Server software. When the Software is first deployed, Purchaser will be asked to accept the terms and conditions of the License Agreement in order to use the Software. Although Purchaser will be technologically required to accept the terms and conditions of the License Agreement, Vendor affirmatively acknowledges and agrees that these License Agreement terms and conditions do not apply to Purchaser and are explicitly excluded from the Master Contract.

32. Additional Services and Software

Additional Products and/or Services, which are determined by the State to be appropriate to the scope of this Master Contract, may be added to this Master Contract (Schedule A hereto) by an instrument in writing, signed by both parties. Such writing shall include a specific description of the additional Products and/or Services, pricing and additional terms and conditions as relevant.

33. Authority for Modifications and Amendments

No modification, amendment, alteration, addition or waiver of any section or condition of this Master Contract shall be effective or binding unless in writing and signed by authorized representatives of Vendor and DIS.

34. Independent Status of Vendor

In the performance of this Master Contract, the parties will be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint venturers, or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever, nor will Vendor make any claim of right, privilege or benefit which would accrue to an employee under chapter 41.06 RCW or Title 51 RCW.

35. Governing Law

This Master Contract shall be governed in all respects by the law and statutes of the state of Washington, without reference to conflict of law principles. The jurisdiction for any action hereunder shall be exclusively in the Superior Court for the state of Washington. The venue of any action hereunder shall be in the Superior Court for Thurston County, Washington.

36. Subcontractors and Fulfillment Partners

36.1 Vendor may, with prior written permission from DIS, which consent shall not be unreasonably withheld, enter into subcontracts with third parties for its performance of any part of Vendor's duties and obligations. DIS hereby authorizes Vendor's use of its Vendor Service Provider Program (SPP) Participants to act as subcontractors to Vendor's Professional Services Organization under this Contract. SPP is a Vendor business partner program that includes the industry's top value-added resellers, system integrators, applications developers, and independent software vendors to deliver solutions and services to customers worldwide.

36.2 Vendor may also, with prior written consent from DIS, which consent shall not be unreasonably withheld, enter into subcontracts with third parties as Fulfillment Partners, who may provide Services under this Contract at the Prices set forth in Schedule A and bill Purchasers directly for such Services. Fulfillment Partners are required to invoice and collect from Purchasers and pay to DIS the Master Contract Administration Fee and provide Activity Reports as set forth in sections 62 and 63 below DIS hereby approves Digital Consulting & Software Services, Inc. (DCSS) as a Fulfillment Partner.

36.3 In no event shall the existence of a subcontract operate to release or reduce the liability of Vendor to Purchaser for any breach in the performance of Vendor's duties. For purposes of this Contract, Vendor agrees that all Subcontractors shall be held to be agents of Vendor. Vendor further agrees to be responsible for the acts or omissions of Vendor's Subcontractors, their agents, or employees subject to the limitations set forth in the **Limitation of Liability** section of this Master Contract. Except to the extent such loss or damage was contributed to by Purchaser or DIS, Purchaser or DIS shall not be liable for any loss or damage resulting from personal injury, physical loss, harassment of employees, or violations of the **Patent and Copyright Indemnification** sections of this Master Contract occasioned by the acts or omissions of Vendor's Subcontractors, their agents or employees.

37. Assignment

37.1 With the prior written consent of DIS, which consent shall not be unreasonably withheld, Vendor may assign this Master Contract including the proceeds hereof: provided that, such assignment shall not affect any remedies available to Purchaser or DIS that may arise from any breach of this Master Contract, its supplements, or warranties made herein, including but not limited to rights of setoff. However, Vendor may assign the Contract pursuant to any merger, acquisition, sale of substantially all of Vendor's assets or other similar change of ownership.

37.2 With the prior written consent of Vendor, which consent shall not be unreasonably withheld, DIS may assign this Master Contract to any public agency, commission, board, or the like, within the political boundaries of the state of Washington: provided that, such assignment shall not operate to relieve DIS of any of its duties and obligations hereunder.

38. Publicity

38.1 The award of this Master Contract to Vendor is not in any way an endorsement of Vendor or Vendor's products by Purchaser and shall not be so construed by Vendor in any advertising or other publicity materials.

38.2 Vendor agrees to submit to DIS, all advertising, sales promotion, and other publicity matters relating to this Master Contract or any Product furnished by Vendor wherein DIS or Purchaser's name is mentioned, language is used, or Internet linkages are provided from which the connection of DIS or Purchaser's name therewith may, in DIS's judgment, be inferred or implied. Vendor further agrees not to publish or use such advertising, sales promotion matter, publicity or the like through print, voice, the World Wide Web, and other communication media in existence or hereinafter developed without the express written consent of DIS prior to such use.

38.3 Either Party may use the other Party's name and logo (except for the State seal) in advertising, sales promotion, and other publicity matters relating to this Master Contract, without royalty, provided that this Master Contract and the relationship between the Parties is not misrepresented.

39. Review of Vendor's Records

39.1 Vendor and its Subcontractors shall maintain books, records, documents and other documents relating to this Master Contract, including but not limited to protection and use of Purchaser's Confidential Information in the performance of this Master Contract. Vendor shall retain all such records for six (6) years after the expiration or termination of this Master Contract. Records involving matters in litigation related to this Master Contract shall be kept for one (1) year following the termination of litigation, including all appeals if the litigation has not terminated within five (5) years from the date of expiration or termination of this Master Contract.

39.2 All such records shall be subject at reasonable times and upon prior notice to examination, inspection, copying, or audit by personnel so authorized by the Purchaser's Contract Administrator, Office of Financial Management and/or the Office of the State Auditor and federal officials so authorized by law, rule, regulation or contract, when applicable. Vendor shall be responsible for any audit exceptions or disallowed costs incurred by Vendor or any of its Subcontractors.

39.3 The records retention and review requirements of this section shall be incorporated by Vendor in any of its subcontracts.

39.4 It is agreed that books, records, documents, and other evidence of accounting procedures and practices related to Vendor's cost structure, including overhead, general and administrative expenses, and profit factors shall be excluded from Purchaser's review.

General Provisions

40. Patent and Copyright Indemnification

40.1 Vendor shall, at its expense, defend or settle any claim against Purchaser that any Products or Work Products supplied hereunder, or Purchaser's use of the Products or Work Products within the terms of this Master Contract, infringe any United States patent, copyright, utility model, industrial design, mask work, trade secret, or trademark ("IP Claim"). Vendor shall pay resulting costs, damages and attorneys' fees finally awarded against Purchaser as a result of an IP Claim provided that Purchaser:

a) Promptly notifies Vendor in writing of the IP Claim; and

b) Cooperates with and assist Vendor with the actions defense; and

c) Grants Vendor sole control of the defense and all related settlement negotiations. (Purchaser agrees to use its best efforts to encourage the Office of the Attorney General of Washington to grant Vendor sole control of the defense and all related settlement negotiations).

40.2 Vendor will pay all costs of such defense and settlement and any costs and damages finally awarded by a court, except costs paid to the Office of the Attorney General as legal fees as a result of an IP Claim, but Vendor will not be responsible for any compromise made without its consent.

40.3 If an IP Claim has occurred, or in Vendor's opinion is likely to occur, Purchaser agrees to permit Vendor, at its option and expense, either to procure for Purchaser the right to continue using the Product or to replace or modify the same so that they become noninfringing and functionally equivalent. If use of the Product is enjoined by a court and Vendor determines that none of these alternatives is reasonably available, Vendor, at its risk and expense, will take back the Product and refund its depreciated value. No termination charges will be payable on such returned Product, and the Purchaser will pay only those charges which were payable prior to the date of such return. Depreciated value shall be calculated on the basis of a useful life of five (5) years commencing on the date of purchase and shall be an equal amount per year over said useful life. The depreciation for fractional parts of a year shall be prorated on the basis of 365 days per year. In the event the Product has been installed less than one year, transportation to the initial installation site paid by Purchaser shall be refunded by Vendor.

Vendor has no liability for any claim of infringement arising solely from:

a) Vendor's compliance with any designs, specifications or instructions of the Purchaser;
b) Modification of the Product by Purchaser or a third party without the prior knowledge and approval of Vendor; or
c) Purchaser's use of a Software version other than the latest unmodified release made available to Purchaser; or
d) Use of the Product in a way not specified by Vendor;

unless the claim arose against Vendor's Product or Services independently of any of these specified actions.

41. Third Party Claims

Vendor shall defend, indemnify, and save Purchaser harmless from and against any damage, cost, or liability, including reasonable attorneys' fees resulting from such claim, by third parties for any or all injuries to persons or damage to property of such third parties arising from intentional, willful or negligent acts or omissions of Vendor, its officers, employees, or agents, or Subcontractors, their officers, employees, or agents. Vendor's obligation to defend, indemnify, and save harmless Purchaser will be reduced proportionally by any alleged concurrent Purchaser negligence.

42. Insurance

42.1 Vendor shall, during the term of this Master Contract, maintain in full force and effect, the insurance described in this section. Vendor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in the state of Washington and approved by DIS Contract Administrator, which approval shall not be unreasonably

withheld. In the event of cancellation, non-renewal, revocation or other termination of any insurance coverage required by this Master Contract, Vendor shall provide written notice of such to DIS within fifteen (15) Business Day of Vendor's receipt of such notice. Failure to buy and maintain the required insurance may, at DIS's sole option, result in this Master Contract's termination.

42.2 The minimum acceptable limits shall be as indicated belowfor each of the following categories:

a) Commercial General Liability covering the risks of bodily injury (including death), property damage and personal injury, including coverage for contractual liability, with a limit of not less than $1,000,000 per occurrence/$2,000,000 general aggregate; and

b) Business Automobile Liability (owned, hired, or non-owned) covering the risks of bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of not less than $1,000,000 per accident; and

c) Employers Liability insurance covering the risks of Vendor's employees' bodily injury by accident or disease with limits of not less than $1,000,000 per accident for bodily injury by accident and $1,000,000 per employee for bodily injury by disease; and

d) Umbrella policy providing excess limits over the primary policies in an amount not less than $3,000,000.

42.3 Vendor shall pay premiums on all insurance policies. Such insurance policies shall name DIS as an additional insured on all general liability, automobile liability, and umbrella policies. Such policies shall also reference this Master Contract number T01-MST-002 and shall have a condition that they not be revoked by the insurer until thirty (30) calendar days after notice of intended revocation thereof shall have been given to DIS by the insurer.

42.4 All insurance provided by Vendor shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State and shall include a severability of interests (cross-liability) provision.

42.5 Vendor shall include all Subcontractors as insured under all required insurance policies, or shall furnish separate certificates of insurance and endorsements for each Subcontractor. Subcontractor(s) shall comply fully with all insurance requirements stated herein. Failure of Subcontractor(s) to comply with insurance requirements does not limit Vendor's liability or responsibility.

42.6 Vendor shall furnish to DIS copies of certificates of all required insurance within thirty (30) calendar days of this Master Contract's Effective Date. Failure to provide evidence of coverage may, at DIS's sole option, result in this Master Contract's termination, after thirty (30) days written notice to cure.

42.7 By requiring insurance herein, DIS does not represent that coverage and limits will be adequate to protect Vendor. Such coverage and limits shall not limit Vendor's liability under the indemnities and reimbursements granted to DIS in this Master Contract.

43. Industrial Insurance Coverage

Prior to performing work under this Master Contract, Vendor shall provide or purchase industrial insurance coverage for its employees, as may be required of an "employer" as defined in Title 51 RCW, and shall maintain full compliance with Title 51 RCW during the course of this Master

Contract. Except as prohibited by law, Vendor waives all rights of subrogation against DIS and Purchaser for recovery of damages to the extent they are covered by workers compensation or other insurance required to be purchased by Vendor under this Master Contract. Purchaser will not be responsible for payment of industrial insurance premiums or for any other claim or benefit for Vendor, or any Subcontractor or employee of Vendor, which might arise under the industrial insurance laws during the performance of this Master Contract.

44. Licensing Standards

Vendor shall comply with all applicable local, state, and federal licensing requirements and standards necessary in the performance of this Master Contract. (See, for example, chapter 19.02 RCW for state licensing requirements and definitions.)

45. UCC Applicability

45.1 Except to the extent the sections of this Master Contract are clearly inconsistent, this Contract shall be governed by any applicable sections of the Uniform Commercial Code (UCC) as set forth in Title 62A RCW.

45.2 To the extent this Master Contract entails delivery or performance of services, such services shall be deemed "goods" within the meaning of the UCC, except when to do so would result in an absurdity.

45.3 Notwithstanding the Section Headings, Incorporated Documents and Order of Precedence section of this Master Contract, in the event of any clear inconsistency or contradiction between this Master Contract and the UCC, the terms and conditions of this Master Contract take precedence and shall prevail unless otherwise provided by law.

46. Compliance with Civil Rights Laws

During the performance of this Master Contract, Vendor shall comply with all federal and applicable state nondiscrimination laws, including but not limited to: Title VII of the Civil Rights Act, 42 U.S.C. 12101 *et seq.;* the Americans with Disabilities Act (ADA); and chapter 49.60 RCW, Washington Law Against Discrimination. In the event of Vendor's noncompliance or refusal to comply with any nondiscrimination law, regulation or policy, this Master Contract may be rescinded or terminated in whole or in part under the **Termination for Default** section, and Vendor may be declared ineligible for further Contracts with Purchaser. In addition to the cancellation of this Master Contract, Vendor may be subject to remedies under federal and state law.

47. Severability

The terms and conditions of this Master Contract are declared severable. If any term or condition of this Master Contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application.

48. Waiver

Waiver of any breach of any term or condition of this Master Contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Master Contract shall be held to be waived, modified, or deleted except by a written instrument signed by the parties hereto.

49. Treatment of Assets

49.1 Title to all property furnished by Purchaser shall remain vested in Purchaser.

49.2 Any property of Purchaser furnished to Vendor, unless otherwise provided herein or approved by Purchaser, shall be used only for the performance of this Master Contract.

49.3 Vendor shall be responsible for any loss or damage to property of Purchaser which results from willful misconduct or negligence on the part of Vendor or which results from the failure on the part of Vendor to maintain and administer that property in accordance with sound management practices.

49.4 Upon loss, destruction, or damage to any Purchaser property, Vendor shall notify Purchaser thereof and shall take all reasonable steps to protect that property from further damage.

49.5 Vendor shall surrender to Purchaser all Purchaser's property prior to settlement upon completion, termination, or cancellation of this Master Contract.

49.6 All references to Vendor under this section shall also include Vendor's employees, agents, or Subcontractors.

50. Vendor's Proprietary Information

Vendor acknowledges that Purchaser is subject to chapter 42.17 RCW and that this Master Contract shall be a public record as defined in chapter 42.17 RCW. Any specific information that is claimed by Vendor to be confidential or proprietary, must be clearly identified as such by Vendor. To the extent consistent with chapter 42.17 RCW, Purchaser shall maintain the confidentiality of all such information marked confidential or proprietary. If a public disclosure request is made to view Vendor's proprietary information, Purchaser will notify Vendor of the request and of the date that such records will be released to the requester unless Vendor obtains a court order enjoining that disclosure. If Vendor fails to obtain the court order enjoining disclosure, Purchaser will release the requested information on the date specified.

Disputes and Remedies

51. Disputes

51.1 In the event a bona fide dispute concerning a question of fact arises between Vendor and Purchaser or DIS and it cannot be resolved between the parties with the aid of the DIS Contract Administrator, either party may initiate the dispute resolution procedure provided herein.

51.2 The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party shall respond in writing within three (3) Business Days. The initiating party shall have three (3) Business Days to review the

response. If after this review a resolution cannot be reached, both parties shall have three (3) Business Days to negotiate in good faith to resolve the dispute.

a) If the dispute cannot be resolved after three (3) Business Days, a dispute resolution panel may be requested in writing by either party who shall also identify the first panel member. Within three (3) Business Days of receipt of the request, the other party will designate a panel member. Those two panel members will appoint a third individual to the dispute resolution panel within the next three (3) Business Days.

b) The dispute resolution panel will review the written descriptions of the dispute, gather additional information as needed, and render a recommendation on the dispute in the shortest practical time.

c) Each party shall bear the cost for its panel member and share equally the cost of the third panel member.

51.3 Both parties agree to exercise good faith in dispute resolution and to settle disputes prior to using a dispute resolution panel whenever possible.

51.4 Purchaser and Vendor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.

51.5 If the subject of the dispute is the amount due and payable by Purchaser for maintenance services being provided by Vendor, Vendor shall continue providing maintenance pending resolution of the dispute provided Purchaser pays Vendor the amount Purchaser, in good faith, believes is due and payable, and places in escrow the difference between such amount and the amount Vendor, in good faith, believes is due and payable.

52. Attorneys' Fees and Costs

If any party brings litigation to enforce any term, condition, or section of this Master Contract, or as a result of this Master Contract in any way, the prevailing party shall be awarded its reasonable attorneys' fees together with necessary fees, expenses, and costs incurred for such litigation at both trial and appellate levels, as well as subsequent to judgment in obtaining execution thereof.

53. Non-Exclusive Remedies

The remedies provided for in this Master Contract shall not be exclusive but are in addition to all other remedies available under law.

54. Failure to Perform

If Vendor fails to perform any substantial obligation under this Master Contract, Purchaser shall give Vendor written notice of such failure to perform. If, after thirty (30) calendar days from the date of the written notice Vendor still has not performed, then without penalty to Purchaser, Purchaser may withhold all monies due and payable to Vendor until such failure to perform is cured or otherwise resolved.

55. Limitation of Liability

55.1 The parties agree that neither Vendor nor Purchaser shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages.

55.2 Vendor and its Licensors will not be liable for any loss or damage claimed to have resulted from the use, operation or performance of the Software, regardless of the form of action. In no event will Vendor be liable to Purchaser for any damages resulting from latent defects or loss of data or profits. Vendor shall be liable for actual damages resulting from a material breach of this Master Contract and for damages directly resulting from Vendor's negligence or intentional misconduct or damage to the other party's property in an amount up to, but not exceeding, $500,000 or the maintenance fees paid for the most current term, whichever is greater.

55.3 Neither Vendor nor Purchaser shall be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of either Vendor or Purchaser. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body other than Purchaser acting in either its sovereign or contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays shall be beyond the reasonable control and without fault or negligence of Vendor, Purchaser, or their respective Subcontractors.

55.4 If delays are caused by a Subcontractor without its fault or negligence, neither Vendor nor Purchaser shall be liable for damages for delays, unless the Software or Services were obtainable on comparable terms from other sources in sufficient time to permit Vendor or Purchaser to meet its required performance schedule.

55.5 Neither party shall be liable for personal injury except personal injury proximately caused by such party's respective fault or negligence.

Contract Termination

56. Termination for Default

56.1 If Vendor violates any material term or condition of this Master Contract or fails to fulfill in a timely and proper manner its obligations under this Master Contract, the DIS Contract Administrator or the affected Purchaser shall give Vendor written notice of the failure or violation, and the failure or violation shall be corrected by Vendor within thirty (30) calendar days or as otherwise mutually agreed. If Vendor's failure or violation is not so corrected, this Master Contract may be terminated immediately by written notice from the DIS Contracting Officer to Vendor, or an Order may be terminated by written notice to Vendor from Purchaser. The option to thus terminate this Master Contract shall be at the sole discretion of DIS.

56.2 If either DIS or Purchaser violates any material term or condition of this Master Contract or fails to fulfill in a timely and proper manner its performance obligations under this Master Contract, then Vendor shall give DIS or Purchaser, as appropriate, written notice of such failure, which shall be corrected by DIS or Purchaser within thirty (30) calendar days. If such failure to perform is not so corrected, Purchaser's SOW may be terminated

by written notice from Vendor to Purchaser or, if appropriate, this Master Contract may be terminated immediately by written notice from Vendor to DIS.

56.3 If it is determined the failure to perform is without the defaulting party's control, fault, or negligence; the termination shall be deemed a Termination for Convenience.

56.4 This section shall not apply to any failure to perform that results from the willful or negligent acts or omissions of the aggrieved party.

57. Termination for Convenience

57.1 When it is in the best interest of Purchaser or DIS, the DIS Contracting Officer may terminate this Master Contract, in whole or in part, by fourteen (14) calendar days written notice to Vendor. Invocation of the Termination for Withdrawal of Authority or Termination for Non-Allocation of Funds sections shall be deemed a Termination for Convenience but will not require such fourteen (14) calendar days written notice.

57.2 If this Master Contract is so terminated, Purchaser is liable only for payments required by the terms of this Master Contract for Software delivered to Purchaser and Services performed by Vendor prior to the effective date of termination.

58. Termination for Withdrawal of Authority

In the event that the authority of Purchaser or DIS to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Master Contract and prior to normal completion, DIS may terminate this Master Contract under the **Termination for Convenience** section. No penalty shall accrue to Purchaser or DIS for exercising its rights under this section. This section shall not be construed to permit DIS to terminate this Master Contract to acquire similar Software or Services from a third party.

59. Termination for Non-Allocation of Funds

If funds are not allocated to continue this Master Contract in any future period, Purchaser or DIS will not be obligated to pay any charges for Software or Services not yet performed. In such case, Purchaser or DIS agrees to notify Vendor at the earliest possible opportunity of such non-allocation. No penalty shall accrue to Purchaser or DIS for exercising its rights under this section. This section shall not be construed to permit Purchaser or DIS to terminate this Master Contract to acquire similar Software or Services from a third party.

60. Termination for Conflict of Interest

DIS may terminate this Master Contract by written notice to Vendor if DIS determines, after due notice and examination, that any party has violated chapter 42.52 RCW, Ethics in Public Service or any other laws regarding ethics in public acquisitions and procurement and performance of contracts. In the event this Master Contract is terminated for conflict of interest, DIS shall be entitled to pursue the same remedies against Vendor as it could pursue in the event Vendor breaches this Master Contract.

61. Termination Procedure

61.1 In addition to the procedures set forth below, if Purchaser terminates this Master Contract, Vendor shall follow any procedures Purchaser specifies in Purchaser's notice of termination.

61.2 Upon termination of this Master Contract, Purchaser, in addition to any other rights provided in this Master Contract, may require Vendor to deliver to Purchaser any Purchaser property, Products, or Work Products specifically produced or acquired for the performance of such part of this Master Contract as has been terminated. The sections for the Treatment of Assets shall apply in such property transfer.

61.3 Unless otherwise provided herein, Purchaser shall pay to Vendor the agreed-upon price, if separately stated, for the Products or Services received and accepted by Purchaser: PROVIDED, That in no event shall Purchaser pay to Vendor an amount greater than Vendor would have been entitled to if this Master Contract had not been terminated. Failure to agree with such determination shall be a dispute within the meaning of the Disputes section of this Master Contract. Purchaser may withhold from any amounts due Vendor such sum as Purchaser determines to be necessary to protect Purchaser from potential loss or liability.

Activity Reporting and Administration Fee

62. DIS Master Contract Administration Fee and Collection

62.1 All purchases made under this Master Contract are subject to a DIS Master Contract Administration Fee, collected by Vendor or Fulfillment Partner and remitted to DIS.

62.2 The Master Contract Administration Fee is one half of one percent (.5% or .005) of the purchase price. The purchase price is defined as total invoice price less sales tax.

62.3 The Master Contract Administration Fee shall be invoiced by Vendor or Fulfillment Partner to all Purchasers as a separate detailed line item on Purchaser's invoice.

62.4 Vendor or Fulfillment Partner shall remit the Master Contract Administration Fee directly to the DIS Contract Administrator along with the Master Contract Activity Report.

63. Master Contract Activity Reporting

63.1 Vendor or Fulfillment Partner shall submit to the DIS Contract Administrator a quarterly Activity Report of all Software and Services purchases made under this Master Contract. The report shall identify:

a) This Master Contract number (T01-MST-002);
b) Each Purchaser making purchases during each month of the quarter;
c) Statement of Work Number;
d) The total invoice price, excluding sales tax for each Purchaser; and,
e) The sum of all invoice prices, excluding sales tax, for all Purchasers for each month;
f) The DIS Master Contract Administration Fee for each month and the total for the quarter.

63.2 The Activity Reports and the DIS Administration Fee shall be due on a quarterly basis in accordance with the following schedule:

Quarter	Report & Fee Due
January, February, March	April 15
April, May, June	July 15
July, August, September	October 15
October, November, December	January 15

63.3 Vendor or Fulfillment Partner shall submit this report according to the layout specified by the DIS Contract Administrator.This report may be corrected or modified by the DIS Contract Administrator with subsequent written notice to Vendor or Fulfillment Partner.

63.4 Quarterly reports are required even if no activity occurred.

64. Failure to Remit Reports/Fees

64.1 Failure of Vendor or Fulfillment Partner to remit the Master Contract Activity Report together with the Master Contract Administration Fee may be considered a failure to perform on the part of Vendor, which may result in DIS terminating this Master Contract with Vendor.

64.2 Failure of any Purchaser to pay the Master Contract Administration Fee may result in a Purchaser forfeiting its right to purchase from this Master Contract. Vendor or Fulfillment Partner shall notify the DIS Contract Administrator when any Purchaser fails to pay the Master Contract Administration Fee.

64.3 The DIS Contract Administrator will notify Vendor or Fulfillment Partner of any Purchaser who has forfeited its right to purchase under this Master Contract. After such notification, any sale by Vendor to a forfeiting Purchaser may be considered failure to perform by Vendor.

64.4 If the performance issues are resolved, DIS, at its option, may reinstate a Vendor's participation or a Purchaser's right to purchase.

Contract Execution

65. Authority to Bind

The signatories to this Master Contract represent that they have the authority to bind their respective organizations to this Contract.

66. Counterparts

This Master Contract may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate shall be deemed an original copy of the Master Contract signed by each party, for all purposes.

In Witness Whereof, the parties hereto, having read this Master Contract in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

Approved

State of Washington
Department of Information Services

Signature

Michael B. Emans 9/28/04
Print or Type Name *Date*

Assistant Director
Title

Approved

FileNet Corporation

Signature

Fred Dillon 10/5/04
Print or Type Name *Date*

VP Sales Operations
Title

Approved as to Form

State of Washington
Office of the Attorney General

Approved as to form by Chip Holcomb via email of 9/23/04, attached

Signature

Chip Holcomb
Print or Type Name

Senior Counsel, AGO
Title *Date*

Vendor Information
Vendor's UBI Number: 601091520
Minority or Woman Owned Business Enterprise Yes _____ No ☒ (Certification Number)

Kirk, Marie (DIS)

From: Holcomb, Chip (ATG)
Sent: Thursday, September 23, 2004 11:50 AM
To: Kirk, Marie (DIS)
Subject: RE: FileNet Latest and Greatest

Consider it approved.
Let me know if you need more,

Chip Holcomb-Senior Counsel, Attorney General's Office
voice: (360)753-9671
fax: (360) 586-3593
email: chiph@atg.wa.gov

-----Original Message-----
From: Kirk, Marie (DIS)
Sent: Thursday, September 23, 2004 9:20 AM
To: Holcomb, Chip (ATG); Chip Holcomb (chiptom@ix.netcom.com)
Subject: FileNet Latest and Greatest

Chip, I am comfortable with the language for the Save Harmless (now Third Party Liability) clause and the rest of the FileNet contract attached. If you haven't yet reviewed the earlier version I sent you, please disregard and review this one. I have also attached the amendment document that implements this Restated Contract again for your convenience. Your approval as to form is requested.

Marie

From: Kirk, Marie (DIS)
Sent: Wednesday, September 22, 2004 3:15 PM
To: Dotan, Mike
Cc: Whitcomb, Shawn; Kirk, Dave (DIS)
Subject: Contract and Fulfillment Partner

Your proposed changes to the Third Party Liability clause are workable, I just made a minor change. This version has added a definition for a Fulfillment Partner as a special type of subcontractor who can be paid directly by purchasers. I added language to the section on Subcontractors and the sections on the Master Contract Administration Fee, as discussed with Shawn. I also added language to the support fees regarding the annual increase. It would be wonderful if we could complete this contract this week.

Marie Kirk
Technology Acquisition Services Manager
Washington State Department of Information Services
If via courier: 2411 Chandler Court SW, Olympia, WA 98502
If via mail: P.O. Box 42445, Olympia, WA 98504-2445
v: 360/725-4241
f: 360/664-0711

Schedule A
Authorized Product and Price List
as of September 2004
for
Master Contract No. T01-MST-002
with
FileNet Corporation

Vendor is authorized under this Master Contract to sell only the Software and Services listed at the prices listed in this Schedule A.

I. Purchaser Site License Program

Purchasers may exercise the option to purchase the Vendor Program at the prices listed below. If Purchaser purchases the Program and is in compliance with the payment terms, Purchaser acquires a perpetual license to deploy, at any time, an unlimited number of forms to an unlimited number of users inside and/or outside the Purchaser's organization.

Perpetual license for Purchaser	
Purchaser with < 600 Seats; minimum 40 Seats	$48.00 per Seat
Purchaser with > 601 Seats	$30.00 per Seat
Forms Manager Designer License	$1,188.00 each
Forms Manager Server License	$11,340 each

Software Support	
Software Support for Vendor's premium level of technical support (Software Support is an annual payment.)	15% of Program purchase price, excluding early payment discounts. Vendor may increase the amount of each successive year's annual software support payment by a maximum of 5% over the previous year's payment.

II. Vendor's retail public prices

Purchasers choosing not to join the Purchaser Site License Program may acquire, under the provisions of this Master Contract, the Products, Software Support listed in the Master Contract at Vendor's then current retail public prices as posted by Vendor.

III. Associated Services

A. Purchased Services

Purchased Services (6.5.5)	Principal Consultant	Plans and implements projects. Manages staff. Primary point of customer contact for projects. Develops architectural solutions, manages risk and resolves complex issues.	per hour	$ 274
	Senior Process Consultant	Plans and implements process mapping and process improvement projects	per hour	$ 246
	Senior Consultant	Plans and implements major tasks on projects or smaller projects. Manages one to two staff members. Primary responsibility for task completion.	per hour	$ 218
	Process Consultant	Performs process analysis, prepares process maps, assists process participants with step analysis.	per hour	$ 208
	Staff Consultant/ Forms Analyst	Installs software. Designs and implements complex forms.	per hour	$ 165
	Technician/ Forms Technician	Installs software. Draws forms. Converts forms from other formats.	per hour	$ 130
Other Purchased Services (6.5.7)	Form Conversions	2 pages or less, light complexity - less than 15 fields per page, no calculations or database connectivity	1 form	$ 137
		2 pages or less, light complexity - less than 15 fields per page, no calculations or database connectivity	100 forms	$ 109

		2 pages or less, medium complexity - 15 to 25 fields per page, light calculations, may include database connectivity	1 form	$ 274
		2 pages or less, medium complexity - 15 to 25 fields per page, light calculations, may include database connectivity	100 forms	$ 218
		2 pages or less, high complexity - more than 25 fields per page, complex calculations, database connectivity	1 form	$ 546
		2 pages or less, high complexity - more than 25 fields per page, complex calculations, database connectivity	100 forms	$ 437
		More than 2 pages, light complexity - less than 15 fields per page, no calculations or database connectivity	1 form	$ 274
		More than 2 pages, light complexity - less than 15 fields per page, no calculations or database connectivity	100 forms	$ 218
		More than 2 pages, medium complexity - 15 to 25 fields per page, light calculations, may include database connectivity	1 form	$ 546
		More than 2 pages, medium complexity - 15 to 25 fields per page, light calculations, may include database connectivity	100 forms	$ 437
		More than 2 pages, high complexity - more than 25 fields per page, complex calculations, database connectivity	1 form	$1,093
		More than 2 pages, high complexity - more than 25 fields per page, complex calculations, database connectivity	100 forms	$ 874

B. Personal Services

Personal Services (6.5.6)	Principal Consultant	Plans and implements projects. Manages staff. Primary point of customer contact for projects. Develops architectural solutions, manages risk and resolves complex issues.	per hour	$ 274
	Senior Process Consultant	Plans and implements process mapping and process improvement projects	per hour	$ 246
	Senior Consultant	Plans and implements major tasks on projects or smaller projects. Manages one to two staff members. Primary responsibility for task completion.	per hour	$ 218
	Process Consultant	Performs process analysis, prepares process maps, assists process participants with step analysis.	per hour	$ 208
	Staff Consultant/ Forms Analyst	Installs software. Designs and implements complex forms.	per hour	$ 165
	Technician/ Forms Technician	Installs software. Draws forms. Converts forms from other formats.	per hour	$ 130

Schedule B
Statement of Work Template

[The details of the specific project or services acquired should be negotiated and set forth in a Statement of Work. A sample Statement of Work is provided below. The RFP document and this Master Contract requires that the Statement of Work address the areas in the following headings.]

Project Objectives

Scope and Description of Work

Timeline and Period of Performance

Vendor Responsibilities

Purchaser Responsibilities

Deliverables

Project Cost (including travel and mileage charges if applicable)

Vendor Staff

Signature Block

Statement of Work #XXX
to
Contract Number T01-MST-002

This Statement of Work (hereinafter "SOW") is made and entered by and between the *[Insert Agency Name]* (hereinafter "Purchaser"), and FileNet Corporation (hereinafter "Vendor"), for *[describe services or project]*. This SOW incorporates by reference the terms and conditions of Master Contract Number T01-MST-002 in effect between the Purchaser and Vendor. The terms and conditions of this SOW cannot conflict with the terms and conditions of the Master Contract. In case of any conflict, the Master Contract shall prevail.

Whereas, the purpose of this SOW is _____

Now therefore, Purchaser and Vendor mutually agree as follows:

I. Project Objectives

II. Scope of Work

Vendor will _____

III. Deliverables

Vendor shall produce

IV. Vendor Responsibilities

V. Purchaser Responsibilities

VI. Timeline and Period of Performance

This SOW's period of performance shall be from _____ through _____.

VII. Project Cost

Total compensation payable to Vendor for satisfactory performance of the work under this SOW is a maximum of _____ ($_____).

[If Applicable] Vendor's compensation for travel plus reimbursement for mileage and per diem shall be based on the following total Vendor travel with reference to Schedule A of the Master Contract and the Office of Financial Management's travel rates and regulations.

VIII. Vendor Staff

In Witness Whereof, the parties hereto, having read this SOW Number XX to Master Contract Number T01-MST-002 in its entirety, do agree thereto in each and every particular.

Approved	**Approved**
[Purchaser]	FileNet Corporation
Signature	*Signature*
Print or Type Name	*Print or Type Name*
Title *Date*	*Title* *Date*

Schedule C
Software Support Schedule

The following are the terms and conditions under which FileNet provides Support (the "Support") covering the Software listed in Schedule A to the Contract.

1. **Maintenance**
   A. **Hours of Support Availability**. Payment of the standard Support Charges (as defined in Section 5, below) entitles Purchaser to Support during the Principal Period of Maintenance ("PPM"). The PPM is a ten hour contiguous daily time period between the hours of 8:00 AM and 6:00 PM, Pacific Time, Monday though Friday, excluding State of Washington holidays. All Support subsequently added shall have the same PPM.

   B. **Scope of Support**. Software Support includes the response to and resolution of Purchaser-encountered problems with the Software as reported to FileNet by Purchaser. Resolution of Purchaser-encountered problems shall, at FileNet's option, consist of: (1) maintenance provided through telephone or electronic support; (2) correction of any defect in the Software program that materially and adversely affects the use of the Software as described in FileNet's documentation, (3) delivery of Software defect corrections or other changes limited to the current or immediate prior Software release. FileNet will support licensed Software located on the Purchaser's development or production systems. FileNet will use commercially reasonable efforts to respond to Purchaser calls according to the priority level of the call. FileNet will ensure the Purchaser's call is resolved within a commercially reasonable period.

   C. **Support Limitations.** Software Support is contingent upon the use of unmodified Software (except as authorized by FileNet) operated in accordance with FileNet's documentation. Software Support specifically excludes the following: (1) Support to a version of Software other than the current or immediate prior release; (2) efforts to restore a release of the Software beyond the current or immediate prior release; (3) efforts to restore Purchaser data beyond the most recent back-up.

   D. **End of Support Life.** FileNet periodically announces the End of Support Life (EOSL) for Software. FileNet will notify the Purchaser signatory or designee in writing or by electronic mail a minimum of one hundred and eighty (180) days prior to the Support discontinuance. After the EOSL, telephone and/or Web-based support will be limited to current available fixes and will be available only on a commercially reasonable efforts basis at prevailing rates.

2. **Purchaser's Responsibilities**. Purchaser is responsible for maintenance and installation of any common carrier equipment or communication service related to the operation of the Software and not furnished by FileNet. Purchaser is also responsible for charges incurred for communication facilities at Purchaser's facilities, whether incurred by Purchaser or by FileNet Support representatives while performing Support on the Software. Purchaser is responsible for performing Software back-ups in accordance with published documentation. Purchaser shall notify FileNet of any Software failure and shall allow FileNet reasonable access to the Software for performing Support. Purchaser must provide FileNet with modem access to the Software to perform remote support.

Purchaser must provide a FileNet trained System Administrator trained in the operating system, database(including back-up and restore), and FileNet tools and applications purchased by the Purchaser. Support calls must be placed to FileNet by a FileNet trained contact.

3. **Software Modification.** FileNet will not be responsible to Purchaser for loss of use of the Software or data or for any other liabilities arising from alterations, additions, adjustments or repairs which are made to the Software by other than authorized representatives of FileNet, or at the direction of FileNet. FileNet reserves the right to terminate this Agreement upon written notice to Purchaser if any such alteration, addition, adjustment or repair adversely affects FileNet's ability to render maintenance Support to the Software.

4. **Term and Applicability to Other Schedules**

   A. If Purchaser elects to purchase maintenance at the same time as its purchase of the Software License , then: (1) the initial term shall begin on the Delivery Date of the Software to the Purchaser and end fifteen (15) months after the Delivery Date, (2) the commencement date for Support Charges will be ninety (90) days from the Delivery Date of the Software to the Purchaser ("Commencement Date"), (3) payment of one year of Support Charges in advance shall begin on the Commencement Date.

   B. After the initial term, Support shall continue under the terms and conditions set forth herein from year to year, unless terminated by either party upon ninety (90) days advance written notice to the other party.

   C. If this Software Support Schedule goes into effect at any other time, the initial term shall begin on the date of the applicable Support subscription order form and end twelve (12) months thereafter, with payment in advance for one year of Support Charges.

   D. The Commencement Date for Software add-ons and/or upgrades will be the Delivery Date and the term of Support and related Support Charges shall be coterminous with the term of Support applicable to the Software initially covered.

5. **Support Charges**

   A. **Definition.** "Support Charges" are the total annual charges for Software Support at the prices listed on Schedule A.

   B. **Invoices.** Support Charges will be invoiced annually in advance, and any one-time charge will be invoiced as incurred. Partial invoicing will be prorated on the basis of a thirty-day (30-day) month. Purchaser shall pay all invoices in full within thirty (30) days of receipt of the invoice regardless of whether or not Purchaser utilizes Support every month during the term.

   C. **Default.** Purchaser will be in default if undisputed amounts due within thirty (30) days after receipt of invoice have not been paid or Purchaser fails to perform any of its obligations hereunder. Purchaser's default will constitute sufficient cause for FileNet to suspend Support under this Software Support Schedule until Purchaser cures such default; or terminate Software Support if Purchaser does not cure such default within thirty (30) days of written notice, or other agreed upon time.

7. LIMITED WARRANTY. THE SUPPORT OBLIGATIONS SET FORTH IN THIS SCHEDULE ARE IN LIEU OF ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SUPPORT PROVIDED UNDER THIS SCHEDULE DOES NOT ASSURE THE UNINTERRUPTED OPERATION OF THE SOFTWARE

Master Contract Number

T0l-MST-002

for

Electronic Forms Software and Associated Services

Between the

State of Washington

DEPARTMENT OF INFORMATION SERVICES

and

SHANA CORPORATION, USA

Effective Date: December 18, 2000

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Exhibits

Exhibit A: DIS Request for Proposals Round 1
Exhibit B: DIS Request for Proposals Round 2 Requirements
Exhibit C: Vendor's Response to DIS Request for Proposals Round 1
Exhibit D: Vendor's Response to DIS Request for Proposals Round 2 Requirements

Note: ***Exhibits A, B C and D are not attached but are available upon requestfrom the Purchaser Contract Administrator***

Master Contract Number T0l-MST-002

Terms and Conditions for

Electronic Forms Software and Associated Services

Parties

This Master Contract is entered into by and between the state of Washington acting through the **Department of Information Services,** an agency of Washington State government (hereinafter "DIS") located at 1110 Jefferson St SE, Olympia, Washington 98504-2445, and **Shana Corporation, USA** a corporation licensed to conduct business in the state of Washington under UBI number 602-083-150 (hereinafter referred to as "Vendor"), located at 11704 Southeast Old Dixie Highway, Hobe Sound, Florida 33455 for the purpose of licensing electronic forms software and providing associated services.

Recitals

Whereas, the state of Washington acting by and through DIS conducted an open, competitive acquisition process and issued a Request for Proposals Round 1, (hereafter "RFP 1") dated September 15, 2000, Exhibit A hereto and Request for Proposals Round 2 Requirements (hereafter "RFP 2") dated October 24, 2000 Exhibit B hereto, (both collectively referred to as "RFP") for the purpose of obtaining eforms development and training services for the Academy; and

Whereas, the Shana Corporation, USA submitted a timely Response, Exhibit C hereto, to the DIS RFP 1 and,

Whereas, the Shana Corporation, USA submitted a timely Response, Exhibit D hereto, to the DIS RFP 2 and,

Whereas, DIS evaluated all Responses properly submitted in response to the above-referenced RFP and has identified Shana Corporation as the apparently successful Vendor; and,

Now therefore, DIS hereby awards to Shana Corporation, USA this Master Contract for electronic forms software (hereinafter "Software") and associated purchased and personal services (hereinafter "Services") to Purchasers at the prices set forth on Schedule A in accordance with the terms and conditions of this Master Contract. Shana Corporation, USA affirmatively acknowledges that no other terms and conditions, including terms and conditions set forth in any Shana Corporation license agreement, apply to any Purchaser for any purchase made pursuant to this Master Contract.

This Master Contract is an Optional Use Contract that neither financially binds the State nor otherwise obligates the State to purchase any Software or Services hereunder. Nor does this Master Contract prevent the State from purchasing the same or similar Software and Services from other sources, *provided that,* all legal acquisition requirements are satisfied. This Master Contract is not for personal use.

1. Definitions

"Business Days and Hours" shall mean Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by the state of Washington.

"Confidential Information" shall mean information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.17 RCW or other state or federal statutes. Confidential Information includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records, agency source code or object code, or agency security data..

"Delivery Date" shall mean the date by which the Software ordered hereunder must be delivered.

"DIS Contract Administrator" shall mean the person designated by DIS as responsible for the maintenance and administration of this Master Contract, notices, reports and any other pertinent documentation or information. The DIS Contract Administrator may also conduct periodic performance or financial audits related to this Master Contract.

"DIS Contracting Officer" shall mean the Director of the Department of Information Services or the person(s) to whom signature authority has been delegated in writing.

"Effective Date" shall mean the date this Master Contract is in full force and effect. It may be a specific date agreed to by the parties; or, if not so specified, the date of the last signature of a party to this Master Contract.

"Help Desk" shall mean a service provided by Vendor for the support of Vendor's Products. Purchaser shall report warranty or maintenance problems to Vendor's Help Desk for initial troubleshooting and possible resolution of problems or for the initiation of repair or replacement services.

"Master Contract" shall mean this document, all schedules and exhibits, and all amendments hereto.

"Order"/"Order Document" shall mean any official document and attachments thereto specifying the Products or Services to be purchased or licensed from Vendor under this Master Contract.

"Personal Services" shall mean other consulting services where Vendor provides judgement and advice or balances time, resources and expense to produce applications or other deliverables. This includes leading or performing design and/or development where Vendor is responsible for the quality of design or overall integration and operation of the application or deliverable.

"Price" shall mean charges, costs, rates, and/or fees charged for the Software and Services under this Master Contract and shall be paid in United States dollars.

"Products" shall include Software and all other Vendor supplied software or equipment related to E-Forms available under this Master Contract.

"Purchased Services" shall mean E-form related programming services according to a government agency's design. The agency is responsible for the overall integration of the

application and its proper operation. This type of service also includes routine and continuing technology services such as data entry, program code maintenance, archival services, etc.

"Purchaser" shall mean DIS and those governmental or nonprofit entities who have entered into an interlocal or Customer Service Agreement with the Department of Information Services.

"RCW" shall mean the Revised Code of Washington.

"RFP" shall mean the Request for Proposals Round 1 and Round 2 collectively used as a solicitation document in this procurement, as well as all amendments and modifications thereto.

"RFP l"shall mean the Request for Proposals Round 1, dated September 15, 2000, Exhibit A.

"RFP 2" shall mean the Request for Proposals Round 2 Requirements dated October 24, 2000 Exhibit B.

"Response" shall mean both Vendor's Response to Purchaser's Request for Proposal Round I and Round 2 Requirements for Electronic Forms Project Development and Training for the Digital Government Applications Academy, Exhibits C and D hereto.

"Response 1" shall mean Vendor's Response to Purchaser's Request for Proposal Round 1 for Electronic Forms Project Development and Training for the Digital Government Applications Academy, Exhibit C hereto.

"Response 2" shall mean Vendor's Response to Purchaser's Request for Proposal Round 2 Requirements for Electronic Forms Project Development and Training for the Digital Government Applications Academy, Exhibit D hereto.

"Schedule A: *Authorized Product and Price List*" shall mean the attachment to this Master Contract that identifies the Prices for all the Products and Services available under this Master Contract.

"Services" shall mean those services related to the Software being acquired, that are appropriate to the scope of this Master Contract and includes such things as configuration and engineering support, technical support, forms design or systems administration, installation services, maintenance, training, etc.

"Software" shall mean the object code version of computer programs comprising Vendor's entire product suite of eforms related software and any related documentation, excluding maintenance diagnostics. Software also means the source code version, where provided by Vendor. "Software" includes all prior, current, and future versions of the Software and all maintenance updates and error corrections.

"Specifications" shall mean the technical and other specifications set forth in the RFP, Exhibits A and B, and any additional specifications set forth in Vendor's Response, Exhibits C and D, collectively.

"State" shall mean DIS, any division, section, office, unit or other entity of DIS or any of the officers or other officials lawfully representing DIS. **State** may also include Purchaser.

"Subcontractor" shall mean one not in the employment of Vendor, who is performing all or part of the business activities under this Master Contract under a separate contract with Vendor. The term "Subcontractor" means Subcontractor(s) of any tier.

"Vendor" shall mean Shana Corporation, USA its employees and agents. "Vendor" also includes any firm, provider, organization, individual, or other entity providing Software or performing services under this Master Contract. It shall also include any Subcontractor retained by Vendor as permitted under the terms of this Master Contract.

"Vendor Account Manager" shall mean a representative of Vendor who is assigned as the primary contact person whom DIS or the Purchaser Project Manager shall work with for the duration of this Master Contract unless replaced, with advance Purchaser approval, by another representative, and as further defined in the section titled **Vendor Account Manager.**

"Vendor Contracting Officer" shall mean the Vendor Officer with signature authority, or the person to whom signature authority has been delegated in writing. This term includes, except as otherwise provided in this Contract, an authorized representative of Vendor Contracting Officer acting within the limits of his/her authority.

Contract Term { TC "Contract Term"\l 4\n }

2. Term

2.1. **Initial Term.** The initial term for purchases under this Master Contract shall be three (3) years, commencing upon the Effective Date.

2.2. **Subsequent Terms.** The term of this Master Contract may be extended by three (3) additional one (1) year terms, *provided that,* the extensions shall be at the option of DIS and shall be effected by DIS giving written notice of its intent to extend this Master Contract to Vendor not less than thirty (30) days prior to the expiration of the then-current Contract term and Vendor accepting such extension prior to the expiration of the then-current Contract term. No change in terms and conditions shall be permitted during these extensions unless specifically agreed to in writing.

3. Survivorship

The terms, conditions and warranties contained in this Master Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Master Contract shall so survive. Specifically, the terms of the sections titled **Software License Terms; Date Compliance Warranty, Publicity, Protection of Purchaser's Confidential Information, Patent and Copyright Indemnification, Disputes,** and **Limitation of Liability** shall survive the termination of this Master Contract.

Pricing, Invoice and Payment{ TC " Pricing, Invoice and Payment "\l 4\n }

4. Purchaser Site License Program

4.1. Vendor offers a Purchaser Site License Program. Under the Purchaser Site License Program, Purchaser acquires a single enterprise license that enable unlimited use of the Informed Filler software by an unlimited number of users within Purchaser and includes the right to deploy an unlimited number of Purchaser forms for use by an unlimited number of internal and external users. All prices and rates for the Purchaser Site License Program are detailed in Schedule A. The details of all purchases shall be set forth in accordance with the section titled **Invoice and Payment.**

4.2. The price for purchasing the Informed Filler software under the Purchaser Site License Program is based on the approximate number of Purchaser's computers that will operate the Products ("seats") at the intial time of purchase.

4.3. Purchaser's purchase of the Informed Filler Software under the Purchaser Site License Program exceeds one hundred and fifty (150) seats or six thousand dollars ($6,000), Purchaser may, at Purchaser's sole option, pay for the Purchaser Site License Program in equal quarterly payments over six (6) quarters. Purchaser'shall pay the total due in one payment if Purchaser's initial purchase does not reach this monetary level.

4.4. Early Bonus Discount. If Purchaser is entitled to the payment plan referenced above in subsection 4.3 but elects to pay the entire sum due for the Purchaser Site License Program in one payment upon delivery or acceptance of the Software, Purchaser shall be entitled to an Early Bonus Discount. The total due and owing by Purchaser shall be reduced by fifteen percent (15%) of the total Purchaser Site License Program price.

4.5. Vendor provides a Maintenance and Support Program under the Purchaser Site License Program. The Maintenance and Support Program provides services as set forth in the section titled **Software Maintenance and Support Services.** The annual price for the Maintenance and Support Program is fifteen percent of the total Program purchase price, excluding any Early Bonus Discount, paid by Purchaser for Products under the Purchaser Site License Program.

4.6. If, after the initial purchase of the Purchaser Site License Program, Purchaser exceeds the number of seats on which the original program rate was based by ten percent (10%), Purchaser shall compensate Vendor at the applicable Program rate for the incremental number of seats to remain in the Purchaser Site License Program.

5. Pricing

5.1. Vendor agrees to provide the Software and Services at the prices set forth in the *Authorized Product and Price List* attached as Schedule A to this Master Contract except that Purchaser Site License Program for the Department of Social and Health Services shall be eighty five thousand dollars. All prices in Schedule A are in United States Dollars. Such prices may not be increased during the term of this Master Contract. No other costs shall be payable to Vendor for implementation of Vendor's Response, except for the DIS Master Contract Administration Fee.

5.2. Maintenance and support fees - Upon expiration of Vendor-provided warranties as set forth in this Master Contract and upon election by Purchaser to receive maintenance and support services from Vendor, Purchaser shall pay maintenance and support fees to Vendor calculated at rates established in Schedule A.

5.3. If Vendor reduces its prices under similar terms for any of the Software or Services during the term of this Master Contract, Purchaser shall have the immediate benefit of such lower prices for new purchases. Vendor will send notice to the DIS Contract Administrator with the reduced prices within fifteen (15) calendar days of the reduction taking effect.

5.4. Vendor agrees all the prices, terms, warranties, and benefits provided in this Master Contract are comparable to or better than the terms presently being offered by Vendor to any other governmental entity purchasing under similar terms. If Vendor shall, during the term of this Master Contract, enter into contracts with any other governmental entity

providing greater benefits or more favorable terms than those provided by this Master Contract, Vendor shall be obligated to provide the same to Purchaser for subsequent purchases.

5.5. At least 90 days before the end of the then-current term of this Master Contract, Vendor shall propose license fees and Services rate increases by written notice to the DIS Contract Administrator. Proposed price increases shall not exceed the prior years United States Consumer Price Index (CPI), except that the proposed rate increase for the first extension allowed under this Master Contract may use the CPI dating back from the Effective Date of the Master Contract. Price adjustments will be taken into consideration by the DIS Contract Adminstrator when determining whether to extend this Master Contract.

5.6. The price of the Enterprise Global License, if purchased prior to July 31, 2001, shall be three million dollars ($3,000,000). The price of the Enterprise Global License, if purchsed prior to December 31, 2001, shall be three million five hundred thousand dollars ($3,500,000) unless otherwise mutually agreed to by the parties.

6. Taxes

Purchaser will pay sales and use taxes imposed on the Software or Services at Purchaser's local rate. Vendor shall pay all other taxes including, but not limited to, Washington Business and Occupation Taxes, other taxes based on Vendor's income or gross receipts, or personal property taxes levied or assessed on Vendor's personal property. Purchaser, as an agency of the Washington State government, is exempt from property tax.

7. Invoice and Payment

7.1. Vendor will submit properly itemized invoices to Purchaser. Invoices shall provide and itemize the following, as applicable:

a) Vendor's name and address and remittance address, if different, phone number and Taxpayer Identification Number;

b) Purchaser's name and address, and Order Document number;

c) This Master Contract number (T01-MST-002);

d) Description of purchased Purchaser Site License Program including but not limited to the number of seats included in Program, payment terms (lump sum payment or six quarterly payments), and early payment discount, if any.

e) Description of Software, including price and quantity ordered;

f) Description of Service, including price and period of performance;

g) Date of delivery and/or date of installation;

h) Applicable discounts;

i) Total invoice price, excluding sales tax;

j) DIS Master Contract Administration Fee;

k) Sales or other applicable taxes;

l) Total invoice price; and

m) Payment terms including any available prompt payment discounts.

7.2. Payments shall be due within thirty (30) calendar days after the receipt and acceptance of such Software and Services or thirty (30) calendar days after receipt of properly prepared invoices, whichever is later.

7.3. If Vendor is employing Subcontractors who are Minority/Women Business Enterprises (MWBE), with each invoice for payment Vendor shall provide Purchaser an *Affidavit of Amounts Paid*, specifying the amounts paid to each certified MWBE under the Master Contract.

7.4. Incorrect or incomplete invoices will be returned by Purchaser to Vendor for correction and reissue.

7.5. This Master Contract number (T01-MST-002) shall appear on all invoices, bills of lading, packages, and correspondence relating to this Contract. Purchaser shall not honor drafts, or accept goods on a sight draft basis.

7.6. If Purchaser fails to make timely payment, Vendor may invoice Purchaser one percent (1%) per month on the amount overdue or a minimum of $1.00. Payment will not be considered late if a check or warrant is postmarked within thirty (30) calendar days of accepting the Software or receipt of Vendor's properly prepared invoice, whichever is later.

8. Overpayment to Vendor

Vendor shall refund to Purchaser the full amount of any erroneous payment or overpayment under this Master Contract within thirty (30) days' written notice. If Vendor fails to make timely refund, Purchaser may charge Vendor one percent (1%) per month on the amount due, until paid in full.

9 . Advance Payment Prohibited

No advance payment shall be made for the Software and Services furnished by Vendor under this Master Contract. Notwithstanding the above, equipment maintenance payments, if any, may be made on a quarterly basis at the beginning of each quarter.

Vendor's Responsibilities{ TC " Vendor's Responsibilities "\l 4\n }

10. License Grant

10.1. Vendor grants to Purchaser a non-exclusive, perpetual, irrevocable, transferable license to use the Software and related documentation according to the terms and conditions of this Master Contract. "Use" of one copy of the Software shall mean that the Software is either loaded in the temporary memory (i.e. RAM) of a computer or installed on the permanent memory of a computer (i.e. hard disk, CD ROM, etc). "Use" of the one copy of the software shall also include a second home computer as long as both copies are not used simultaneously, and the computer is not accessible by multiple computers.

10.2. Purchaser's license to use the Software includes the development and deployment of an unlimited number of forms and the unlimited number of persons who may download, fill, send or otherwise use the forms.

10.3. Use by the Public. The license granted to Purchaser includes the right to deploy and distribute Informed Filler software on Purchaser's web site or other appropriate portal for use by the public to complete and send Purchaser forms through the Internet. Use by the public shall not include any Vendor provided documentation or Vendor support. Vendor agrees that the public will not be required to obtain a license from Vendor nor pay a fee in order to download Informed Filler software from Purchaser's website. Vendor acknowledges that Purchaser cannot restrict or control how the Informed Filler software is used by the public once downloaded from the Internet. Vendor agrees that Purchaser is not responsible for nor shall Purchaser be held liable for any use of Informed Filler software by the public. _

10.4. Purchaser may modify any Vendor application Software and may combine such with other programs or materials to form a derivative work, provided that upon discontinuance or termination of the license, Vendor application Software will be removed from the derivative work and, at Purchaser's option, either destroyed or returned to Vendor. In such situations, Purchaser retains a license only to use the Software in the derivative work.

10.5. Purchaser will not decompile or disassemble any Software provided under this Contract or modify Software that bears a copyright notice of any third party without the prior written consent of Vendor or Software owner.

10.6. Purchaser will make and maintain no more than one archival copy of each item of Software, and each copy will contain all legends and notices and will be subject to the same conditions and restrictions as the original. Purchaser may also make copies of the Software in the course of routine backups of hard drive(s) for the purpose of recovery of hard drive contents. Purchaser may use backup or archival copies of the Software, without reinstallation or interruption of production copy(ies), for disaster recovery exercises at its disaster recovery site(s), without additional charge. Purchaser may make these backup or archival copies available to the disaster recovery site(s)' employees who require use of the Software in order to assist Purchaser with disaster recovery exercises. Purchaser agrees that production use of the Software at the disaster recovery site(s) shall be limited to times when Purchaser's facilities, or any portion thereof, are inoperable due to emergency situations.

10.7. Freedom of Use. Vendor understands that Purchaser may provide information processing services to other users that are agencies of state government and other tax supported entities. Vendor further understands that Purchaser or other users that are agencies of state government and other tax-supported entities may provide services to the public through Internet applications. Software delivered hereunder may be used in the delivery of these services. Vendor acknowledges and agrees that such use of Software products is acceptable under the licensing agreements contained herein.

11. Software Ownership

Vendor shall maintain all title, copyright, and other proprietary rights in the Software. Purchaser does not acquire any rights, express or implied, in the Software, other than those specified in this Master Contract. Vendor hereby warrants and represents to Purchaser that Vendor is the owner of the Software licensed hereunder or otherwise has the right to grant to Purchaser the licensed rights to the Software provided by Vendor through this Master Contract without violating any rights of any third party worldwide. Vendor represents and warrants that Vendor has the right to license the Software to Purchaser as provided in this Master Contract; and that Purchaser's use of

the Software and Documentation within the terms of this Master Contract will not infringe upon any copyright, patent, trademark or other intellectual property right worldwide or violate any third party's trade secret, contract or confidentiality rights worldwide. Vendor represents and warrants that: (i) Vendor is not aware of any claim, investigation, litigation, action, suit or administrative or judicial proceeding pending or threatened based on claims that the Software infringes any patents, copyrights, or trade secrets of any third party, and (ii) that Vendor has no actual knowledge that the Software infringes upon any patents, copyrights, or trade secrets of any third party.

12. Ownership/Rights in Data

12.1. Purchaser and Vendor agree that all data and work products (collectively "Work Product") produced pursuant to this Master Contract shall be considered work made for hire under the U.S. Copyright Act, 17 U.S.C. §101 *et seq*, and shall be owned by Purchaser. Vendor is hereby commissioned to create the Work Product. Work Product includes, but is not limited to, discoveries, formulae, ideas, improvements, inventions, methods, models, processes, techniques, findings, conclusions, recommendations, reports, designs, plans, diagrams, drawings, databases, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions, to the extent provided by law. Work Product shall include data that Vendor develops for Purchaser under this Contract. Work Product shall not include Vendor's future commercial software that incorporates ideas Vendor has acquired as a result of its work under this Contract. In accordance with RCW 39.29.080, Vendor shall provide access to Work Product produced under this Master Contract to Purchaser and any person or entity responsible for overseeing Purchaser and Vendor may not charge additional costs for such access. Ownership includes the right to copyright, patent, register and the ability to transfer these rights and all information used to formulate such Work Product.

12.2. If for any reason the Work Product would not be considered a work made for hire under applicable law, Vendor assigns and transfers to Purchaser, the entire right, title and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof.

12.3. Vendor agrees to execute all documents and to perform such other proper acts as Purchaser may deem necessary to secure for Purchaser the rights pursuant to this section.

12.4. Vendor shall not use or in any manner disseminate any Work Product to any third party, or represent in any way Vendor ownership of any Work Product, without the prior written permission of Purchaser. Vendor shall take all reasonable steps necessary to ensure that its agents, employees, or Subcontractors shall not copy or disclose, transmit or perform any Work Product or any portion thereof, in any form, to any third party.

12.5. Material that is delivered under this Master Contract, but that does not originate therefrom ("Preexisting Material"), shall be transferred to Purchaser with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, display, and dispose of such Preexisting Material, and to authorize others to do so except that such license shall be limited to the extent to which Vendor has a right to grant such a license. Vendor shall exert all reasonable effort to advise Purchaser at the time of delivery of Preexisting Material furnished under this Master Contract, of all known or potential infringements of privacy or other intellectual property contained therein and of any portion of such document which was not produced in the performance of this Master

Contract. Vendor agrees to obtain, at its own expense, express written consent of the copyright holder for the inclusion of Preexisting Material. Purchaser shall receive prompt written notice of each notice or claim of copyright infringement or infringement of other intellectual property right worldwide received by the Vendor with respect to any Preexisting Material delivered under this Master Contract. Purchaser shall have the right to modify or remove any restrictive markings placed upon the Preexisting Material by Vendor.

13. Software Specifications

The RFP Specifications and the Specifications of Vendor's Response are incorporated into and are essential substantive terms of this Master Contract. Software provided under this Master Contract shall meet or exceed all of the mandatory technical requirements of the RFP. Vendor is not required to specify the specific product that meets the mandatory RFP Specifications and evaluation criteria. All Software will conform to that item's detailed Specification in all respects. Vendor warrants that Products delivered hereunder shall perform in accordance with these Specifications.

14. Shipping and Risk of Loss

Vendor shall ship all Products purchased pursuant to this Master Contract, freight prepaid, FOB Purchaser's destination. The method of shipment shall be consistent with the nature of the Products and hazards of transportation. Regardless of FOB point, Vendor agrees to bear all risks of loss, damage, or destruction of the Products ordered hereunder that occurs prior to acceptance, except loss or damage attributable to Purchaser's fault or negligence; and such loss, damage, or destruction shall not release Vendor from any obligation hereunder. After acceptance the risk of loss or damage shall be borne by Purchaser, except loss or damage attributable to Vendor's fault or negligence.

15. Software Delivery

15.1. The Vendor shall deliver the Software ordered pursuant to this Master Contract on or before the date established in the Purchaser's Order Document. For any exception to this Delivery Date, the Vendor must notify the Purchaser and obtain prior approval in writing. Time is of the essence with respect to delivery and the Vendor may be subject to liquidated damages and/or termination of the Order or this Master Contract and/or other damages available under law for failure to deliver on time.

15.2. All Software deliveries made pursuant to an Order Document or this Master Contract must be complete. Unless the Vendor has obtained prior written approval from Purchaser, which shall not be withheld unreasonably, incomplete deliveries or backorders will not be Accepted. All packages must be accompanied by a packing slip which identifies all items included with the shipment and the Purchaser's Purchase order number. The Vendor's delivery receipt must be signed by an authorized representative of Purchaser for all deliveries made hereunder.

15.3. Any additional delivery instructions shall be included in the Purchaser's Order Document.

16. Site Security

While on Purchaser's premises, Vendor, its agents, employees, or Subcontractors shall conform in all respects with physical, fire, or other security regulations.

17. Installation

17.1 All installation of the Software purchased pursuant to this Master Contract by Purchaser will be by and at the sole expense of Purchaser, except as set forth below.

17.2 If Purchaser purchases an Informed Deployment Server ("Server") Portal pursuant to this Master Contract, Vendor shall install and set up the Server for Purchaser. All terms and conditions for Vendor's installation of this product may be set forth in a Statement of Work.

18. Date Warranty

Vendor warrants that all Software provided under this Master Contract: (i) does not have a life expectancy limited by date or time format; (ii) will correctly record, store, process, and present calendar dates; (iii) will lose no functionality, data integrity, or performance with respect to any date; and (iv) will be interoperable with other software used by Purchaser that may deliver date records from the Software, or interact with date records of the Software, not including third party software not made known to Vendor or within Vendor's control ("Date Warranty"). In the event a Date Warranty problem is reported to Vendor by Purchaser and such problem remains unresolved after three (3) calendar days, at Purchaser's discretion, Vendor shall send, at Vendor's sole expense, at least one (1) qualified and knowledgeable representative to Purchaser's premises. This representative will continue to address and work to remedy the failure, malfunction, defect, or nonconformity on Purchaser's premises. This Date Warranty shall last perpetually. In the event of a breach of any of these representations and warranties, Vendor shall indemnify and hold harmless Purchaser from and against any and all harm, injury, damages, costs, and expenses incurred by Purchaser arising out of said breach.

19. Physical Media Warranty

19.1. Vendor warrants to Purchaser that each licensed copy of the Software provided by Vendor is and will be free from physical defects in the media that tangibly embodies the copy (the "Physical Media Warranty"). The Physical Media Warranty does not apply to defects discovered more than thirty (30) calendar days after the date of acceptance of the Software copy by Purchaser.

19.2. Vendor shall replace, at Vendor's expense including shipping and handling costs, any Software copy provided by Vendor that does not comply with this warranty.

20. No Surreptitious Code Warranty

20.1. Vendor warrants to Purchaser that no licensed copy of the Software provided to Purchaser contains or will contain any Self-Help Code nor any Unauthorized Code as defined below. Vendor further warrants Vendor will not introduce via modem or otherwise any code or mechanism which electronically notifies Vendor of any fact or event, or any key, node lock, time-out or other function, implemented by any type of means or under any circumstances, which may restrict Purchaser's use of or access to any

programs, data or equipment based on any type of limiting criteria, including frequency or duration of use for any copy of the licensed Software provided to Purchaser under this Contract. The warranty is referred to in this Master Contract as the "No Surreptitious Code Warranty."

20.2. As used in this Master Contract, "Self-Help Code" means any back door, time bomb, drop dead device, or other software routine designed to disable a computer program automatically with the passage of time or under the positive control of a person other than a licensee of the Software. Self-Help Code does not include software routines in a computer program, if any, designed to permit an owner of the computer program (or other person acting by authority of the owner) to obtain access to a licensee's computer system(s) (e.g., remote access via modem) solely for purposes of maintenance or technical support.

20.3. As used in this Master Contract, "Unauthorized Code" means any virus, Trojan horse, worm or other software routines or Equipment components designed to permit unauthorized access: to disable, erase, or otherwise harm software, Equipment, or data; or to perform any other such actions. The term Unauthorized Code does not include Self-Help Code.

20.4. Vendor will defend Purchaser against any claim, and indemnify Purchaser against any loss or expense arising out of any breach of the No Surreptitious Code Warranty. No limitation of liability, whether contractual or statutory, shall apply to a breach of this warranty.

21. Reauthorization Code Required

Vendor's Software shall not require a reauthorization code in order for the Software to remain functional upon Purchaser's movement of the Software to another computer system.

22. Software Upgrades and Enhancements

Vendor shall:

22.1. Supply at no added cost updated versions of the Software to operate on upgraded versions of operating systems;

22.2. Supply at no added cost updated versions of the Software that encompass improvements, extensions, maintenance updates, error corrections, or other changes that are logical improvements or extensions of the original Products supplied to Purchaser; and

22.3. Supply at no added cost interface modules that are developed by Vendor for interfacing the Software to other Software products.

23. Software Maintenance and Support Services

Vendor shall provide a replacement copy or correction service at no additional cost to Purchaser for any error, malfunction, or defect, if any, in Software that, when used as delivered, fails to perform in accordance with Vendor's officially announced technical specifications or Vendor's Response and that Purchaser shall bring to Vendor's attention. Vendor may not be required to provide these services for Vendor Software that have been modified by Purchaser in accordance with Section 9. License Grant. Vendor shall undertake such correction service as set forth below

and shall use its best efforts to make corrections in a manner that is mutually beneficial. Vendor shall disclose all known defects that would inhibit the functionality or accuracy of the Software and their detours or workarounds to Purchaser.

In addition, Vendor shall provide the following Services:

23.1. Help Desk Services. Vendor shall provide Help Desk Services for reporting warranty and trouble shooting problems. Vendor's Help Desk Services shall be web-based, by toll-free telephone lines and via the Internet. Vendor's Help Desk Services shall include but is not limited to the following Services:

a) Assistance related to questions on the use of the subject Software;

b) Assistance in identifying and determining the causes of suspected errors or malfunctions in Software;

c) Advice on detours or workarounds for identified errors or malfunctions, where reasonably available;

d) Information on errors previously identified by Purchaser and reported to Vendor and detours to these where available; and

e) Advice on the completion and authorization for submission of the required form(s) reporting identified problems in the Software to Vendor.

23.2. On-line Support. Vendor may execute on-line diagnostics from a remote Vendor location to assist in the identification and isolation of suspected Software errors or malfunctions.

23.3. Error and Malfunction Service. Within two (2) Business Days of receiving oral or written notification by Purchaser of identified errors or malfunctions in the Software, Vendor will either:

a) Provide Purchaser with detour or code correction to the Software error or malfunctions. Each detour or code correction will be made available in the form of either a written correction notice or machine-readable media and will be accompanied by a level of documentation adequate to inform Purchaser of the problem resolved and any significant operational differences resulting from the correction which is known by Vendor; or

b) Provide Purchaser with a written response describing Vendor's then-existing diagnosis of the error or malfunction and generally outlining Vendor's then-existing plan and timetable, subject to Purchaser's approval, for correcting or working around the error or malfunction.

23.4. On-Call Support. If a problem occurs that significantly impacts Purchaser's usage of the Software and remains unidentified or unresolved after Purchaser has utilized the detour or code correction prescribed by Vendor pursuant to subsection 23.1 or 23.3, above, Vendor will dispatch a representative to the system location during Business Days and Hours, which representative must arrive within twenty four (24) hours. This representative shall have the qualifications necessary to provide:

a) Advice and assistance in diagnosis and identification of errors or malfunctions in the Software.

b) On-site consultation on correction or detour of identified errors or malfunctions.

23.5. When Vendor performs Services pursuant to this Master Contract that require the use of Purchaser's computer system(s), Purchaser agrees to make the computer system(s)

available at reasonable times and in reasonable time increments, and in no event will Purchaser charge Vendor for such system use

23.6. Maintenance Release Services. Vendor will provide error corrections and maintenance releases to the Software that have been developed by Vendor. Vendor is only required to provide releases in electronic form, but may, at Vendor's discretion, provide such releases through a physical media. Such releases shall be licensed to Purchaser pursuant to the terms and conditions of this Master Contract. Each maintenance release will consist of a set of programs and files made available in the form of machine-readable media and will be accompanied by a level of documentation adequate to inform Purchaser of the problems resolved including any significant differences resulting from the release which are known by Vendor. Vendor agrees that each maintenance release of Software will be compatible with the then-current unaltered release of Software applicable to the computer system.

23.7. Vendor shall provide maintenance and technical support in accordance with their Response 2, Appenedix III (Software Maintenance) and Appendix IV (Technical Support).

24. Software Documentation

Vendor shall provide two (2) complete sets of documentation for each Software order, including technical, maintenance, and installation information. Vendor shall also provide two (2) complete sets of documentation for each updated version of Software Vendor provides pursuant to the **Software Upgrades and Enhancements** section. Vendor shall provide the documentation on or before the date Vendor delivers its respective Software. There shall be no additional charge for this documentation or the updates, in whatever form provided. Vendor's Software documentation shall be comprehensive, well structured, and indexed for easy reference. If Vendor maintains its technical, maintenance and installation documentation on a web site, Vendor may fulfill the obligations set forth in this section by providing Purchaser access to its web-based documentation information. Vendor may also provide such information on CD-ROM. Vendor grants Purchaser the right to make derivative works, update, modify, copy or otherwise reproduce the documentation furnished pursuant to this section at no additional charge.

25. Training

25.1. Vendor shall provide training as specified in Vendor's Response 2, Appendix V.

25.2. As long as the Software purchased under this Master Contract is in use by Purchaser, Purchaser shall have the right to use Vendor's materials for instruction of its personnel at no additional cost, including the right to reproduce Vendor's instructional materials. Such use and reproduction by Purchaser shall not be deemed to violate or infringe upon any patent, copyright, or other proprietary right of the Vendor.

26. Other Purchased Services

26.1. All Purchased Services to be performed for Purchaser under this Master Contract shall be documented in a Statement of Work (SOW) established between Vendor and Purchaser. Vendor shall be directly responsible to Purchaser for all Purchased Services performed under the SOW. Purchaser is responsible for the oversight of Vendor's performance of

all work performed under the SOW. The SOW will reference this Master Contract Number, T01-MST-002.

26.2. The SOW shall at a minimum:

a) Define project objectives;

b) Describe the scope of Services to be performed,

c) Identify deliverables;

d) Describe Vendor responsibilities;

e) Specify a timeline and period of performance;

f) Specify the total cost of the project and total Vendor hours to be provided;

g) Specify travel charges and mileage and per diem reimbursement, if applicable;

h) Identify specific Vendor staff.

26.3. Purchaser may, at its sole discretion, request that Vendor staff assigned to any SOW be replaced without cause.

26.4. The terms and conditions of any SOW cannot conflict with the terms and conditions of this Master Contract. In the event of any conflict, the Master Contract shall prevail.

26.5. Vendor shall keep a record of every SOW established under this Master Contract in accordance with the records retention provisions, **Review of Vendor's Records,** herein.

27. Other Personal Services

27.1. All Personal Services to be performed for Purchaser under this Master Contract shall be documented in a Statement of Work (SOW) established between Vendor and Purchaser. Vendor shall be directly responsible to Purchaser for all Personal Services performed under the SOW. Purchaser is responsible for the oversight of Vendor's performance of all work performed under the SOW. The SOW will reference this Master Contract Number, T01-MST-002.

27.2. The SOW shall at a minimum:

a) Define project objectives;

b) Describe the scope of Services to be performed,

c) Identify deliverables;

d) Describe Vendor responsibilities;

e) Specify a timeline and period of performance;

f) Specify the total cost of the project and total Vendor hours to be provided;

g) Specify travel charges and mileage and per diem reimbursement, if applicable;

h) Identify specific Vendor staff.

27.3. Purchaser may, at its sole discretion, request that Vendor staff assigned to any SOW be replaced without cause.

27.4. The terms and conditions of any SOW cannot conflict with the terms and conditions of this Master Contract. In the event of any conflict, the Master Contract shall prevail.

27.5. Vendor shall keep a record of every SOW established under this Master Contract in accordance with the records retention provisions, **Review of Vendor's Records,** herein.

28. Protection of State's Confidential Information

28.1. Vendor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Master Contract or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.17 RCW or other state or federal statutes ("Confidential Information"). Confidential Information includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records, agency source code or object code, or agency security data. Vendor agrees to hold Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this Master Contract, to release it only to authorized employees or Subcontractors requiring such information for the purposes of carrying out this Master Contract, and not to release or disclose it to any other party. Vendor agrees to release such information or material only to employees or Subcontractors who have signed a nondisclosure agreement, the terms of which have been previously approved by Purchaser. Vendor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information.

28.2. Immediately upon expiration or termination of this Master Contract, Vendor shall, at Purchaser's option: (i) certify to Purchaser that Vendor has destroyed all Confidential Information, or (ii) return all Confidential Information to Purchaser; or (iii) take whatever other steps Purchaser requires of Vendor to protect Purchaser's Confidential Information.

28.3. Vendor shall maintain a log documenting the following: the Confidential Information received in the performance of this Master Contract; why the Confidential Information was received; who received, maintained and used the Confidential Information; the purposes for which the Confidential Information was received; and the final disposition of the Confidential Information. Vendor's records shall be subject to inspection, review or audit in accordance with **Review of Vendor's Records.**

28.4. Purchasers may use any reasonable procedures, such as salting databases, to determine how Vendor and Subcontractors use Confidential Information obtained through performance of this Master Contract.

28.5. Violation of this section by Vendor or its Subcontractors may result in termination of this Master Contract, monetary damages, or penalties.

29. Vendor Commitments, Warranties and Representations

Any written commitment by Vendor within the scope of this Master Contract shall be binding upon Vendor. Failure of Vendor to fulfill such a commitment may constitute breach and shall render Vendor liable for damages under the terms of this Master Contract. For purposes of this Master Contract, a commitment by Vendor which shall be in writing includes: (a) prices, discounts, and options committed to remain in force over a specified period of time; and, (b) any warranty or representation made by Vendor in its Response or contained in any literature, descriptions, drawings or specifications accompanying or referred to in its Response or used to effect the sale to Purchaser as to Software or software performance or any other physical, design or functional characteristics of a machine, software package, system, training, service or other product within the scope of this Master Contract.

Purchaser's Authority and Responsibilities{ TC " Purchaser's Authority and Responsibilities "\l 4\n }

30. Purchaser Use of Master Contract

30.1. This Master Contract may be used by authorized Purchasers only and is not for personal use. Reference of the Master Contract Number and/or Purchaser's signature on the Order Document signifies agreement to comply with such restrictions on the use of covered Software and Service. Failure to abide by these restrictions may result in the Purchaser forfeiting the right to make future purchases under this or other Master Contracts.

30.2. Purchaser shall comply with **Export Restrictions** and **Software License Terms** and the notice requirements set forth in the provision titled **Vendor's Proprietary Information.** Reference of this Master Contract Number and/or Purchaser's signature on the Order Document signifies agreement to comply with Vendor's software license terms, export restrictions and protection of Vendor's confidential or proprietary information.

31. Export Restrictions

Purchaser shall not transport or transmit, directly or indirectly, the Software or any technical data received from Vendor, nor the direct product derived therefrom, outside the United States or Canada without Vendor's prior written consent and without complying with all export laws and regulations of the United States.

Contract Administration{ TC "Contract Administration "\l 4\n }

32. Legal Notices

32.1. Any notice or demand or other communication required or permitted to be given under this Master Contract or applicable law shall be effective only if it is in writing and signed by the applicable party, properly addressed, and either delivered in person, or by a recognized courier-service, or deposited with the United States Postal Service as first-class mail, postage prepaid, via facsimile or by electronic mail, to the parties at the addresses and e-mail addresses provided in this section. For purposes of complying with any provision in this Master Contract or applicable law that requires a "writing," such communication, when digitally signed with a Washington State Licensed Certificate, shall be considered to be "in writing" or "written" to an extent no less than if it were in paper form.

To Vendor at:	To DIS at:
	State of Washington
Shana Corporation	Department of Information Services
Attn: John Murphy	**Attn: TSD Contract Administrator**
VP Marketing and Sales	PO Box 42445
9744 45 Avenue	512 - 12th Avenue SE
Edmonton, Alberta, Canada T6E 5C5	Olympia, WA 98504-2445
Fax number: (780) 437-4381	Fax number: (360) 664-0711

or to **Purchasers** at the address and fax number listed on their purchase order.

32.2. Notices shall be effective upon receipt or four (4) Business Days after mailing, whichever is earlier. The notice address as provided herein may be changed by written notice given as provided above.

32.3. In the event that a subpoena or other legal process commenced by a third party, in any way concerning the Software or Services provided pursuant to this Master Contract is served upon Vendor or Purchaser, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Vendor and Purchaser further agree to cooperate with the other party in any lawful effort by the other party to contest the legal validity of such subpoena or other legal process commenced by a third party.

33. DIS Contract Administrator

DIS shall appoint the TSD Contract Administrator as the DIS Contract Administrator for this Master Contract and will provide oversight of the activities conducted hereunder. DIS Contract Administrator will manage this Master Contract on behalf of DIS and will be the principal point of contact for Vendor concerning Vendor's performance under this Master Contract. DIS shall notify Vendor, in writing, when there is a new DIS Contract Administrator assigned to this Master Contract.

34. Vendor Account Manager

Vendor appoints Paul Chamberland as the Account Manager for the State's account. Vendor Account Manager will be the principal point of contact for the DIS Contract Administrator and Purchasers concerning Vendor's performance hereunder and for receipt of notices. Vendor Account Manager will also serve as the focal point for business matters, support coordination, and administrative activities.

35. Section Headings, Incorporated Documents and Order of Precedence

35.1. The headings used herein are inserted for convenience only and shall not control or affect the meaning or construction of any of the sections.

35.2. Each of the documents listed below is incorporated by this reference into this Master Contract as though fully set forth herein.

a) Exhibit A - State of Washington, DIS Request for Proposals for Electronic Forms Software and Associated Services, Round 1, dated September 15; 2000;

b) Exhibit B - State of Washington, DIS Request for Proposals Round 2 Requirements, dated October 24, 2000;

c) Exhibit C - Vendor's Response, Round 1 dated October 10, 2000, including all written information provided with Vendor's Response;

d) Exhibit D - Vendor's Response, Round 2 dated November 3, 2000 including all written information and oral presentation provided with Vendor's Response;

e) The terms and conditions contained on Purchaser's Order Documents, if used; and,

f) All Vendor or manufacturer publications, written materials and schedules, charts, diagrams, tables, descriptions, and other written representations Vendor made available to Purchaser and used to effect the sale of Software to Purchaser, or purports the Software is fit for a particular purpose or attests to the Software's engineering level, operating condition, functions, capabilities, or merchantability.

35.3. In the event of any inconsistency in this Master Contract, it shall be resolved in the following order of precedence:

a) Applicable federal and state statutes, laws, and regulations;

b) Provisions of this Master Contract (T01-MST-002);

c) Schedule A - Authorized Product and Price List;

d) Exhibit A - State of Washington, DIS Request for Proposals for Electronic Forms Software and Associated Services, Round 1, dated September 15; 2000;

e) Exhibit B - State of Washington, DIS Request for Proposals Round 2 Requirements, dated October 24, 2000;

f) Exhibit C - Vendor's Response, Round 1 dated October 10, 2000, including all written information provided with Vendor's Response;

g) Exhibit D - Vendor's Response, Round 2 dated November 3, 2000 including all written information and oral presentation provided with Vendor's Response; and

h) The terms and conditions contained on Purchaser's Order Documents, if used.

36. Entire Agreement

37.1 This Master Contract sets forth the entire agreement between the parties hereto with respect to the subject matter hereof and except as provided in the section **Vendor Commitments, Warranties and Representations,** understandings, agreements, representations, or warranties not contained in this Master Contract or a written amendment hereto shall not be binding on either party. Except as provided herein, no alteration of any of the terms, conditions, delivery, price, quality, or Specifications of this Master Contract will be effective without the written consent of both parties.

37.2 Vendor has embedded in the Software a License Agreement for the Informed Filler software, Designer software and Informed Deployment Server software. When the Software is first deployed, Purchaser will be asked to accept the terms and conditions of the License Agreement in order to use the Software. Although Purchaser will be technologically required to accept the terms and conditions of the License Agreement, Vendor affirmatively acknowledges and agrees that these License Agreement terms and conditions do not apply to Purchaser and are explicitly excluded from the Master Contract.

37. Additional Services and Software

Additional Products and/or Services, which are determined by the State to be appropriate to the scope of this Master Contract, may be added to this Master Contract (Schedule A hereto) by an instrument in writing, signed by both parties. Such writing shall include a specific description of the additional Products and/or Services, pricing and additional terms and conditions as relevant.

38. Authority for Modifications and Amendments

No modification, amendment, alteration, addition or waiver of any section or condition of this Master Contract shall be effective or binding unless in writing and signed by authorized representatives of Vendor and DIS.

39. Independent Status of Vendor

In the performance of this Master Contract, the parties will be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint venturers, or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever, nor will Vendor make any claim of right, privilege or benefit which would accrue to an employee under chapter 41.06 RCW or Title 51 RCW.

40. Governing Law

This Master Contract shall be governed in all respects by the law and statutes of the state of Washington, without reference to conflict of law principles. However, if the Uniform Computer Information Transaction Act (UCITA) or any substantially similar law is enacted as part of the law of the state of Washington, said statute will not govern any aspect of this Master Contract or any license granted hereunder, and instead the law as it existed prior to such enactment will govern. The jurisdiction for any action hereunder shall be exclusively in the Superior Court for the state of Washington. The venue of any action hereunder shall be in the Superior Court for Thurston County, Washington.

41. Subcontractors

Vendor may, with prior written permission from the DIS Contract Administrator, which consent shall not be unreasonably withheld, enter into subcontracts with third parties for performance of any part of Vendor's duties and obligations. In no event shall the existence of a subcontract operate to release or reduce Vendor's liability to Purchaser or DIS for any breach in the performance of Vendor's duties. For purposes of this Master Contract, Vendor agrees that all Subcontractors shall be deemed agents of Vendor. Vendor further agrees to hold Purchaser or DIS harmless from acts or omissions of Vendor's Subcontractors, their agents, or employees subject to the limitations set forth in the **Limitation of Liability** section of this Master Contract. Purchaser or DIS shall not be liable for any loss or damage resulting from personal injury, physical loss, harassment of employees, or violations of the **Patent and Copyright Indemnification** sections of this Master Contract occasioned by the acts or omissions of Vendor's Subcontractors, their agents or employees. The **Warranty of Non-Infringement and Authority** and **Patent and Copyright Indemnification** sections of this Master Contract shall apply to all Subcontractors.

42. Assignment

42.1. With the prior written consent of DIS, which consent shall not be unreasonably withheld, Vendor may assign this Master Contract including the proceeds hereof: *provided that*, such assignment shall not operate to relieve Vendor of any of its duties and obligations hereunder, nor shall such assignment affect any remedies available to Purchaser or DIS that may arise from any breach of this Master Contract, its supplements, or warranties made herein, including but not limited to rights of setoff.

42.2. With the prior written consent of Vendor, which consent shall not be unreasonably withheld, DIS may assign this Master Contract to any public agency, commission, board, or the like, within the political boundaries of the state of Washington: *provided that*, such assignment shall not operate to relieve DIS of any of its duties and obligations hereunder.

43. Publicity

43.1. The award of this Master Contract to Vendor is not in any way an endorsement of Vendor or Vendor's products by Purchaser and shall not be so construed by Vendor in any advertising or other publicity materials.

43.2. Vendor agrees to submit to DIS, all advertising, sales promotion, and other publicity matters relating to this Master Contract or any Product furnished by Vendor wherein DIS or Purchaser's name is mentioned, language is used, or Internet linkages are provided from which the connection of DIS or Purchaser's name therewith may, in DIS's judgment, be inferred or implied. Vendor further agrees not to publish or use such advertising, sales promotion matter, publicity or the like through print, voice, the World Wide Web, and other communication media in existence or hereinafter developed without the express written consent of DIS prior to such use.

43.3. Either Party may use the other Party's name and logo (except for the State seal) in advertising, sales promotion, and other publicity matters relating to this Master Contract, without royalty, provided that this Master Contract and the relationship between the Parties is not misrepresented.

44. Review of Vendor's Records

44.1. Vendor and its Subcontractors shall maintain books, records, documents and other documents relating to this Master Contract, including but not limited to Minority and Women's Business Enterprise participation, protection and use of Purchaser's Confidential Information and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature invoiced in the performance of this Master Contract. Vendor shall retain all such records for six (6) years after the expiration or termination of this Master Contract. Records involving matters in litigation related to this Master Contract shall be kept for one (1) year following the termination of litigation, including all appeals if the litigation has not terminated within five (5) years from the date of expiration or termination of this Master Contract.

44.2 All such records shall be subject at reasonable times and upon prior notice to examination, inspection, copying, or audit by personnel so authorized by the Purchaser's Contract Administrator, Office of Financial Management and/or the Office of the State Auditor and federal officials so authorized by law, rule, regulation or contract, when applicable. During this Master Contract's term, Vendor shall provide access to these items within Thurston County. During the six (6) year period after the Master Contract term or five (5) year term following litigation, delivery of and access to these items will be at no cost to the State. Vendor shall be responsible for any audit exceptions or disallowed costs incurred by Vendor or any of its Subcontractors.

44.3 The records retention and review requirements of this section shall be incorporated by Vendor in any of its subcontracts.

44.4 It is agreed that books, records, documents, and other evidence of accounting procedures and practices related to Vendor's cost structure, including overhead, general and administrative expenses, and profit factors shall be excluded from Purchaser's review unless the cost or any other material issue under this Master Contract is calculated or derived from these factors.

General Provisions{ TC " General Provisions "\l 4\n }

45. Patent and Copyright Indemnification

45.1. Vendor shall, at its expense, defend or settle any claim against Purchaser that any Products or Work Products supplied hereunder, or Purchaser's use of the Products or Work Products within the terms of this Master Contract, infringe any patent, copyright, utility model, industrial design, mask work, trade secret, or trademark or similar proprietary right of a third party worldwide. Vendor shall pay resulting costs, damages and attorneys' fees finally awarded provided that Purchaser:

a) Promptly notifies Vendor in writing of the claim; and

b) Cooperates with and agrees to use its best efforts to encourage the Office of the Attorney General of Washington to grant Vendor sole control of the defense and all related settlement negotiations.

45.2. Vendor will pay all costs of such defense and settlement and any costs and damages awarded by a court or incurred by Purchaser. If such claim has occurred, or in Vendor's opinion is likely to occur, Purchaser agrees to permit Vendor, at its option and expense, either to procure for Purchaser the right to continue using the Product or to replace or modify the same so that they become noninfringing and functionally equivalent. If use of the Product is enjoined by a court and Vendor determines that none of these alternatives is reasonably available, Vendor, at its risk and expense, will take back the Product and refund its depreciated value. No termination charges will be payable on such returned Product, and the Purchaser will pay only those charges which were payable prior to the date of such return. Depreciated value shall be calculated on the basis of a useful life of five (5) years commencing on the date of purchase and shall be an equal amount per year over said useful life. The depreciation for fractional parts of a year shall be prorated on the basis of 365 days per year. In the event the Product has been installed less than one year, transportation to the initial installation site paid by Purchaser shall be refunded by Vendor.

45.3. Vendor has no liability for any claim of infringement arising solely from:

a) Vendor's compliance with any designs, specifications or instructions of the Purchaser;

b) Modification of the Product by Purchaser or a third party without the prior knowledge and approval of Vendor; or

c) Use of the Product in a way not specified by Vendor;

unless the claim arose against Vendor's Product or Services independently of any of these specified actions.

46. Save Harmless

Vendor shall defend, indemnify, and save Purchaser harmless from and against any damage, cost, or liability, including reasonable attorneys' fees resulting from such claim, by third parties for any or all injuries to persons or damage to property of such third parties arising from intentional, willful or negligent acts or omissions of Vendor, its officers, employees, or agents, or Subcontractors, their officers, employees, or agents. Vendor's obligation to defend, indemnify, and save harmless Purchaser shall not be eliminated or reduced by any alleged concurrent Purchaser negligence.

47. Insurance

47.1. Vendor shall, during the term of this Master Contract, maintain in full force and effect, the insurance described in this section. Vendor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in the state of Washington and approved by DIS Contract Administrator, which approval shall not be unreasonably withheld. In the event of cancellation, non-renewal, revocation or other termination of any insurance coverage required by this Master Contract, Vendor shall provide written notice of such to DIS within one (1) Business Day of Vendor's receipt of such notice. Failure to buy and maintain the required insurance may, at DIS's sole option, result in this Master Contract's termination.

47.2. The minimum acceptable limits shall be as indicated below, with one thousand dollars ($1,000) deductible, for each of the following categories;

a) Commercial General Liability covering the risks of bodily injury (including death), property damage and personal injury, including coverage for contractual liability, with a limit of not less than $l,000,000 per occurrence/$2,000,000 general aggregate; and

b) Business Automobile Liability (owned, hired, or non-owned) covering the risks of bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of not less than $1,000,000 per accident; and

c) Employers Liability insurance covering the risks of Vendor's employees' bodily injury by accident or disease with limits of not less than $1,000,000 per accident for bodily injury by accident and $1,000,000 per employee for bodily injury by disease; and

d) Umbrella policy providing excess limits over the primary policies in an amount not less than $3,000,000; and

47.3. Vendor shall pay premiums on all insurance policies. Such insurance policies shall name DIS as an additional insured on all general liability, automobile liability, and umbrella policies. Such policies shall also reference this Master Contract number T01-MST-002 and shall have a condition that they not be revoked by the insurer until thirty (30) calendar days after notice of intended revocation thereof shall have been given to DIS by the insurer.

47.4. All insurance provided by Vendor shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State and shall include a severability of interests (cross-liability) provision.

47.5. Vendor shall include all Subcontractors as insured under all required insurance policies, or shall furnish separate certificates of insurance and endorsements for each Subcontractor. Subcontractor(s) shall comply fully with all insurance requirements stated herein. Failure of Subcontractor(s) to comply with insurance requirements does not limit Vendor's liability or responsibility.

47.6. Vendor shall furnish to DIS copies of certificates of all required insurance within thirty (30) calendar days of this Master Contract's Effective Date. These certificates of insurance must expressly indicate compliance with each and every insurance requirement specified in this section. Failure to provide evidence of coverage may, at DIS's sole option, result in this Master Contract's termination.

47.7. By requiring insurance herein, DIS does not represent that coverage and limits will be adequate to protect Vendor. Such coverage and limits shall not limit Vendor's liability under the indemnities and reimbursements granted to DIS in this Master Contract.

48. Industrial Insurance Coverage

Prior to performing work under this Master Contract, Vendor shall provide or purchase industrial insurance coverage for its employees, as may be required of an "employer" as defined in Title 51 RCW, and shall maintain full compliance with Title 51 RCW during the course of this Master Contract. Except as prohibited by law, Vendor waives all rights of subrogation against DIS and Purchaser for recovery of damages to the extent they are covered by workers compensation or other insurance required to be purchased by Vendor under this Master Contract. Purchaser will not be responsible for payment of industrial insurance premiums or for any other claim or benefit for Vendor, or any Subcontractor or employee of Vendor, which might arise under the industrial insurance laws during the performance of this Master Contract.

49. Licensing Standards

Vendor shall comply with all applicable local, state, and federal licensing requirements and standards necessary in the performance of this Master Contract. (See, for example, chapter 19.02 RCW for state licensing requirements and definitions.)

50. OSHA/WISHA

Vendor represents and warrants that its Products, when shipped, are designed and manufactured to meet then current federal and state safety and health regulations. Vendor further agrees to indemnify and hold the State harmless from all damages assessed against the State as a result of the failure of the items furnished under this Master Contract to so comply.

51. UCC Applicability

51.1. Except to the extent the sections of this Master Contract are clearly inconsistent, this Contract shall be governed by any applicable sections of the Uniform Commercial Code (UCC) as set forth in Title 62A RCW.

51.2. To the extent this Master Contract entails delivery or performance of services, such services shall be deemed "goods" within the meaning of the UCC, except when to do so would result in an absurdity.

51.3. Notwithstanding the **Section Headings, Incorporated Documents and Order of Precedence** section of this Master Contract, in the event of any clear inconsistency or contradiction between this Master Contract and the UCC, the terms and conditions of this Master Contract take precedence and shall prevail unless otherwise provided by law.

52. Compliance with Civil Rights Laws

During the performance of this Master Contract, Vendor shall comply with all federal and applicable state nondiscrimination laws, including but not limited to: Title VII of the Civil Rights Act, 42 U.S.C. 12101 *et seq.;* the Americans with Disabilities Act (ADA); and chapter 49.60 RCW, Washington Law Against Discrimination. In the event of Vendor's noncompliance or refusal to comply with any nondiscrimination law, regulation or policy, this Master Contract may

be rescinded or terminated in whole or in part under the **Termination for Default** section, and Vendor may be declared ineligible for further Contracts with Purchaser. In addition to the cancellation of this Master Contract, Vendor may be subject to remedies under federal and state law.

53. Severability

The terms and conditions of this Master Contract are declared severable. If any term or condition of this Master Contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application.

54. Waiver

Waiver of any breach of any term or condition of this Master Contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Master Contract shall be held to be waived, modified, or deleted except by a written instrument signed by the parties hereto.

55. Treatment of Assets

55.1. Title to all property furnished by Purchaser shall remain vested in Purchaser. Title to all property furnished by Vendor, for which Vendor is entitled to reimbursement under this Master Contract, other than rental payments, shall pass to and vest in Purchaser. As used in this section **Treatment of Assets,** if the "property" is Vendor's proprietary, copyrighted works, only the applicable license, not title, passes to Purchaser.

55.2. Any property of Purchaser furnished to Vendor, unless otherwise provided herein or approved by Purchaser, shall be used only for the performance of this Master Contract.

55.3. Vendor shall be responsible for any loss or damage to property of Purchaser which results from willful misconduct or negligence on the part of Vendor or which results from the failure on the part of Vendor to maintain and administer that property in accordance with sound management practices.

55.4. Upon loss, destruction, or damage to any Purchaser property, Vendor shall notify Purchaser thereof and shall take all reasonable steps to protect that property from further damage.

55.5. Vendor shall surrender to Purchaser all Purchaser's property prior to settlement upon completion, termination, or cancellation of this Master Contract.

55.6. All references to Vendor under this section shall also include Vendor's employees, agents, or Subcontractors.

56. Vendor's Proprietary Information

Vendor acknowledges that Purchaser is subject to chapter 42.17 RCW and that this Master Contract shall be a public record as defined in chapter 42.17 RCW. Any specific information that is claimed by Vendor to be confidential or proprietary, must be clearly identified as such by Vendor. To the extent consistent with chapter 42.17 RCW, Purchaser shall maintain the confidentiality of all such information marked confidential or proprietary. If a public disclosure

request is made to view Vendor's proprietary information, Purchaser will notify Vendor of the request and of the date that such records will be released to the requester unless Vendor obtains a court order enjoining that disclosure. If Vendor fails to obtain the court order enjoining disclosure, Purchaser will release the requested information on the date specified.

Disputes and Remedies{ TC " Disputes and Remedies "\l 4\n }

57. Disputes

57.1. In the event a bona fide dispute concerning a question of fact arises between Vendor and Purchaser or DIS and it cannot be resolved between the parties with the aid of the DIS Contract Administrator, either party may initiate the dispute resolution procedure provided herein.

57.2. The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party shall respond in writing within three (3) Business Days. The initiating party shall have three (3) Business Days to review the response. If after this review a resolution cannot be reached, both parties shall have three (3) Business Days to negotiate in good faith to resolve the dispute.

a) If the dispute cannot be resolved after three (3) Business Days, a dispute resolution panel may be requested in writing by either party who shall also identify the first panel member. Within three (3) Business Days of receipt of the request, the other party will designate a panel member. Those two panel members will appoint a third individual to the dispute resolution panel within the next three (3) Business Days.

b) The dispute resolution panel will review the written descriptions of the dispute, gather additional information as needed, and render a decision on the dispute in the shortest practical time.

c) Each party shall bear the cost for its panel member and share equally the cost of the third panel member.

57.3. Both parties agree to be bound by the determination of the dispute resolution panel.

57.4. Both parties agree to exercise good faith in dispute resolution and to settle disputes prior to using a dispute resolution panel whenever possible.

57.5. Purchaser and Vendor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.

57.6. If the subject of the dispute is the amount due and payable by Purchaser for maintenance services being provided by Vendor, Vendor shall continue providing maintenance pending resolution of the dispute provided Purchaser pays Vendor the amount Purchaser, in good faith, believes is due and payable, and places in escrow the difference between such amount and the amount Vendor, in good faith, believes is due and payable.

58. Attorneys' Fees and Costs

If any party brings litigation to enforce any term, condition, or section of this Master Contract, or as a result of this Master Contract in any way, the prevailing party shall be awarded its reasonable attorneys' fees together with necessary fees, expenses, and costs incurred for such litigation at both trial and appellate levels, as well as subsequent to judgement in obtaining execution thereof.

59. Non-Exclusive Remedies

The remedies provided for in this Master Contract shall not be exclusive but are in addition to all other remedies available under law.

60. Failure to Perform

If Vendor fails to perform any substantial obligation under this Master Contract, Purchaser shall give Vendor written notice of such failure to perform. If, after thirty (30) calendar days from the date of the written notice Vendor still has not performed, then without penalty to Purchaser, Purchaser may withhold all monies due and payable to Vendor until such failure to perform is cured or otherwise resolved.

61. Limitation of Liability

61.1. The parties agree that neither Vendor nor Purchaser shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. The damages specified in the sections titled **Review of Vendor's Records, OSHA/WISHA, No Surreptious Code Warranty** and **Termination for Default** are not consequential, incidental, indirect, or special damages as those terms are used in this section.

61.2. Neither Vendor nor Purchaser shall be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of either Vendor or Purchaser. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body other than Purchaser acting in either its sovereign or contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays shall be beyond the reasonable control and without fault or negligence of Vendor, Purchaser, or their respective Subcontractors.

61.3. If delays are caused by a Subcontractor without its fault or negligence, neither Vendor nor Purchaser shall be liable for damages for delays, unless the Software or Services were obtainable on comparable terms from other sources in sufficient time to permit Vendor or Purchaser to meet its required performance schedule.

61.4. Neither party shall be liable for personal injury or damage to the other party's property except personal injury or damage to property proximately caused by such party's respective fault or negligence.

Contract Termination{ TC "Contract Termination "\l 4\n }

62. Termination for Default

62.1. If Vendor violates any material term or condition of this Master Contract or fails to fulfill in a timely and proper manner its obligations under this Master Contract, the DIS Contract Administrator or the affected Purchaser shall give Vendor written notice of the failure or violation, and the failure or violation shall be corrected by Vendor within thirty (30) calendar days or as otherwise mutually agreed. If Vendor's failure or violation is not so corrected, Purchaser, at its option, may withhold all monies due and payable to Vendor until such failure to perform is cured or otherwise resolved, or pursue immediate

termination of a Statement of Work (SOW) or this Master Contract, as appropriate. In such event, this Master Contract may be terminated immediately by written notice from the DIS Contracting Officer to Vendor or Purchaser's SOW may be terminated by written notice from Purchaser to Vendor. The option to thus terminate this Master Contract shall be at the sole discretion of DIS.

62.2. In the event DIS terminates this Master Contract or Purchaser terminates a SOW for Vendor's violation of any material term or condition, DIS or Purchaser shall have the right to procure the Software and Services that are the subject of this Master Contract on the open market and Vendor shall be liable for all damages including, but not limited to all administrative costs directly related to the replacement of the Master Contract, such as costs of competitive bidding, mailing, advertising, applicable fees, charges or penalties, and staff time.

Purchaser or DIS shall have the right to deduct from any monies due to Vendor, or that thereafter become due, an amount for damages that Vendor will owe Purchaser or DIS for Vendor's default.

62.3. If either DIS or Purchaser violates any material term or condition of this Master Contract or fails to fulfill in a timely and proper manner its performance obligations under this Master Contract, then Vendor shall give the DIS Contracting Officer or Purchaser, as appropriate, written notice of such failure, which shall be corrected by DIS or Purchaser within thirty (30) calendar days. If such failure to perform is not so corrected, Purchaser's SOW may be terminated by written notice from Vendor to Purchaser or, if appropriate, this Master Contract may be terminated immediately by written notice from Vendor to the DIS Contracting Officer.

62.4. If it is determined the failure to perform is without the defaulting party's control, fault, or negligence; the termination shall be deemed a Termination for Convenience.

62.5. This section shall not apply to any failure to perform that results from the willful or negligent acts or omissions of the aggrieved party.

63. Termination for Convenience

63.1. When it is in the best interest of Purchaser or DIS, the DIS Contracting Officer may terminate this Master Contract, in whole or in part, by fourteen (14) calendar days written notice to Vendor. Invocation of the **Termination for Withdrawal of Authority** or **Termination for Non-Allocation of Funds** sections shall be deemed a Termination for Convenience but will not require such fourteen (14) calendar days written notice.

63.2. If this Master Contract is so terminated, Purchaser is liable only for payments required by the terms of this Master Contract for Software and Services received and accepted by Purchaser prior to the effective date of termination.

64. Termination for Withdrawal of Authority

In the event that the authority of Purchaser or DIS to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Master Contract and prior to normal completion, DIS may terminate this Master Contract under the **Termination for Convenience** section. No penalty shall accrue to Purchaser or DIS for exercising its rights under this section. This section shall not be construed to permit DIS to terminate this Master Contract to acquire similar Software or Services from a third party.

65. Termination for Non-Allocation of Funds

If funds are not allocated to continue this Master Contract in any future period, Purchaser or DIS will not be obligated to pay any further charges for Software or Services, including the net remainder of agreed to consecutive periodic payments remaining unpaid beyond the end of the then-current period. In such case, Purchaser or DIS agrees to notify Vendor at the earliest possible opportunity of such non-allocation. No penalty shall accrue to Purchaser or DIS for exercising its rights under this section. This section shall not be construed to permit Purchaser or DIS to terminate this Master Contract to acquire similar Software or Services from a third party.

66. Termination for Conflict of Interest

DIS may terminate this Master Contract by written notice to Vendor if DIS determines, after due notice and examination, that any party has violated chapter 42.52 RCW, Ethics in Public Service or any other laws regarding ethics in public acquisitions and procurement and performance of contracts. In the event this Master Contract is terminated for conflict of interest, DIS shall be entitled to pursue the same remedies against Vendor as it could pursue in the event Vendor breaches this Master Contract.

67. Termination Procedure

67.1. In addition to the procedures set forth below, if Purchaser terminates this Master Contract, Vendor shall follow any procedures Purchaser specifies in Purchaser's notice of termination.

67.2. Upon termination of this Master Contract, Purchaser, in addition to any other rights provided in this Master Contract, may require Vendor to deliver to Purchaser any Purchaser property, Products, or Work Products specifically produced or acquired for the performance of such part of this Master Contract as has been terminated. The sections for the **Treatment of Assets** shall apply in such property transfer.

67.3. Unless otherwise provided herein, Purchaser shall pay to Vendor the agreed-upon price, if separately stated, for the Products or Services received and accepted by Purchaser: PROVIDED, That in no event shall Purchaser pay to Vendor an amount greater than Vendor would have been entitled to if this Master Contract had not been terminated. Failure to agree with such determination shall be a dispute within the meaning of the **Disputes** section of this Master Contract. Purchaser may withhold from any amounts due Vendor such sum as Purchaser determines to be necessary to protect Purchaser from potential loss or liability.

67.4. Vendor shall pay the amounts due Purchaser as the result of termination within thirty (30) calendar days of notice of termination. If Vendor fails to make timely payment, Purchaser may charge interest on the amounts due at one percent (1%) per month until paid in full.

Activity Reporting and Administration Fee{ TC " Activity Reporting and Administration Fee "\l 4\n }

68. DIS Master Contract Administration Fee and Collection

68.1. All purchases made under this Master Contract are subject to a DIS Master Contract Administration Fee, collected by Vendor and remitted to DIS.

68.2. The Master Contract Administration Fee is one half of one percent (.5% or .005) of the purchase price. The purchase price is defined as total invoice price less sales tax.

68.3. The Master Contract Administration Fee shall be invoiced by Vendor to all Purchasers as a separate detailed line item on Purchaser's invoice.

68.4. Vendor shall remit the Master Contract Administration Fee directly to the DIS Contract Administrator along with the Master Contract Activity Report.

69. Master Contract Activity Reporting

69.1. Vendor shall submit to the DIS Contract Administrator a monthly Activity Report of all Software and Services purchases made under this Master Contract. The report shall identify:

a) This Master Contract number (T0l-MST-002);
b) Each Purchaser making purchases during that month;
c) Statement of Work Number;
d) The total invoice price, excluding sales tax for each Purchaser; and,
e) The sum of all invoice prices, excluding sales tax, for all Purchasers;
f) The DIS Master Contract Administration Fee.

69.2. The Activity Report and the DIS Master Contract Administration Fee shall be submitted by the 15th calendar day of the month following the month in which Vendor invoiced Purchaser. Vendor shall submit this report according to the layout specified by the DIS Contract Administrator.

69.3. This report may be corrected or modified by the DIS Contract Administrator with subsequent written notice to Vendor.

69.4. Monthly reports are required even if no activity occurred.

70. Failure to Remit Reports/Fees

70.1. Failure of Vendor to remit the Master Contract Activity Report together with the Master Contract Administration Fee may be considered a failure to perform on the part of Vendor, which may result in DIS terminating this Master Contract with Vendor.

70.2. Failure of any Purchaser to pay the Master Contract Administration Fee may result in a Purchaser forfeiting its right to purchase from this Master Contract. Vendor shall notify the DIS Contract Administrator when any Purchaser fails to pay the Master Contract Administration Fee.

Contract Execution

71. Authority to Bind

The signatories to this Master Contract represent that they have the authority to bind their respective organizations to this Contract.

72. Counterparts

This Master Contract may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate shall be deemed an original copy of the Master Contract signed by each party, for all purposes.

In Witness Whereof, the parties hereto, having read this Master Contract in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

APPROVED
State of Washington
Department of Information Services

Signature

Michael D. McVicker
Print or Type Name

Assistant Director — 12/18/00
Title — Date

APPROVED

Vendor's Legal Name

Sharp Corporation, USA

Signature

Don Murphy
Print or Type Name

President — December 13, 2000
Title — Date

Approved as to Form

State of Washington,
Office of the Attorney General

Signature

CHIP HOLCOMB
Print or Type Name

Assistant Attorney General — 12/18/00
Title — Date

Vendor's Phone Number: (780) 433-3690
Vendor's Fax Number: (780) 437-4381
Vendor's UBI Number: 602-083-150
Vendor's Federal Tax ID Number: 65-1032330
Minority or Woman Owned Business Enterprise Yes _____ (Certification Number) No ☑

Schedule A

Authorized Product and Price List

Master Contract No. T01-MST-002

With

Shana Corporation

**Please review Price link for current information.

Schedule B

{ TC "Schedule B: Statement of Work *[if applicable]*"\l 5\n }

Statement of Work

[The details of the specific project or services acquired should be negotiated and set forth in a Statement of Work. A sample Statement of Work is provided below. The RFP document and this Master Contract requires that the Statement of Work address the areas in the following headings.]

Project Objectives

Scope and Description of Work

Timeline and Period of Performance

Vendor Responsibilities

Purchaser Responsibilities

Deliverables

Project Cost (including travel and mileage charges if applicable)

Vendor Staff

Signature Block

Statement of Work XX
to
Contract Number T01-MST-002

This Statement of Work (hereinafter "SOW') is made and entered by and between the [Insert Agency ***Name]*** (hereinafter "Purchaser"), and Shana Corporation, USA (hereinafter "Vendor"), for ***[describe services or project].*** This SOW incorporates by reference the terms and conditions of Master Contract Number T01-MST-002 in effect between the Purchaser and Vendor. The terms and conditions of this SOW cannot conflict with the terms and conditions of the Master Contract. In case of any conflict, the Master Contract shall prevail.

Whereas, the purpose of this SOW is _____

Now therefore, Purchaser and Vendor mutually agree as follows:

I. Project Objectives

II. Scope of Work

Vendor will _____

III. Deliverables

Vendor shall produce

IV. Vendor Responsibilities

V. Purchaser Responsibilities

VI. Timeline and Period of Performance

Subject to other PA provisions, this SOW's period of performance shall be from _____ through _____

VII. Project Cost

Total compensation payable to Vendor for satisfactory performance of the work under this SOW is a maximum of _____ ($_____).

[If Applicable]

Vendor's compensation for travel plus reimbursement for mileage and per diem shall be based on the following total Vendor travel with reference to Schedule A of the Master Contract and the Office of Financial Management's travel rates and regulations.

VIII. Vendor Staff

In Witness Whereof, the parties hereto, having read this SOW Number XX to Master Contract Number T01-MST-002 in its entirety, do agree thereto in each and every particular.

Approved	**Approved**
Purchaser	Vendor
Signature	Signature
Print or Type Name	Print or Type Name
Title Date	Title Date

DIS Field Order

Date Ordered	DIS Field Order Number
01/31/2001	K11273

Agency	Location	Mailstop
1550	000	42445

FROM
DEPT OF INFORMATION SERVICE
1110 JEFFERSON ST SE
PO BOX 42445
OLYMPIA WA 98504-2445

SHIP TO

Web Reqs #	Agency	Location	Mailstop
8417	1550	004	42445

DEPT OF INFORMATION SERVICES
7827 ARAB DR SE STE A
PO BOX 42445
OLYMPIA WA 98504-2445

TO
SHANA CORPORATION
ATTN: JOHN MURPHY
11704 SOUTHEAST OLD DIXIE HWY
HOBE SOUND FL 33455

MAIL INVOICES TO

Agency	Location	Mailstop
1550	000	42445

DEPT OF INFORMATION SERVICES
ATTN: ACCOUNTS PAYABLE
1110 JEFFERSON ST SE
PO BOX 42445
OLYMPIA WA 98504-2445

Contact	Phone	Vendor TIN	Account Number
JOHN MURPHY	780433-3880		1888

AUTHORITY OR CONTRACT NUMBER	SHIP FROM	PRICE	F.O.B.	PAYMENT TERMS	DELIVERY DATE
RCW 43.105				NET 30 DAYS	01/31/2001

Item	Commodity Code	Description	Quantity	Unit	Unit Price	Total Cost	C/C
1	7030- -	Software Licensing	1	EA	$19,717.83	$19,717.83	8855

Ordered for Annette Burgin

SOFTWARE: SHANA E-FORM / ANNETTE B. 2/2/01 AN

T01-MST-002

C01-1

COPY

ENTERED
S.R. D
Access D

Total $19,717.83

SPECIAL INSTRUCTIONS:
** CONFIRM ONLY **
INVOICE # 00010

Carrier	Shipping Document	Collect	Prepaid	Pieces	Received By	Date Received
				1		2/1/01

Prepared By	Telephone Number	Order Date	Agency Approval	Date Approved
	1001 EAG 8006	01/31/2001		1-31-01

DIS Field Order

Date Ordered: 12/28/2000

DIS Field Order Number: K11115

Agency	Location	Mail Stop
1550	000	42445

FROM
DEPT OF INFORMATION SERVICE
1110 JEFFERSON ST SE
PO BOX 42445
OLYMPIA WA 98504-2445

SHIP TO

Wrs Reg #	Agency	Location	Mail Stop
8004	1550	004	42445

DEPT OF INFORMATION SERVICES
7827 ARAB DR SE STE A
PO BOX 42445
OLYMPIA WA 98504-2445

TO
SHANA CORPORATION
ATTN: JOHN MURPHY
11704 SOUTHEAST OLD DIXIE HWY
HOBE SOUND FL 33455

MAIL INVOICES TO

Agency	Location	Mail Stop
1550	000	42445

DEPT OF INFORMATION SERVICES
ATTN: ACCOUNTS PAYABLE
1110 JEFFERSON ST SE
PO BOX 42445
OLYMPIA WA 98504-2445

Contact	Phone	Vendor TIN	Account Number
JOHN MURPHY	780/425-9880		1929

AUTHORITY OR CONTRACT NUMBER	SHIP FROM	PRICE F.O.B.	PAYMENT TERMS	DELIVERY DATE
T01-MST-002				01/28/2001

Item Commodity Code	Description	Quantity	Unit	Unit Price	Total Cost	C/C
7030- -	Software Licensing: Designer Seat	7	EA	$990.00	$6,930.00	1129

Ordered for Debbie Dunn

T01-MST-002
I01-2

SPECIAL INSTRUCTIONS:

Total $6,930.00

Carrier	Shipping Document	Collect	Prepaid	Pieces	Received By	Date Received

Prepared By	Telephone Number	Order Date	Agency Approval	Date Approved
Eileen Zarate	360 586-8986	12/28/2000		12-28-00

INSTRUCTIONS TO VENDOR: DELIVER THE ARTICLES ORDERED ABOVE IN ACCORDANCE WITH THE FOLLOWING:

1. Process NO orders without signature in agency approval in lower right corner. 2. Show Order Number on all invoices, packages, and shipping documents
3. Washington sales tax applies to this order. 4. Mail two copies of invoice at time of shipment.
5. This order is subject to the Washington State Dept of General Administration standard terms and conditions.

A17-DIS 01/00 ☐ Vendor ☐ Accounting ☐ Receiving Report ☐ Requestor's Copy

DIS Field Order

Date Ordered: 12/27/2000

DIS Field Order Number: K11108

Agency	Location	Mail stop
1550	000	42445

FROM
DEPT OF INFORMATION SERVICE
1110 JEFFERSON ST SE
PO BOX 42445
OLYMPIA WA 98504-2445

SHIP TO

Web Req #	Agency	Location	Mail stop
8005	1550	004	42445

DEPT OF INFORMATION SERVICES
7827 ARAB DR SE STE A
PO BOX 42445
OLYMPIA WA 98504-2445

TO
SHANA CORPORATION
ATTN: JOHN MURPHY
11704 SOUTHEAST OLD DIXIE HWY
HOBE SOUND FL 33455

MAIL INVOICES TO

Agency	Location	Mail stop
1550	000	42445

DEPT OF INFORMATION SERVICES
ATTN: ACCOUNTS PAYABLE
1110 JEFFERSON ST SE
PO BOX 42445
OLYMPIA WA 98504-2445

Contact	Phone	Vendor TIN	Account Number
JOHN MURPHY	780/433-3690		1929

AUTHORITY OR CONTRACT NUMBER	SHIP FROM	PRICE F.O.B.	PAYMENT TERMS	DELIVERY DATE
T01-MST-002				01/27/2001

Item	Commodity Code	Description	Quantity	Unit	Unit Price	Total Cost	C/C
1	7030- -	Software Licensing: 1 Designer Seat	1	EA	$990.00	$990.00	1127

Ordered for Debbie Dunn

T01-MST-002

M01-3

SPECIAL INSTRUCTIONS:

Total $990.00

Carrier	Shipping Document	Collect	Prepaid	Pieces	Received By	Date Received

Prepared By	Telephone Number	Order Date	Agency Approval	Date Approved
Eileen Zarate	360 586-8988	12/27/2000	[signature]	12-27-00

INSTRUCTIONS TO VENDOR: DELIVER THE ARTICLES ORDERED ABOVE IN ACCORDANCE WITH THE FOLLOWING:

1. Process NO orders without signature in agency approval in lower right corner. 2. Show Order Number on all invoices, packages, and shipping documents
3. Washington sales tax applies to this order. 4. Mail two copies of invoice at time of shipment.
5. This order is subject to the Washington State Dept of General Administration standard terms and conditions.

A17-DIS 01/00 ☐ Vendor ☐ Accounting ☐ Receiving Report ☐ Requestor's Copy

Amendment No. 1 to
Master Contract T01-MST-002
for
Electronic Forms Software and Associated Services

In accordance with Section 38 (**Authority for Modifications and Amendments**) of Master Contract Number T01-MST-002 ("Master Contract"), this Amendment No. 1 is entered into by and between the State of Washington, **Department of Information Services** ("DIS") and **Shana Corporation, USA** ("Vendor").

The purpose of this Amendment is to clarify the Purchaser Site License Program and to define the term "Seat." Now, therefore, the parties agree to amend the Master Contract as follows:

1. The parties agree to amend Section 1 (**Definitions**) by adding the following term and corresponding definition:

   "Seat(s)" shall mean a Purchaser's computer that can operate the Products, excluding servers and mainframes.

2. The parties agree to amend Section 4 (**Purchaser Site License Program**) as specified below.

   Subsection 4.2 shall be deleted and replaced with the following paragraph:

   4.2 The purchase price to enter the Purchaser Site License Program is based on the approximate number of Purchaser's Seats, determined at the initial time of purchase.

   Subsection 4.3 shall be deleted and replaced with the following paragraph:

   4.3 If the Purchaser Site License Program for a Purchaser includes at least one hundred and fifty (150) Seats Purchaser may, at Purchaser's sole option, pay for the Purchaser Site License Program in equal quarterly payments over six (6) quarters. Purchaser shall pay the total due in one payment if Purchaser's initial purchase does not reach this level.

   Subsection 4.4 shall be deleted and replaced with the following paragraph:

   4.4 Early Payment Discount. If Purchaser is entitled to the payment plan referenced above in subsection 4.3 but elects to pay the entire sum due for the Purchaser Site License Program in one payment upon delivery or acceptance of the Software, Purchaser shall be entitled to an Early Payment Discount. The total due owing by Purchaser shall be reduced by fifteen percent (15%) of the total Purchaser Site License Program price.

Subsection 4.5 shall be amended by deleting the last sentence ("The annual price for the Maintenance and Support Program is fifteen percent of the total Program purchase price, excluding any Early Bonus Discount, paid by Purchaser for Products under the Purchaser Site License Program.") and replacing it with the following:

> The annual price for the Maintenance and Support Program is fifteen percent (15%) of the total Program purchase price, excluding any Early Payment Discount, paid by Purchaser for Products under the Purchaser Site License Program.

Subsection 4.6 shall be deleted and replaced with the following paragraph:

4.6 If, after the initial purchase of the Purchaser Site License Program, Purchaser exceeds the number of Seats on which the original program rate was based by ten percent (10%), Purchaser shall compensate Vendor at the applicable Program rate for the incremental number of Seats to remain in the Purchaser Site License Program.

3. The parties agree to amend Section 5 (**Pricing**) as specified below:

Subsection 5.6 shall be amended by adding the following as the last sentence in this subsection:

> The combined purchase prices from Purchasers of the Product, excluding tax, program maintenance and Master Contract Administration Fees, shall be deducted from the Enterprise Global License price if and when this license is purchased.

4. The parties agree to amend Section 7 (**Invoice and Payment**) as specified below.

Subsection 7.1 subparagraph d) shall be deleted and replaced with the following paragraph:

> d) Description of purchased Purchaser Site License Program including but not limited to the number of Seats included in Program, payment terms (lump sum payment or six quarterly payments), and early payment discount, if any.

5. The parties agree to amend Section 27 (**Other Personal Services**) as specified below:

Subsection 27.1 shall be amended by adding the following as the first sentence in this subsection. The rest and remainder of subsection 27.1 shall remain in full force and effect.

27.1 Other Personal Services to be performed under this Master Contract shall be limited to Personal Services related to the acquisition, deployment, development or use of applications that include the Software available under this Master Contract.

6. **Schedule A** ***Authorized Product and Price List*** **as of December 12, 2000** shall be replaced in its entirety with **Schedule A** ***Authorized Product and Price List*** **As of February 20, 2001**, which is attached hereto and made a part hereof.

7. All other terms and conditions of Master Contract T01-MST-002 remain in full force and effect.

This Amendment No. 1 shall be effective upon the date signed by DIS.

Approved	**Approved**
State of Washington, Department of Information Services	Shana Corporation, USA
Michael D. McVicker	
Signature	**Signature**
Michael D. McVicker	Don Murphy
Print or Type Name	**Print or Type Name**
Assistant Director, TSD 3/19/01	President March 14, 2001
Title **Date**	**Title** **Date**

Authorized Product and Price List

As of March 20, 2001
For
Master Contract No. T01-MST-002
With
Shana Corporation, USA

Vendor is authorized under the above-referenced Master Contract to sell only the Software and Services identified in this Schedule A at the prices set forth therein.

Products, Maintenance and Support Pricing

Products, Maintenance and Technical Support may be purchased under two different pricing methods. The two pricing methods included in this Master Contract are as follows:

1. **Purchaser Site License Program** (hereinafter referred to as the "Program"). Purchasers may exercise the option to purchase the Vendor Program at the prices listed below. If Purchaser purchases the Program and is in compliance with the payment terms, Purchaser acquires a perpetual license to deploy, at any time, an unlimited number of forms to an unlimited number of users inside and/or outside the Purchaser's organization. Purchasers may pay the Program purchase price over six quarters. Purchaser receives a 15% discount on the purchase price if Purchaser pays the entire Program price at the time of initial purchase. Participation in the Program is at the sole option of each individual Purchaser.

2. Vendor's retail public prices.

   Details regarding the terms and conditions for the two pricing methods are described in the Master Contract Section 4. **Purchaser Site License Program**.

1. **Purchaser Site License Program (Program)**

Perpetual license for unlimited filler and form keys for a Purchaser

Purchaser with < 600 Seats; minimum 40 Seats	$40.00 per Seat
Purchaser with > 601 Seats	$25.00 per Seat
Informed Designer	$990.00 each
Informed Deployment Server (Price includes installation, set up and training by Vendor)	$19,995.00 each

Maintenance and Support

Maintenance and Support for Vendor's premium level of technical support	15% of Program purchase price excluding early payment discounts

(Maintenance and Support is an annual payment.)

Early Payment Discount	15% of Purchaser's initial total Program purchase price

Opt Out Clause

If Purchaser opts out of the Program, Purchaser may convert the amount paid on the Program purchase price to the following:

Informed Filler licenses	$50.00 per Seat
Form keys	$5,000.00 per form

Maintenance and support amounts paid are not convertible.

Optional renewal periods

Program purchase prices may be increased pursuant to the Section 5. **Pricing**.

2. **Vendor's retail public prices**

Purchasers choosing not to join the Program may acquire, under the provisions of this Master Contract, the Products, Maintenance and Support listed in the Master Contract at Vendor's then current retail public prices as posted by Vendor.

Training

					2001	2002	2003
Training Options and Fees (6.5.4)	Module 1	Introduction to Informed Designer - Design and Graphics	2 days	per student	1,150	1,185	1,221
	Module 2	Automating Informed Using JavaScript	1 day	per student	595	613	631
	Module 3	E-Forms Management	1 day	per student	595	613	631
	Module 4	Database Connectivity	1 day	per student	595	613	631
	Module 5	Informed Filler for Java	1 day	per student	595	613	631
	Module 6	Integration with FileNET	1 day	per student	595	613	631
	Discounts	Early registration		30 days prior	10%	10%	10%
		Groups		3rd and 4th attendee from same organization	10%	10%	10%
				5th and more attendees from same organization	25%	25%	25%
	Onsite	Minimum four attendees, customer is responsible for travel and living expenses*					

*Travel expenses are limited to the then current State of Washington Office of Financial Management travel regulations and rates.

Purchased Services

					2001	2002	2003
Purchased Services (6.5.5)	Principal Consultant	Plans and implements projects. Manages staff. Primary point of customer contact for projects. Develops architectural solutions, manages risk and resolves complex issues.		per hour	250	258	266
	Senior Process Consultant	Plans and implements process mapping and process improvement projects		per hour	225	232	239
	Senior Consultant	Plans and implements major tasks on projects or smaller projects. Manages one to two staff members. Primary responsibility for task completion.		per hour	200	206	212
	Process Consultant	Performs process analysis, prepares process maps, assists process participants with step analysis.		per hour	190	196	202
	Staff Consultant/Forms Analyst	Installs software. Designs and implements complex forms.		per hour	150	155	160
	Technician/Forms Technician	Installs software. Draws forms. Converts forms from other formats.		per hour	100	103	106
Other Purchased Services (6.5.7)	Form Conversions	2 pages or less, light complexity - less than 15 fields per page, no calculations or database connectivity		per form	125	129	133

					2001	2002	2003
		2 pages or less, light complexity - less than 15 fields per page, no calculations or database connectivity		per form, 100+ forms	100	103	106
		2 pages or less, medium complexity - 15 to 25 fields per page, light calculations, may include database connectivity		per form	250	258	266
		2 pages or less, medium complexity - 15 to 25 fields per page, light calculations, may include database connectivity		per form, 100+ forms	200	206	212
		2 pages or less, high complexity - more than 25 fields per page, complex calculations, database connectivity		per form	500	515	530
		2 pages or less, high complexity - more than 25 fields per page, complex calculations, database connectivity		per form, 100+ forms	400	412	424
		More than 2 pages, light complexity - less than 15 fields per page, no calculations or database connectivity		per form	250	258	266
		More than 2 pages, light complexity - less than 15 fields per page, no calculations or database connectivity		per form, 100+ forms	200	206	212

					2001	2002	2003
		More than 2 pages, medium complexity - 15 to 25 fields per page, light calculations, may include database connectivity		per form	500	515	530
		More than 2 pages, medium complexity - 15 to 25 fields per page, light calculations, may include database connectivity		per form, 100+ forms	400	412	424
		More than 2 pages, high complexity - more than 25 fields per page, complex calculations, database connectivity		per form	1,000	1,030	1,061
		More than 2 pages, high complexity - more than 25 fields per page, complex calculations, database connectivity		per form, 100+ forms	800	824	849

Personal Services

					2001	2002	2003
Personal Services (6.5.6)	Principal Consultant	Plans and implements projects. Manages staff. Primary point of customer contact for projects. Develops architectural solutions, manages risk and resolves complex issues.		per hour	250	258	266
	Senior Process Consultant	Plans and implements process mapping and process improvement projects		per hour	225	232	239
	Senior Consultant	Plans and implements major tasks on projects or smaller projects. Manages one to two staff members. Primary responsibility for task completion.		per hour	200	206	212
	Process Consultant	Performs process analysis, prepares process maps, assists process participants with step analysis.		per hour	190	196	202
	Staff Consultant/Forms Analyst	Installs software. Designs and implements complex forms.		per hour	150	155	160
	Technician/Forms Technician	Installs software. Draws forms. Converts forms from other formats.		per hour	100	103	106

Vendor will be reimbursed for travel expenses incurred in performing Purchased Services or Personal Services, including airfare, mileage, lodging and per diem costs at the then current State of Washington Office of Financial Management travel regulations and rates.

This Schedule may be modified only in writing by the DIS Contract Administrator.

Amendment No. 01-02
to
Master Contract T01-MST-002
for
Electronic Forms Software and Associated Services

In accordance with Section 38 (**Authority for Modifications and Amendments**) of Master Contract Number T01-MST-002 ("Master Contract"), this Amendment No. 01-02 is entered into by and between the State of Washington, **Department of Information Services** ("DIS") and **Shana Corporation, USA** ("Vendor").

The purpose of this Amendment is to include Vendor's subcontractor under the Master Contract:

1. The parties agree to allow Sierra Systems Group Inc. as a subcontractor under the Master Contract subject to the requirements set forth in provision 41, titled *Subcontractors*. Sierra Systems Group Inc. will provide limited personal services under this electronic forms software Master Contract.

2. All other terms and conditions of Master Contract T01-MST-002 remain in full force and effect.

This Amendment shall be effective upon the date signed by DIS.

Approved	**Approved**
State of Washington, Department of Information Services	Shana Corporation, USA
Signature	**Signature**
Michael D. McVicker **Print or Type Name**	Don Murphy **Print or Type Name**
Assistant Director, TSD 5/21/01 **Title** **Date**	President **Title** **Date**

Amendment No. 03-03
to
Master Contract T01-MST-002
for
Electronic Forms Software and Associated Services

In accordance with Section 38 (*Authority for Modifications and Amendments*) of Master Contract Number T01-MST-002 ("Master Contract"), this Amendment No. 03-03 is entered into by and between the State of Washington, **Department of Information Services** ("DIS") and **Shana Corporation, USA** ("Vendor" or "Shana").

The purpose of this Amendment is to recognize the appropriate licensing terms and amend the price list. The parties hereby agree to the following:

1. With respect to all software purchases, upgrades, and/or supplements under the Master Contract, the Master Contract terms and conditions supersede and override any directly or indirectly conflicting terms that appear in Vendor's license, be it shrinkwrap, clickwrap, or otherwise. In particular, the governing law provision for any license under this Master Contract shall be as set forth in Section 40 (*Governing Law*) of the Master Contract.

2. Amend Section 35.3 (*Section Headings, Incorporated Documents and Order of Precedence*) by adding the following subsection:
   i) The terms and conditions included on any Shana software license.

3. Add under option 1 in the *Products, Maintenance and Support Pricing* section of Schedule A (*Authorized Product and Price List*) the language set forth in the attached Exhibit 1.

4. All other terms and conditions of Master Contract T01-MST-002 remain in full force and effect.

This Amendment shall be effective upon the date signed by DIS.

Approved	**Approved**
State of Washington, Department of Information Services	Shana Corporation, USA
Michael D. McVicker **Signature**	**Signature**
Michael D. McVicker **Print or Type Name**	Donan Murphy **Print or Type Name**
Assistant Director, TSD **Title**	1/23/03 **Date**
President **Title**	January 15, 2003 **Date**

EXHIBIT 1

Informed Quadra Purchaser Site License Program

("Quadra Program")

The current shipping version of Informed Quadra can pre-fill Quadra user information, but does not support pre-filling data from other data sources. A planned release of Informed Quadra (with pre-fill) will provide this functionality and will allow all Filler (Web) users to evaluate conversion of their forms to Informed Quadra. DIS will test Quadra (with pre-fill) and provide feedback to Shana within 60 calendar days of the release of Quadra with pre-fill to DIS. Upon successful testing, DIS will provide a written, dated notice of success to Shana. Purchasers of Informed Filler and Filler (Web) prior to the date of the notice of success will be eligible for a no cost upgrade to Informed Quadra (with pre-fill) at the time it is released. Once Informed Quadra with pre-fill has successfully passed DIS testing, the parties will amend the price list to remove the Informed Filler (Web) offering.

Purchasers:
Purchasers who have cut a purchase order for the Program prior to the date of execution of Master Contract Amendment 03-03 and are current with their Shana maintenance can upgrade to the Quadra Program at no additional cost, which includes one Quadra server license and upgrade to Informed Quadra client access licenses as part of Purchaser's maintenance program. These Purchasers who accept the offer to upgrade to Informed Quadra shall be offered up to 10 business days of Professional Services consulting at a flat rate of $1000 per day, plus travel and living expenses limited to the then-current State of Washington Office of Financial Management travel regulations and rates.

Interim Purchasers:
"Interim Purchasers" are those purchasers who cut a purchase order for the Program after the date of execution of Master Contract Amendment 03-03, but before the Master Contract has been amended to remove Informed Filler (Web). Interim Purchasers who are current in their premium support agreements with Shana can upgrade to Quadra Program at no additional cost, which includes one Quadra server license and upgrade to Informed Quadra client access licenses as part of Purchaser's maintenance program. Interim Purchasers that accept the offer to upgrade to Informed Quadra shall be offered up to 10 business days of Professional Services consulting at a flat rate of $1,000 per day, plus travel and living expenses limited to the then-current State of Washington Office of Financial Management travel regulations and rates.

One-Time Offer - Maintenance Reinstatement:
Any Purchaser not current in their maintenance program when the Master Contract is amended to remove Informed Filler (Web) will have90 calendar days after the effective date of such amendment to pay all premium support amounts "in arrears" and become eligible for an upgrade to Quadra Program at no additional cost, which includes one Quadra server license and upgrade to Informed Quadra client access licenses as part of Purchaser's maintenance program.

The Quadra Program

If Purchaser purchases the Quadra Program and is in compliance with the payment terms, Purchaser acquires a perpetual license to deploy, at any time, an unlimited number of forms to an unlimited number of users inside and/or outside the Purchaser's organization. Purchasers may pay the Quadra Program purchase price over six calendar quarters. Purchaser will receive the Early Payment Discount (15%) on the purchase price if Purchaser pays the entire Quadra Program price at the time of initial purchase. Participation in the Quadra Program is at the sole option of each individual Purchaser.

The Quadra Program allows the Purchaser unlimited internal and external forms, to unlimited users, provided the forms and form users are directly related to the Purchaser's business.

- Unlimited Desktop and HTML eForm Client Access Licenses internally
- Unlimited number of internally deployed Desktop or HTML eForms
- Unlimited number of externally deployed Desktop or HTML eForms (for purchaser's business forms only)
- Unlimited number of Quadra eForm Workplaces per Quadra server (internal or external)
- Unlimited number of forms deployed to an Informed Quadra server, both internally or externally (for use with purchaser's Quadra CALs and forms only)

Purchaser of a Quadra server license shall allow Purchaser to simultaneously install a Quadra server in separate development, test and production environments. Each additional production server shall require an additional Quadra server license at a cost no greater than the applicable purchaser size server price.

Purchasers can buy Informed Designer licenses at the Master Contract rate at the time of purchase, and may purchase additional Informed Designer licenses at any time. In addition, Purchasers can buy Premium Support for a minimum of one year at the discounted Master Contract rate.

The Quadra Server and Client Access Licenses constitute a perpetual license for unlimited filler and form keys for a Purchaser. The price for an Informed Quadra Purchaser Site License shall be calculated from two components, both based on the size of the Purchaser's organization:

1. Quadra Server License price
2. Quadra Client Access License (CAL) price

1. Quadra Server License

Purchaser with < 600 Seats; minimum 40 Seats	$5,850 per server
Purchaser with > 601 Seats	$9,450 per server

2. Quadra Client Access License (CAL)

Purchaser with < 600 Seats; minimum 40 Seats	$40.00 per Seat
Purchaser with > 601 Seats	$25.00 per Seat
Informed Designer	$990.00 per user
Maintenance and Support Annual Maintenance and Support for Vendor's premium level technical support	15% of Program purchase price excluding early payment discounts
Early Payment Discount	15% of Purchaser's initial total Program purchase price

Amendment 05-04
to
Master Contract Number T01-MST-002
for
Electronics Forms Software
And Associated services

In accordance with Provision 38 (*Authority for Modifications and Amendments*) of Master Contract #T02-MST-002 ("Contract"), this Amendment 05-04 is entered into by and between the State of Washington, **Department of Information Services ("DIS")**, and **FileNet Corporation ("FileNet" or "Vendor")**.

The purpose of this Amendment is to acknowledge the acquisition of the original vendor, Shana Corporation, USA, ("Shana") by the new Vendor, FileNet Corporation, in April 2003; to restate the terms and conditions of the Contract, as of September 2004, as negotiated between the current parties; and to extend the term.

1. In accordance with Provision 42 (Assignment) DIS recognizes FileNet as the successor of Shana, in interest in and to the Contract. By this Amendment, FileNet becomes entitled to all rights, titles, and interests of Shana in and to the Contract as if FileNet were the original party to the Contract. Following the effective date of this Amendment, the term "Vendor," as used in the Contract, shall refer to FileNet.
2. DIS and FileNet agree to the terms and conditions in the attached Restated Master Contract #T01-MST-002 as the entire agreement between the parties, replacing all provisions of the previous Master Contract #T01-MST-002 and its three (3) amendments, and agree to execute the Restated Master Contract in addition to and at the same time as this Amendment 05-04.
3. DIS and FileNet agree that the current term of the Restated Master Contract shall extend through December 17, 2005.

This Amendment 05-04 shall be effective as of the date signed by both parties.

Approved	**Approved**
State of Washington, Department of Information Services	FileNet Corporation
Signature	*Signature*
Michael B. Emans	Fred Dillon
Print or Type Name	*Print or Type Name*
Assistant Director 9/28/04	VP Sales Operations 10/5/04
Title *Date*	*Title* *Date*